

2015 Interim

# LEGISLATIVE

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RECORD

## Transportation officials give update on tolls

by Jim Hannah  
LRC Public Information

SPARTA – A panel of state legislators debated the feasibility of tolling after a transportation official briefed them recently on plans to toll a \$2.3 billion roads project that included digging a tunnel and erecting two Louisville-area bridges across the Ohio River.

The bridges to be tolled are the existing John F. Kennedy Memorial Bridge in downtown Louisville, a new bridge being constructed next to it for Interstate 65 traffic and the so-called East End Bridge, David Talley of the Kentucky Transportation Cabinet said during a meeting of the Interim Joint Committee on Transportation. The meeting was held on Oct. 6 at the Kentucky Speedway.

The amount of tolls will be based on the type of vehicle, the method of payment and the frequency the motorist uses the toll bridges, said Talley.

Frequent users of the toll bridges who place a Band-Aid-size sticker containing a transponder on the front windshield will be tolled \$1 for each crossing. When Rep. Diane St. Onge, R-Lakeside Park, asked how transportation officials will determine who qualifies as a frequent user, Talley said they had not adopted what constitutes a frequent user.

Non-frequent users with transponders will be charged \$2, Talley said. Passenger vehicles without a transponder will be charged \$3 if they have a prepaid toll account and \$4 if they don't have a prepaid account.

Trucks will be tolled at rates ranging from \$5 to \$12 per crossing.

The three toll bridges will use an all-electronic tolling system being installed by the Austrian-based Kapsch Group. Talley said there are less than a dozen all-electronic tolling systems in the nation.

"I continue to say all-electronic toll system because it is important to note that you will not have the ability to pay cash at the ... toll zone when you cross," Talley said. "There is no stopping. There is no slowing down. There is no waiting in line. You just go through at interstate speed. That is all there is to it."

Motorists without transponders will have their license plates pictured as they pass under toll gantries. The toll will automatically be deducted from prepaid accounts. Officials will use state license-plate databases to identify motorists without prepaid accounts and bill them.

Motorists who fail to pay the tolls will not be able to renew their license plates. Kentucky officials plan to enforce this with out-of-state motorists through a series of interstate compacts currently being negotiated.

Rep. John Short, D- Mallie, asked how motorists with temporary tags will be billed.

Continued on page 2



## Policy decisions required for unappropriated tobacco funds

by Rebecca Hanchett  
LRC Public Information

Kentucky currently has around \$7 million in unallocated tobacco funds left over from a 2014 settlement and may have about \$16 million in additional unallocated funds coming in the next budget cycle, a legislative oversight committee heard in early October.

The estimated \$7 million is part of the "additional money that had not been budgeted"—as

Governor's Office of Agricultural Policy (GOAP) Director Roger Thomas described it—that the state received as part of a 2014 settlement with tobacco companies stemming from the 1998 Master Settlement Agreement. (The agreement has brought more than \$446 million in agriculture investment to the state since 2001.) The estimated \$16 million would be over and above the state's anticipated 2016 tobacco settlement payment dollars, Thomas said.

"Depending on what the 2016 payment is, it's possible that there's an additional \$20 million or

thereabouts of unallocated funds," Thomas told the Tobacco Settlement Agreement Fund Oversight Committee. He stressed that he was sharing the figures from memory: "The \$16 million I mentioned is only if the 2016 MSA payment is that amount above what was budgeted."

The testimony came after Sen. Carroll Gibson, R-Leitchfield, asked Thomas about allocation of additional unbudgeted money the state received

Continued on page 2

## Transportation, from page 1

“With respect to temporary tags, we will have to work with dealers to make sure we come to an equitable solution to figure out how those should be tolled,” Talley said.

Committee co-chair Sen. Ernie Harris, R-Prospect, asked what happens if a motorist is in a rental car. Talley said motorists are usually billed for the toll on the credit card used to reserve the rental car in addition to a “hefty” fee tacked on by rental car agencies.

Another option is for motorists to temporarily transfer an existing prepaid account to the rental car.

Sen. C.B. Embry Jr, R-Morgantown, asked if there was an estimate on the percent of tolls that will go uncollected despite the use of modern technology and interstate compacts.

Talley said as much as 2.5 percent of all tolls due will not be collected, according to estimates from a traffic and revenue study conducted as part of a bond sale to finance what is one of the biggest public works projects currently under construction in North America.

Rep. Arnold Simpson, D-Covington, whose district is seeking funding to replace an aging Interstate 71/75 bridge in Northern Kentucky, asked if the tolls could be raised.

Talley said the tolls automatically increase annually by the rate of inflation, or a minimum of 2.5 percent, to make sure that the tolls being collected are sufficient to pay for the ongoing operating and maintenance costs of the project.

Talley said any increase greater than that would have to be approved by a tolling authority made up of two Kentuckians and two Indiana appointees. He said the initial toll rates were adopted by the tolling body in 2013.

“At this time, to my knowledge, there is not a need to revisit those rates,” Talley said in response to Simpson’s question.

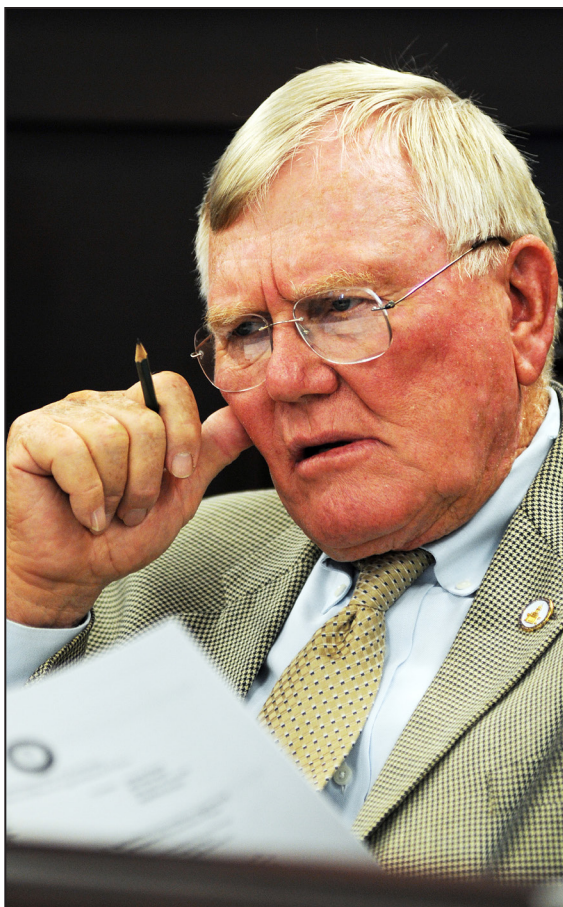
Sen. Mike Wilson, R-Warren, asked if the tolls would be removed when the two new bridges in Louisville are paid off.

“We have agreed with Indiana that we will continue to keep tolls in place until all the financial obligations of the project are satisfied,” Talley said.

“On the Kentucky side we sold bonds that last through the year 2053, so we have agreed to keep tolls in place through then ... to use for debt services.”

Talley said it will be up to policymakers in 2053 whether to keep the tolls.

Louisville’s two other Ohio River bridges, the Sherman Minton Bridge for Interstate 64 and the George Rogers Clark Memorial Bridge for U.S. 31, will not be tolled under current plans.



Rep. Tom McKee, D-Cynthiana, listens to testimony at the October meeting of the Tobacco Settlement Agreement Fund Oversight Committee.

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## Tobacco, from page 1

as part of the 2014 settlement, which brought Kentucky more than \$57 million in extra unbudgeted tobacco funds over three years.

Thomas said distribution of the additional money has thus far adhered to the statutory formula for allocation of Kentucky’s Master Settlement Agreement payments: 50 percent for agriculture, 25 percent for health initiatives, and 25 percent for early childhood programs. Part of the money—around \$42.5 million, according to the Governor’s Office in 2014—has been used by Governor Steve Beshear to beef up already-authorized programs that would have otherwise been underfunded.

“That was, I think, pretty well received by legislators and certainly by the folks that benefit from the Master Settlement Agreement funds—not just the ag side of it, but others as well,” said Thomas.

A bit more of “extra money,” said Thomas, was used to prop up the state’s 2016 tobacco payments with last session’s passage of House Bill 510, sponsored by Rep. Rick Rand, D-Bedford, which Thomas explained has benefited environmental efforts. That legislation has enabled the state to amass \$6 million in state environmental cost-share funds in fiscal year 2016 that would have otherwise not been available, he said.

Another \$5 million of the extra money was added by the General Assembly to the state Agricultural Finance Corporation, a loan pool administered by the GOAP. That has allowed the program “to reach a level that I hope that you all are proud of—about \$54-55 million of that loan pool in Ag Finance now is a result of your actions,” said Thomas.

Gibson asked Thomas if new programs could be funded with the \$7 million in existing unallocated funds, and if the state has to follow the 50-25-25 statutory formula in spending the money—adding he has no problem with the formula.

“That’s a policy issue,” said Thomas. “Heretofore that formula has pretty much been followed. It’s your (the General Assembly’s) role to set policy, and if you wanted to change that formula you could.” Thomas explained that the next two-year state budget will be presented by the next governor and finalized by the 2016 General Assembly. Funding issues, including those regarding tobacco settlement dollars, will “be part of that process.”

Committee Co-Chair Rep. Wilson Stone, D-Scottsville, said he was glad Kentucky had the additional funds from the 2014 settlement and that “we were all pleased that the Governor didn’t want to take us in any other direction.”

“Some states have allocated and spent their (tobacco) money in such ways that, at the end of the day, they aren’t going to have much to show for it other than they got to the end of the day,” said Stone. “In our case, we are going to have investments.”



# State's aerospace industry soaring high

by Rob Weber  
LRC Public Information

Though better known for horses, bourbon and car manufacturing, Kentucky should also be known as an aerospace leader, lawmakers were told during the Sept. 17 meeting of the Economic Development and Tourism Committee.

The aerospace industry surprised many when it was listed as the state's top exporter in a report issued last year by the Cabinet for Economic Development.

"It really sort of happened on accident," said Ben Malphrus, director of the Kentucky Space Science Center at Morehead State University. "The report came out from the Cabinet for Economic Development in 2014 and we were all sitting around looking at each other saying, 'Who the heck are these companies and where does the industry exist?'"

Turns out, aerospace success stories are all around: Five Kentucky-made satellites have been sent into space and two are still circling overhead; sophisticated turbine airfoils for aircraft engines are built in Madisonville; \$6 billion worth of aircraft materials and parts move through a distribution center in Erlanger; drones have been used by emergency responders and radio tower inspectors; Morehead State University is producing graduates from its space program and Eastern Kentucky University is graduating a generation of professionals with aviation degrees; researchers in

Lexington are studying the possibility of medical solutions in low-gravity space that aren't possible on earth.

Even aluminum plants can be seen in a different light once you realize some exist solely to provide materials for aerospace products.

Despite the lack of a coordinated effort to make Kentucky an aerospace leader, the state currently ranks as the nation's third biggest aerospace producer, said Mike Young, acting director of the Kentucky Aerospace Council. "It's unimaginable where we'd be if what was going on that took us to third place had been coordinated," Young said.

The aerospace industry in Kentucky was "just a blip" from 1996 to 2003, with about \$500 million in exports, said Robert Riggs, who serves on the Kentucky Aviation Association's board of directors. "Then it just skyrocketed," climbing to \$7.8 billion in 2014. Kentucky's aerospace exports are on track to near \$9 billion this year, he said.

The Aerospace industry in Kentucky is now larger than the state's Corvette, Toyota and Ford manufacturers combined. "Not only are we well positioned, we are growing rapidly," Young said.

"It's a great example of things we make here in the U.S. that we can sell all over the world," said Clif Morehead, government relations manager for GE Aviation. "There are lots of opportunities in the engineering sector, in the technician sector and certainly additive manufacturing. As aircraft engines get more sophisticated and lighter weight and more fuel efficient, there are greater opportunities."

"We have the thriving industry. We have the workforce pipeline. But we really haven't stitched it all together," Malphrus said. "It's not a coordinated effort like it needs to be, but the elements are there."

The coordinated effort aerospace leaders want is in the works. State lawmakers passed a joint resolution this year calling for state agencies to work together on a major study of the economic impact of the aerospace/aviation industry in Kentucky, opportunities for future growth and possible ways that government agencies and educators can support the industry's needs.

Malphrus described it as "a landmark study for the aerospace industry."

While there's much to look forward to, one particularly bright spot ahead is a \$12 million project at Morehead State University that will create a space probe called the Lunar IceCube to search for ice on the moon. It will be launched in 2018 on the maiden voyage of NASA's Space Launch System.

"We'll be on the first voyage of the largest rocket ever built in the history of the world," Malphrus said.

At the end of Lunar IceCube's mission, it will be disposed of with a crash landing on the moon. "So students literally will have their fingerprints on the moon before the end of the mission," Malphrus said.

The benefits of space technology aren't limited to space explorers; they are already ingrained in the daily life of Americans, Malphrus said.

"When you go to the gas station and put your credit card in the gas pumps, part of that transaction is taking place up in space, beaming data to a satellite," Malphrus said. "For data transfer, for financial transactions, for homeland defense, for national security, for navigation, for the Internet, for long distance or for remote sensing, it's incredible what all we use space for."

Lawmakers should seize the opportunity to support an ascendant aerospace industry, said Lee Todd, a former University of Kentucky president who currently works for a Louisville software company.

"This is a tipping point," Todd said. "It is a major opportunity to start thinking about a progressive vision for an economy in Kentucky to use the talent we know our children have and that they can develop. We need to invest in specific economic development initiatives focused on aerospace and advanced manufacturing."

Young put it in terms worthy of a space explorer's sense of adventure. "I see aerospace not only as our future, but our destiny."



Sen. Mike Wilson, R-Bowling Green, inspects the CXBN-2 satellite built at Morehead State University.

Kentucky's aerospace industry currently ranks as the nation's third biggest.

# Proposed regs for instant racing discussed

by Jim Hannah  
LRC Public Information

The Kentucky Horse Racing Commission wants to implement additional regulations on historical racing even though a legal challenge to betting on replays of horse races that have already been run remains unresolved.

"Is there nothing odd about promulgating regulations ... before the case is resolved?" Rep. David Floyd, R-Bardstown, said on Oct. 9 during a meeting of the Interim Joint Committee on Licensing and Occupations.

Racing commission General Counsel Susan Speckert said that the additional regulations were "imperative" because historical race wagering continues despite the legal challenge.

"We want to make sure ... that we are able to effectively regulate it," she said.

Sen. Dan "Malano" Seum, R-Fairdale, asked Speckert what would happen if the courts ultimately rule historical race wagering is illegal.

"I don't know the answer to that," Speckert said, "but we are confident it is legal so we don't anticipate that occurring."

She testified that the Kentucky Supreme Court found that the racing commission had the authority to implement rules and directives and approve requests to offer historical horse race wagering, often referred to by the trademarked name Instant Racing. Kentucky Downs in Franklin became the first Kentucky track to offer historical horse race wagering in September 2011. Ellis Park in Henderson began offering it a year later.

When the Red Mile and Keeneland Racecourse, both in Lexington, began to jointly offer historical horse racing at the Red Mile this fall, track officials described Instant Racing as "pari-mutuel electronic games that combine the excitement of horse racing with the thrill of electronic wagering and the fun and flash of video graphics."



Licensing and Occupations Committee Co-Chair Rep. Dennis Keene, D-Wilder, left, talks to Rep. Larry Clark, D-Louisville, before the meeting.

Speckert said the courts must still decide whether operating historical horse race wagering machines constitutes pari-mutuel wagering – and is thus legal under current Kentucky law.

Speckert told the legislative panel that some of the proposed regulations would require legislative action during the 2016 General Assembly. A draft of a proposed bill was distributed to the legislative committee.

One proposed regulation would grant the racing commission the authority to license all individuals and entities involved in historical horse race wagering.

"As you all know, licensing is central to effective regulation," Speckert said. "Currently, the commission does not have the specific authority to license the entities that manufacture and sell historical horse race wagering equipment."

The annual licensing fee for the manufacturer could be up to \$50,000.

"We are committed to making the licensing process and the fee reasonable," Speckert said. "We do not want to create barriers to people who want to do business in Kentucky but we need to meet our statutory mandate of protecting the integrity of pari-mutuel wagering and we need to cover our regulatory costs."

Racetrack operators are currently bearing the costs of testing the electronic gaming systems that allow players to bet on historical horse races. That's in addition to tens of thousands of dollars in fees that the commission is charging racetracks that offer historical horse race wagering.

Rep. Larry Clark, D-Louisville, said he was concerned the commission's plan to rework fees amounted to "a gift" to racetracks.

"They are already making a lot of money," he said.

Sen. Paul Hornback, R-Shelbyville, said he too was concerned that the proposed plan would reduce the fees the racetracks are currently paying to offer historical horse race wagering.

"We need to keep the fees at where they are right now," he said, adding that legislators could re-evaluate the situation in 12 months.

Another proposed regulation would give racetracks more flexibility in using revenue generated from historical horse race wagering to increase purses, or money paid to the top five finishers in a horse race. The proposal involves a complex formula on what purses the additional money can go toward based on the breed of horse racing at the tracks that offer historical race wagering.

Speckert stressed that the proposed legislation would have no effect on the pending litigation.

"It does not impact the current litigation in any way," she said. "To make that intent crystal clear, we included in the bill ... that no provision ... shall be construed as a recognition or finding (on) whether the operation of wagering on historical horse races constitutes a pari-mutuel form of wagering."

## Lawmakers cut into timber theft issue

by Rebecca Hanchett  
LRC Public Information

Kentucky's forestry industries want better education and, ultimately, better enforcement of state timber laws and regulations to cut down on timber theft.

That was the word Oct. 1 before a meeting of the Interim Joint Committee on Natural Resources and Environment where Kentucky Forest Industries Association Executive Director Bob Bauer said more cooperation, not more laws, may be the answer to costly theft of timber on Kentucky's mostly private forest lands.

Bauer said a recent informal meeting of stakeholders, including timber theft victims, showed a desire for a task force or workgroup to push for

better enforcement. Kentucky has criminal trespass and timber theft laws and penalties, but most logging cases currently end up in civil court, lawmakers were told at the meeting.

"We have excellent laws, but if we can't get them enforced, it doesn't do us a lot of good," said Bauer.

Lawmakers took action most recently to curb "bad actors"—those who violate the state's forestry regulations, focused mainly on water quality—by passing Senate Bill 92 this spring. That bill, sponsored by Sen. Joe Bowen, R-Owensboro, requires loggers or logging operators with bad actor designations to notify the Division of Forestry before harvesting any timber until all civil penalties are paid and reclamation work complete.

Those with multiple bad actor designations can

be forced by the state to cease logging until they pay fines and fix poorly logged sites, explained Bauer.

"There's a very small number of those repeat bad actors, but I can tell you just by talking to those in the forestry world that I know a number of these people are also involved in timber theft cases," he said.

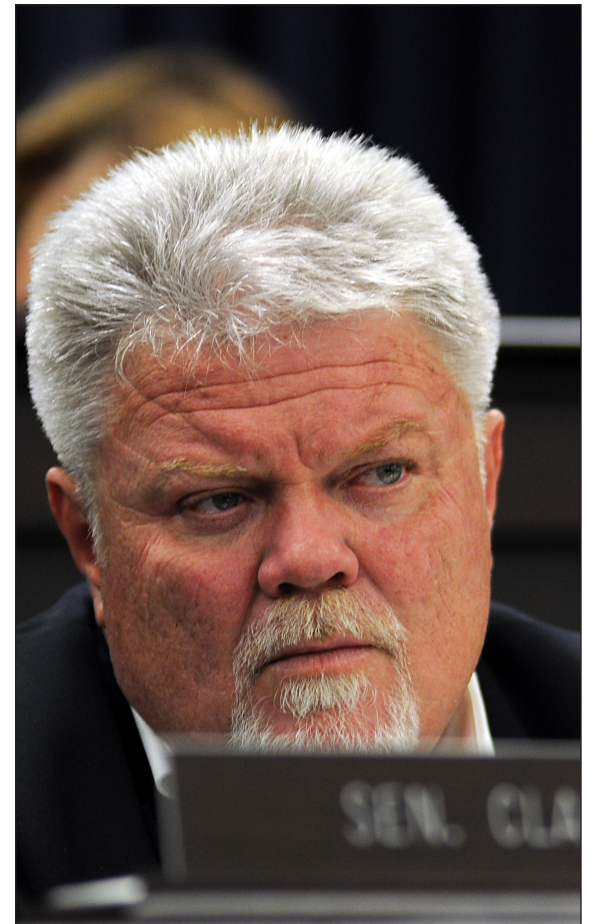
Another top law on the books is a 1994 state timber trespassing law entitling those who are victims of timber cutting to collect triple damages and attorney fees from trespassers. That law is "pretty strong," said Bauer, but it has mostly civil implications.

Part of the problem in discouraging timber theft in the first place is the lack of penalties, said

Continued on page 5



# This Month IN PICTURES



Left: Sen. Julie Raque Adams, R-Louisville, asks a question during the October meeting of the Administrative Regulation Review Subcommittee. Above: Sen. Perry Clark, D-Louisville, follows testimony about proposed amendments to health and human services cabinet regulations during the October meeting of the Administrative Regulation Review Subcommittee. Below: Sen. Carroll Gibson, R-Leitchfield, asks questions during October's meeting of the Tobacco Settlement Agreement Fund Oversight Committee.

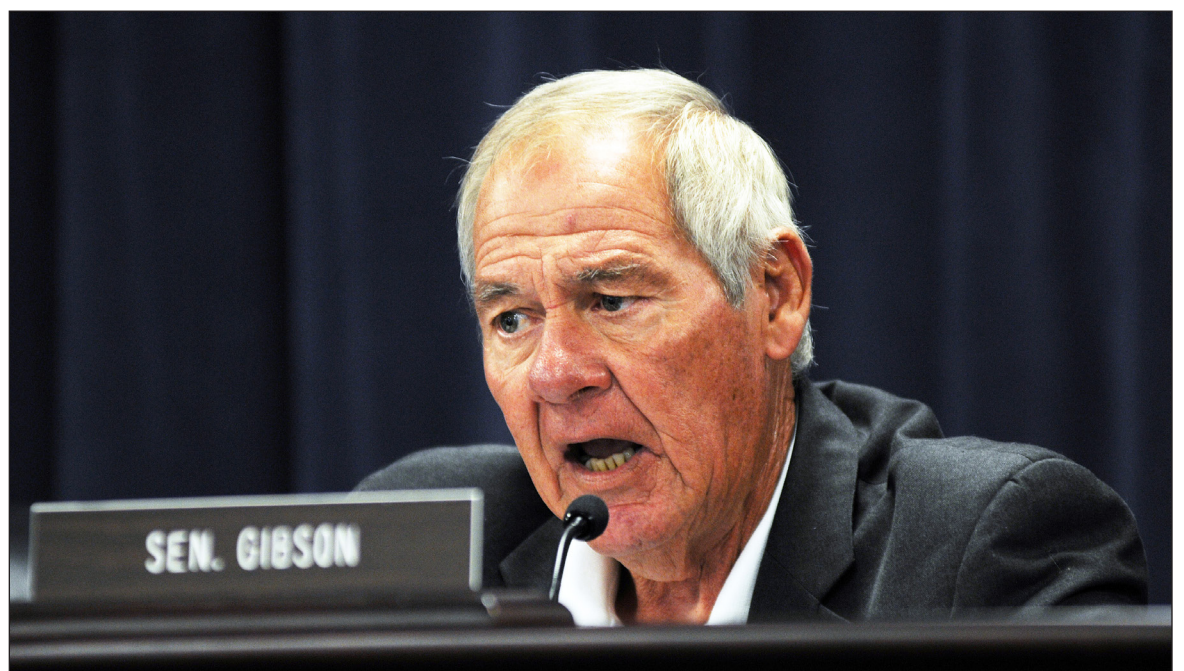
## Timber from page 4

Sen. Robin Webb, D-Grayson. She described most civil remedies to timber violations as “judgment-proof”—many violators do not have assets and are not bonded, she explained.

Kentucky Resources Council Director Tom FitzGerald said timber theft costs \$1 billion a year nationally.

“Yet despite that, it is often thought of as a victimless crime,” he stated, because of the difficulty in building a case and getting that case prosecuted. He recommended to the committee that Kentucky get together a “broad range of stakeholders” in a workgroup to attack the timber theft problem rather than changing crime statutes now.

It “would be a good approach to identify (the problem) utilizing existing resources,” FitzGerald said.





# 2016 REGULAR SESSION CALENDAR

2016 REGULAR SESSION CALENDAR

JANUARY

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

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

FEBRUARY

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

( ) Denotes Legislative Day

2016 REGULAR SESSION CALENDAR

MARCH

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2 Last Day for New Senate Bills	3	4	5
		(39)	(40)	(41)	(42)	
6	7	8	9	10	11	12
	(43)	(44)	(45)	(46)	(47)	
13	14	15	16	17	18	19
	(48)	(49)	(50)	(51)	(52)	
20	21	22	23	24	25 Concurrence Only	26
	(53)	(54)	(55)	(56)	(57)	
27	28 Concurrence Only	29 VETO	30 VETO	31 VETO		
	(58)					

APRIL

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

# 2015

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# Committee Meetings

## Index

- A**  
Administrative Regulation Review Subcommittee, 40  
Agriculture, 14, 35  
Appropriations and Revenue, 27, 29, 32, 33
- B**  
Banking and Insurance, 16
- C**  
Capital Planning Advisory Board, 47, 50  
Capital Projects and Bond Oversight, 55
- E**  
Economic Development and Tourism, 22  
Education, 16  
Education Assessment and Accountability Review Subcommittee, 52  
Energy, 23
- G**  
Government Contract Review Committee, 61
- H**  
Health and Welfare, 20
- J**  
Judiciary, 30
- L**  
Labor and Industry, 17  
Legislative Research Commission, 14, 38  
Licensing and Occupations, 28, 39  
Local Government, 24
- M**  
Medicaid Oversight and Advisory Committee, 54
- N**  
Natural Resources and Environment, 12, 34
- P**  
Prefiled bills, 63  
Program Review and Investigations, 51, 58
- S**  
State Government, 26
- T**  
Tobacco Settlement Agreement Fund Oversight Committee, 57  
Transportation, 10, 36
- V**  
Veterans, Military Affairs, and Public Protection, 18

### INTERIM JOINT COMMITTEE ON TRANSPORTATION

#### Minutes of the 3rd Meeting of the 2015 Interim

September 1, 2015

##### Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Transportation was held on Tuesday, September 1, 2015, at 10:00 AM, in View Pointe Hall at the Muhammad Ali Center, Louisville, Kentucky. Representative Hubert Collins, Chair, called the meeting to order, and the secretary called the roll. The minutes from the Committee's July 7, 2015 meeting were approved.

##### Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators Joe Bowen, Jared Carpenter, C.B. Embry Jr., Jimmy Higdon, Dorsey Ridley, Albert Robinson, Brandon Smith, Johnny Ray Turner, Whitney Westerfield, and Mike Wilson; Representatives Denver Butler, Leslie Combs, Tim Couch, Donna Mayfield, Tom McKee, Russ A. Meyer, Charles Miller, Jerry T. Miller, Terry Mills, Steve Riggs, Sal Santoro, John Short, Arnold Simpson, Fitz Steele, Jim Stewart III, and Addia Wuchner.

Guests: Donald Lassere, President/CEO, Muhammad Ali Center; Mike Hancock, Secretary, Kentucky Transportation Cabinet; Russ Romine, Deputy Secretary, Kentucky Transportation Cabinet; Andy Barber, Project Manager, Louisville Bridges Project; and Jim Stark, Indiana Department of Transportation (INDOT), Innovative Project Delivery.

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

##### Welcome

Donald Lassere, President/CEO, Muhammad Ali Center welcomed members and guests to the Muhammad Ali Center and expressed his appreciation for choosing the Muhammad Ali Center for the Committee's meeting.

##### Employee Salary Equity Efforts for Heavy Equipment Operators

Mike Hancock, Secretary, Kentucky Transportation Cabinet (KYTC), discussed heavy equipment operator (HEO) and superintendent salary equity efforts. Secretary Hancock stated the issue involves the classifications of HEOs I, II, III, IV, and Superintendents I, and II. Often times these classifications include employees who plow snow and also repair potholes. The labor market for those employees is different in every county across Kentucky. In some areas, particularly in urbanized areas, HEO and superintendent jobs are more plentiful. The cabinet is being faced with training new employees for these jobs and helping

them obtain commercial driver's licenses (CDL), only to lose a significant number to city or county governments that are looking for trained employees with CDL experience. The average salary for a HEO I, is \$23,300 annually, which is \$1,000 less than the poverty level for a family of four in Kentucky. Few of the HEOs and superintendents make more than the midpoint salary in their classification range.

The cabinet has been working with district engineers on a county by county basis to address this salary issue, however, because there are 120 counties and more than 120 maintenance facilities with 6 different classifications, the cabinet simply cannot address all of the situations at once. Secretary Hancock stated it is a slow process and KYTC has asked the Personnel Cabinet to complete a study similar to the one they did for the district engineer salary study, where classifications are evaluated to see if there is a way to do things more proactively and/or efficiently. After feedback from that study is received, the cabinet will hopefully be able to pursue a course of action. It is imperative for KYTC to have quality employees that know how to properly run and maintain the snowplows and other high-tech equipment. Secretary Hancock apologized for any issues that have arisen because of the situation adding that he fears the alternative of having to outsource jobs if the salary pattern continues, which can become costly. Secretary Hancock and KYTC are doing what is necessary to try to solve the issue in order to attract and retain employees for successful careers within the cabinet.

Representative Simpson and Senator Westerfield voiced concerns about implementing a salary structure to retain employees within KYTC while there are several other entities within Kentucky state government that are in the same situation. They are concerned about being unfair to those other agencies in a similar situation.

In response to a question asked by Representative McKee concerning midpoint salary, Secretary Hancock stated in any classification the pay ranges from entry level salary to some higher level that is defined in the personnel specification and there is a noted midpoint salary for each classification. He has maintained that midpoint should never be an automatic consideration, rather, midpoint is something that takes some employees years to achieve. He said he did not believe that the task had been about achieving midpoint salary as much as it has been about achieving entry level equity, adding that many employee's entry level salaries have not been adjusted for quite some time and some even bringing in a salary less than poverty wage. Increasing salaries by approximately 10 to 15 percent quite often at the entry level is enough to ensure retaining quality employees.

Representative Mills stated when a new



employee has been hired and has been brought in at a salary more than current and established staff, it can be demoralizing. He is looking forward to the personnel study for HEOs.

In response to a question asked by Representative Jerry Miller, Secretary Hancock stated the cabinet outsourced snow and ice removal in some of the metropolitan areas. As the cabinet outsources, the price continues to climb due to being at the mercy of the companies that handle that work. When a cost comparison is done, retirement cost is included.

#### **Final Road Fund Report for FY 2015**

Russ Romine, Deputy Director, KYTC, testified about the final Road Fund report for fiscal year (FY) 2015. Comparing the actual receipts for FY 2015 to the Consensus Forecasting Group (CFG) estimate for the same period, the Road Fund in total was down \$20 million, approximately 1.3 percent. The bulk of the main source into the Road Fund is the Motor Fuels Tax, which was down \$32.9 million from the CFG estimate. House Bill 510 of the 2015 Regular Session of the General Assembly helped ease the pain of counties and cities with a decline in Motor Fuel Tax collections. Approximately \$7.8 million came from outside of the Road Fund to benefit the local areas for FY 2015 to help offset some of that loss. The shortage in fuel tax revenue was partially offset by receipts from motor vehicle usage tax, and other taxes and fees coming in over the CFG estimate.

Deputy Director Romine stated that the effects of House Bill 440 of the 2013 Regular Session, which contained the trade-in credit for new motor vehicle purchases and took effect at the beginning of FY 2015, incentivized people to purchase vehicles. The enactment of House Bill 440 was estimated to reduce motor vehicle usage tax receipts between \$40 and \$50 million annually, but actual receipts only declined \$10 million, which means there were more cars sold to help ease the loss in road fund revenues because of the trade-in credit. The total actual motor vehicle usage tax receipts was down \$10.3 million from FY 2014 to FY 2015.

Mr. Romine added that this is the first decline in road fund receipts since 2009. There has been relatively steady growth since then, but this is a dip in receipts from one year to the next. The biggest part of that reduction was the fourth quarter in collections. Overall the Road Fund was down 8.7 percent in the 4<sup>th</sup> quarter of 2015 which was largely due to motor vehicle fuels collections going down 13.3 percent in the quarter. The motor vehicle usage weight distance collections were up 2.9 percent over FY 2014. With the increase in weight distance taxes charged for motor carriers as they transport goods across roadways, this is an indication that the economy is growing again, which is often looked on by the Governor's Office of Economic Analysis (GOEA) as an indicator of how the General Fund may do. Motor vehicle licensing was also up in FY 2015 from FY 2014. The CFG's preliminary numbers for the Road Fund showed the receipts for FY 16 to be estimated at \$1.42 billion. The operational budget is based on a \$1.56 billion estimate, leaving a difference of \$139.2 million. The motor fuels collections are the largest part of that amount at \$132.2 million because when the CFG put the estimate together in December 2013,

it was unpredictable what would happen to gas prices at that time. The \$132.2 million could have been much worse had House Bill 299 not been enacted in the 2015 Session of the General Assembly.

Mr. Romine stated in looking ahead if the preliminary numbers are correct for 2016, the total receipts for the Road Fund would be down 7 percent compared to what the receipts were for FY 2015. Road Fund growth is pretty stagnate over that time. It may not be until FY 2020 until the state exceeds FY 2015 receipts.

In response to a question asked by Chairman Collins concerning federal funding, Mr. Romine stated there have been 34 congressional actions since 2009 for Congress to either shore up the Highway Trust Fund or to extend the surface transportation program. Kentucky is now operating under another extension that carries through October 29. More action will be needed at that point. It seems as if there will be another short term extension that will carry the state through the end of the Calendar year. With the action that was taken in late July, another \$8 billion was transferred into the Highway Trust Fund to keep it solvent. The \$8 billion will last until the end of the 2015 calendar year.

In response to a question asked by Senator Bowen, Secretary Hancock stated the cabinet has not seen a significant reduction in the cost of asphalt as the cost of petroleum has decreased. Bidding prices are not decreasing as dramatically as expected, and he is unsure why. Senator Bowen speculated it may be due to the storage of the previously bought components in large amounts, and that therefore the products may have been purchased at a higher price than today's costs. Secretary Hancock shares optimism that eventually those prices will drop.

Secretary Hancock introduced Thomas Nelson, who is the new Federal Highway Division Administrator in Kentucky.

#### **Presentation on the Ohio River Bridges Project**

Andy Barber, P.E., KYTC Project Manager; and Jim Stark, INDOT, Deputy Commissioner, Innovative Project Delivery, testified about the Ohio River Bridges Project. Mr. Barber stated the regional growth of the area, along with traffic demands particularly with cross river mobility, created a gridlock for the area that needed to be addressed. The community was divided over solutions for the issue, and debate continued for years until a two-bridge system was agreed upon. Kentucky Governor Steve Beshear and Indiana Governor Mitch Daniels united to lower costs and speed up the construction of those bridges and the overall project.

The economic impact of the bridges project over the next 30 years will be significant as it will infuse \$87 billion into the local economy, create 15,000 area jobs, add \$29.5 billion in personal income, and add \$7 billion in tax revenues according to the economic impact study that was prepared for the Indiana Finance Authority. The Ohio River Bridges Project is a \$2.3 billion project consisting of a downtown Louisville bridge crossing which Kentucky will oversee, as well as an east end bridge crossing which Indiana will oversee. Tolling for the bridges will begin in late 2016, and the revenues received from

the tolls will be split among Kentucky and Indiana.

The downtown crossing consists of three components; a new cable-stayed bridge, an improved Kennedy Bridge, and new interstate connections coming to both Louisville and southern Indiana. Walsh Construction was selected to undertake the project. Construction began on the nearly \$1.3 billion project in July 2013. The downtown crossing bridge is on budget and on schedule. The design portion of the project is nearly complete and the construction portion of the project is 70 percent complete. Completion of the downtown bridge will be expected in December of 2016. The project will be delivered 18 months prior to what was required.

The workforce to complete the downtown bridge consists of nearly 800 workers, including subcontractors which are hired through local unions. The Disadvantaged Business Enterprise (DBE) goal is 8.22 percent or \$70,692,000. The project is on track to meet and beat the DBE goal with a projection of 8.49 percent. The downtown portion of the project consists of more than 60 overpasses and bridges, more than 60 retaining walls, more than 440,000 tons of asphalt, and more than 1.3 million cubic yards of soil being removed. The new bridge is 2,100 feet long. The bridge ends are being driven down to solid rock on steel pile, and there are over 100 miles of pile being driven.

Section one of the downtown bridge project is the Kentucky approach portion. This portion consists of the Kennedy Bridge interchange being reconfigured, eliminating the weaves of "Spaghetti Junction" by making I-65, I-64, and I-71 all come together in downtown Louisville. The northbound traffic will pair up with northbound traffic and southbound traffic pair up with southbound traffic. More than 40 new ramps and overpasses are being built in Kentucky, several of which have already opened to traffic. Two lanes of interstate traffic are being maintained in peak hours in order to keep Louisville and southern Indiana's economy from being interrupted.

Section two of the project is the new I-65 cable-stay bridge and the Kennedy bridge work. All three of the towers for the I-65 bridge have reached their finished heights. All 88 stay cables should be installed by October, 2015. Deck connections are being made and the deck should be poured late in the fall of 2015. The I-65 bridge should be open to two-way traffic by January, 2016. The bridge has a strong foundation which is supported by 9 piers, 4 on land and 5 in the water. Three of the piers include tower supports, which include four drilled shafts, a waterline footing and two tower legs. The drilled shafts are 30 feet deep and 12 feet in diameter. In southern Indiana, approximately a mile of I-65 is also being widened to accommodate traffic.

Section three of the project is the Indiana approach. New lanes of I-65 North are complete, with I-65 South traffic to shift over later in September, 2015. Crews will demolish old lanes and build new lanes of I-65 South. The Indiana approach now connects to tower five. The Flyover ramp from US 31 North to I-65 North is set to open late 2015.

The downtown bridge will open to two-way traffic in less than four months. After that time, the new bridge will carry north and southbound traffic

while the Kennedy Bridge will be closed for \$22 million in improvements. The total project will be completed by December of 2016 consisting of six lanes of northbound traffic on the new bridge, and six lanes of southbound traffic on the Kennedy Bridge. Mr. Barber stated the public can stay informed about the project through Facebook, Twitter, regular media updates, and the website, [www.kyinbridges.com](http://www.kyinbridges.com).

Mr. Stark updated the Committee on the east end bridge project. The downtown crossings consist of sections one, two, and three, and the east end crossings are referred to as sections four, five, and six. Indiana's P3 owner is the Indiana Finance Authority (IFA.) The Indiana Department of Transportation and the IFA are sister agencies that work together when any public private partnerships are created in Indiana. That relationship with the P3 developer which is also one of the public private pieces as equity members is Walsh Construction who partnered with Vinci and Bilfinger Berger for equity agreements. A design-build team was then hired which is made up of Walsh and Vinci construction consisting of the acronyms WVB or WVC. Both the downtown and east end crossings have Jacobs as their lead engineer for the project. The Indiana Department of Transportation has relationships with a number of consultants that are helping manage the east end crossing.

The east end crossing original construction cost was \$763 million, of which the WVB partners had \$81.9 million in equity and \$702 million in private activity bonds were sold. The Indiana Department of Transportation and IFA are putting in \$392 million of Milestone payments that includes a \$162 million TIFIA loan that was taken out during the project process to help with the final milestone payments. Availability payments (annual payments to the contractor) will be made for 35 years and will begin at substantial completion, approximately December 2016. The base maximum availability payment (BMAP) of \$27.7 million will be made for the first year and then will be indexed as payments go forward for the next 35 years. There will be an operation and maintenance portion of the availability payment to operate and maintain all of section six, the bridge, and then a small approach piece in Kentucky as part of section four as well as paying down the debt.

The design portion of the east end crossing is approximately 82 percent complete and the construction portion is approximately 66 percent complete. The project's current contract amount is \$765.5 million of which \$105 million is paid to date. There are some changes in progress in all three sections that are totaling approximately \$17.7 million, of which a good portion of that is due to the halting of work for approximately 37 days caused by a flood. The east end crossing has a 9.23 percent DBE goal which is equal to \$70.5 million, of which 88 percent has been awarded and 60 percent has been paid. The east end crossing has an expected substantial completion date of October 31, 2016.

Section four of the east end crossing consists of three main bridges, the approach bridge coming off of the river which is approximately 2000 ft. long, the Harrods Creek Bridge which is approximately 1200 feet long, the tunnel which is approximately 1680 feet long, and Wolf Pen Branch Road bridge which

was completed in 2014. Section four totals 3.2 miles long, \$2.1 million in cubic yards excavation, and 180,000 square yards of concrete pavement. Section Five is a 2500 ft. cable-stayed bridge with a 1,200 foot center span and 300 feet high towers. The bridge also includes a shared-use path. Section six, the Indiana approach consists of the State Road 265/State Road 62 Port Road interchange with a roundabout design and the Salem Road Interchange with a connection to River Ridge. Section six is approximately 4.1 miles long with \$1.6 million in cubic yards excavation and 263,000 square yards in concrete pavement.

In response to a question asked by Representative Riggs, Mr. Romine stated approximately 30 percent of the vehicles using the bridge crossing on I-65 is from out outside of the area.

In response to a question asked by Representative Riggs, Mr. Barber stated his biggest surprise with this project was how smoothly it has gone and he cannot name a disappointment with the project.

In response to a question asked by Representative Wuchner, Mr. Barber stated the idea of the connectivity of both the downtown bridge and the east end bridge was conceived in approximately 1969.

In response to a question asked by Senator Bowen concerning a similar timeline for the I-69 bridge, Secretary Hancock stated the timeline with the planning and construction of the I-69 bridge will depend on financing and funding of the project. It is his hope that many of the efficiencies that have been used in Louisville, would be applied there as well. He added anytime the private sector is involved or a team is working through design-build and P3 projects, there can be an incentive for contractors to approach deadlines faster.

In response to a question asked by Representative Simpson, Mr. Barber stated the toll revenue study in the downtown bridge on I-65 is estimated that approximately 80,000 vehicles per day will cross it and approximately 30,000 vehicles per day will cross the east end bridge. There will be some diversion going in on the Sherman Mitton bridge on I-64 and then onto the Clark Memorial Bridge. There will be some traffic shifting east to the new bridge, some traffic shifting west and new traffic generation coming because of the development of the downtown Louisville area.

In response to a question asked by Representative Simpson concerning the plan to meet the financial obligations of the bridge if the tolling estimates are incorrect, Secretary Hancock stated when estimating the number of vehicles crossing the bridges, and therefore tolls that will be collected, a conservative estimate was made so he does not foresee that being an issue, however, a tolling body is in control of the tolling system and will act as necessary through the life of the project. He feels strongly that the funds needed from the tolls will materialize. Secretary Hancock stated that the Ohio River Bridges Project is a self-contained project, and therefore it is off the state's books.

In response to a question asked by Chairman Harris concerning the possibility of redirecting tractor-trailer traffic to the east end bridge as opposed

to the downtown bridge, Mr. Barber stated that the idea has been considered, but a definite decision has not been made. This will be a decision made later in the life of the project. Mr. Stark said, that within the trucking industry, time is money. Truckers will use the east end bridge if it is closer. Mr. Barber said message boards will be installed to alert traffic of issues as needed.

Representative Combs reiterated that, when a tolling plan was devised, conservative estimates were made. Secretary Hancock agreed, saying Kentucky also has a TIFIA loan on the downtown portion of the project.

In response to a question asked by Representative Jerry Miller concerning restrictions regarding explosives and hazardous materials traveling on the bridges, Mr. Barber stated there are no any restrictions of the kind.

In response to a question asked by Senator Smith, Mr. Barber stated that the bridges' clearance is 70 feet from the bottom of the decks to normal pools.

In response to a question asked by Senator Smith, Secretary Hancock stated there will be electronic tolling utilized. No toll booths will be present. Tolling will be handled through automated processes, transponders, and transponder readers. There will not be a cash acceptance booth. Instead, a picture of the vehicle's license plate will be taken and a bill will be sent to the vehicle owner.

In response to a question asked by Senator Smith, Mr. Stark stated all precautionary measures have been taken in the construction area of the tunnel itself and if something were to happen inside the tunnel, there are safety measures and specifications that have taken place to address those issues. There are containment issues already in place, and there will be no need to have special requirements.

In response to a question asked by Senator Smith, Mr. Stark stated that the tunnel being constructed for the east end crossing is surrounded by a different type of soil than the soil around the Cumberland Gap Tunnel. All precautionary measures have been made to ensure there is not an issue with an underground stream that caused material to dissolve under the road bed, as happened in the Cumberland Gap Tunnel.

Chairman Collins thanked guests and members for their attendance and cooperation and adjourned the meeting at 11:22 p.m.

Following the meeting, members were given a bus tour of the downtown bridge construction by Mr. Barber.

## **INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT**

### **Minutes of the 3rd Meeting of the 2015 Interim**

September 3, 2015

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

The 3rd meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, September 3, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.



Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Chris Girdler, Ernie Harris, Paul Hornback, Ray S. Jones II, John Schickel, Brandon Smith, Johnny Ray Turner, Robin L. Webb, and Whitney Westerfield; Representatives Hubert Collins, Tim Couch, Jim DuPlessis, Chris Harris, Reginald Meeks, Marie Rader, John Short, Kevin Sinnette, Fitz Steele, and Jim Stewart III.

Guests: Mr. Bruce Scott and Mr. Tony Hatton, Energy and Environment Cabinet; Mr. Steve Towler, Boyd County Judge Executive; Mr. Sean Borst, Citizens for Boyd County Environmental Coalition; Mr. David Flaig; Commissioner Greg Johnson and Dr. Karen Waldrop, Kentucky Department of Fish and Wildlife Resources.

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

A quorum being present, the minutes from the July 2, 2015 meeting were approved.

**Problems Faced by Farms from Depredating Deer and Interpreting Implementation of 2014 House Bill 448**

Mr. David Flaig, Ms. Trish Flaig, and Representative Addia Wuchner identified themselves for the record. Mr. David Flaig explained the problems he had with growing crops on the farmland that he leases from an out-of-state owner. The principal problem is that the county has one of the largest deer populations and the deer are eating all the crops. A large portion of the harvest is lost to deer, and it takes too long to implement the process to shoot deer under the depredating animal statutes in KRS Chapter 150. The nonresident tenant needs the right to shoot deer and to kill bucks as well as does. Representative Wuchner added that Boone County is the number one county for deer population.

In response to a legislator's remarks that the process is too complicated, there has been little action on this matter, and the deer cause insurance damage, Mr. Flaig remarked that when there are that many deer, there will be problems. One legislator remarked that hunting is a management tool, and the stakeholders could introduce a management plan in Boone County.

In response to a legislator's question about how much of the crop is lost to deer and whether there is a coyote population in Boone County, Mr. Flaig responded that about 10 percent is lost and that he does not know the coyote population.

One legislator asked if the raccoon population harms the crops and how many farm tags had been received. Mr. Flaig responded that raccoons do not harm the crops and that he has not received farm tags.

In response to a legislator's question about the number of acres Mr. Flaig farms and whether he can keep enough pressure on the deer so the animals do not harm the crops, Mr. Flaig responded that he has about 800 acres and that the pressure is not enough to keep the deer out of the fields.

One legislator remarked that it is good that property rights remain with the landowner and hunting rights can be leased to whomever the owner designates. In response to a question about whether the process is too slow, Mr. Flaig replied that the

Kentucky Department of Fish and Wildlife Resources is very slow to respond. The tenant and owner can shoot without permission from the department. The nonresident tenant should have the same right when renting a property. A nonfarming tenant has more rights than the nonresident farming tenant.

One legislator stated that the deer population is out of control and something should be done to protect the farmer. Another legislator remarked that the deer population in Kentucky has improved over the years and asked the department how this issue will be handled with the nonresident tenant farmer.

Commissioner Greg Johnson and Dr. Karen Waldrop, Kentucky Department of Fish and Wildlife Resources, and Jeff Harper, Kentucky Farm Bureau, discussed how farmers handle depredating animals and the changes made to KRS Chapter 150 through House Bill 448. Mr. Harper stated that, when the farmers dealt with animals harming crops, the depredating animal statutes were sufficient. There were not many nonresident tenant farmers, but farming practices have changed. House Bill 448 in 2014 addressed many of the concerns raised by farmers. The department develops a request form and has 30 days to respond, but the landowner retains the right to determine how the land is used.

Dr. Karen Waldrop stated that Kentucky has about 900,000 deer of very high quality. Kentucky is one of the top five trophy buck states, and that status creates revenue and jobs. As the deer population has grown, so has damage from the deer. KRS 150.170 allows landowners or the landowner's designee to kill deer if they cause damage to property or crops. House Bill 448 also changed the reporting requirements. All inedible parts of the animal are turned over to the department or destroyed.

Dr. Waldrop described a series of ways to handle animal depredation, such as in-season and out-of-season tags and unlimited antlerless permits. When there is a problem with depredating animals, there will be a site visit. The tenant must have pursued other options. There is a designee form, and all deer must be telechecked. Commissioner Johnson added that the owner can designate Mr. Flaig to kill the deer. The department has issued 5,500 in-season tags and worked with about 500 farmers. The department is dedicated to managing the deer population properly.

One legislator commented that many farmers are not compensated via crop insurance, and there should be a fund to compensate farmers who suffer losses from animal damage. In response to a question about whether the farmer can get tags in the cold months prior to planting because there is no time for farmers to hunt during summer months to keep pressure on the deer, Dr. Waldrop replied that tags can be obtained for damage with a complaint form on file. That makes it easy for the farmer to obtain out-of-season tags.

One legislator commented that it is unfair to penalize hunters to help farmers because of crop damage. The damage statewide is only 5 to 10 percent. Dr. Waldrop added that hunters pay for the resources to manage the wildlife and the hunters are concerned about paying crop damage fees.

One legislator asked whether out of state tags could be useful in controlling the population

and funding some sort of crop damage program. Commissioner Johnson responded that 800 acres with 10 percent damage would be around \$9,600 and the cost of full recovery for farmers could be very large.

#### **Out-of-State Solid Waste and its impact on landfills and local communities**

Bruce Scott, Commissioner Department of Environmental Protection and Tony Hatton, Division Director Waste Management discussed the problem of managing wastes transported from out-of-state. Mr. Hatton described the requirements to locate a solid waste landfill in Kentucky and the statutes that govern solid waste management. Shipments of solid waste into Kentucky come principally from New Jersey and New York, where the cost of disposal is much higher. There are 35 states with varying laws that decide where local wastes go within the state, but those laws are complicated in that interstate wastes are protected by the Commerce Clause of the United States Constitution. Kentucky has 27 landfills, and only a few take out-of-state wastes. Kentucky's waste breakdown into landfills is 78 percent municipal solid waste, and the remainder is industrial and special wastes. Kentucky sends seven percent of its waste to out-of-state landfills. Roughly 36 percent of Kentucky's waste is out-of-state waste. Most New York and New Jersey waste is deposited in Big Run landfill, which has created odor problems. Big Run has been receiving waste for about 23 years and disposes of 4,500 tons per year of wastes. Ninety percent of the waste is from out-of-state, and some of that waste is sewage sludge. However, after concerns with odor and pathogens, Big Run took measures to upgrade the gas collection system, reduce sludge intake, and cap landfill areas. Big Run's permit expires in 2016, and citizens are concerned about permit renewals.

After a question about why Kentucky is sending waste out-of-state, Mr. Hatton responded that, if a county is located on a border, it might be more economical to dispose of the waste out-of-state. Commissioner Bruce Scott added that tipping fees in Kentucky are generally lower than surrounding states.

One legislator commented that the management of the landfill has been woefully neglectful, and the company that owns the landfill has not responded to concerns in a timely manner. Commissioner Scott added that the cabinet will hold another hearing in Boyd County. In response to a question about whether there were problems with the changes to solid waste laws in 1991, Mr. Hatton replied that there were no problems. However, out-of-state waste on rail and transfer station layovers is a big issue with out-of-state waste, and the sludge problem has added a new concern with methane.

One legislator asked if there was medical waste and whether Kentucky has sought to raise the tipping fee for landfills. Commissioner Scott replied that medical waste is not a concern, but untreated wastewater sludge creates odors, and any call to raise the tipping fee will be made by a new administration rather than the commissioner's office.

In response to a question about whether Kentucky can impose a tariff on incoming waste, Commissioner Scott said he did not know. Some

states have determined the amount of local waste that can be generated. One legislator added that the stench from Big Run landfill is overwhelming and asked whether regulation over the landfill could be made more stringent. Commissioner Scott stated that counties have host agreements and solid waste management plans to control landfills, and there is a lot of latitude with what a county can do.

In response to a question about why the cabinet has not shut down Big Run if the company was noncompliant in addressing violations issued by the cabinet, Commissioner Scott said that many facilities are noncompliant and are still open. The cabinet tries to move a business into being compliant rather than forcing them to shut down. There is a transition period to closure of a landfill, and the owner and the county cannot just walk away from the problem.

Boyd County Judge Executive Steve Towler described the problems with the Big Run landfill when he came into office. In 2005, the ordinance was amended to increase solid waste into Big Run, the host agreement was dropped, and there was an unenforceable ordinance. Sean Borst with Citizens for Boyd County Environmental Coalition added that odor violations increased as did citizen complaints about pathogens and other health concerns related to the landfill. Kentucky is cheap, and this landfill was a target by other states looking to dispose of waste. There have been 6,000 complaints about the landfill, and there are concerns with the spray that is being used to control the odor because it may have health implications.

In response to a question about the distance from the school to the Big Run landfill, Mr. Sean Borst said about one mile. One legislator asked whether the landfill can be regulated through air quality regulations and whether the owners of the landfill are local citizens. Judge Towler replied the owners are not local, and the county needs help at the state level for a quicker process to closure.

Judge Towler said that rail service into the landfill is being abolished, but this happened after the county wanted to close the landfill. Ninety percent of Big Run's waste is from out-of-state, and 75 percent is transported into the landfill by train six days a week.

In response to a question about the company's name and headquarters, Judge Towler said the company is EnviroSolutions from Manassas, Virginia. The landfill is located off I-64 in Boyd County and is visible from the highway.

One legislator questioned whether there is an enforcement problem if the cabinet does not fix the problem with Big Run landfill, and another legislator commented that solid waste container legislation was filed last year to address this issue. There may be a need to have inspectors for landfills.

Representatives from the Energy and Environment Cabinet requested an amendment to two administrative regulations 402 KAR 3:050 and 805 KAR 1:100. After a motion and a second, both amendments were approved.

There being no further business, the meeting was adjourned at 3:10 PM EDT.

## LEGISLATIVE RESEARCH COMMISSION

### Minutes of the 550th Meeting

September 23, 2015

#### Call to Order and Roll Call

The 550th meeting of the Legislative Research Commission was held on Wednesday, September 23, 2015, at 10:00 AM, in Room 125 of the Capitol Annex. Representative Greg Stumbo, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators Julian M. Carroll, David P. Givens, Jimmy Higdon, Ray S. Jones II, Dan "Malano" Seum, and Damon Thayer; Representatives Rocky Adkins, Jim DeCesare, Jeff Hoover, Stan Lee, Sannie Overly, and Jody Richards.

Guests:

LRC Staff: Robert Jenkins and Christy Glass.

There being a quorum present, Representative Stumbo called for a motion to approve the minutes of the September 2, 2015, meeting, and approve item A. under New Business. Representative Stumbo advised the members that attached to their agenda was a contract offered for approval today to David Byerman. Representative Stumbo reviewed several items in the contract, including Mr. Byerman's salary and the customary five percent raise after a six month probationary period. The contract's term is for two years, and has a termination provision with a two-thirds vote of the Commission. If the contract is terminated without cause, then Mr. Byerman will be paid the balance of the contract. If the contract is terminated with cause, the balance will be not be paid. Mr. Byerman will be paid \$20,000 for moving and living expenses, and will be required to submit invoices to support the expenses.

A motion was made by Representative Richards and seconded by Senator Carroll. Representative Stumbo called for any discussion.

Senator Stivers said he would like to compliment Becky Harilson and Steve Collins for working well together as co-directors. One of the things he and the Speaker had discussed with Mr. Byerman is that Becky and Steve have been giving him and the Speaker a weekly update on personnel actions, additional acquisitions, and expenditures that may not have been foreseen. Senator Stivers said this process has been good and fair between the respective chambers, and this type of update is going to continue. Senator Stivers said that this was a "new day" and the way they were going to proceed, and that it had been more transparent than previously. Senator Stivers then thanked Representative Stumbo and his staff and the members of the LRC with how they had conducted themselves, and how they want to move forward.

Representative Stumbo offered his compliments to the President and his staff and the members of the search committee. Representative Stumbo said he thinks they have made a good choice, and that Mr. Byerman brings a wealth of legislative experience. He is an accomplished parliamentarian, having been recognized by national organizations. Mr. Byerman

has ran the Nevada Senate personnel, which is similar to the Legislative Research Commission. Mr. Byerman had been given positive recommendations by the Republican Lt. Governor and the Democratic Majority Leader, who was Majority Leader while Mr. Byerman was Clerk of the Senate. Representative Stumbo said he thinks this means that Mr. Byerman can work in a bipartisan manner, and that Mr. Byerman understands the sensitivity of that process, particularly at LRC, where there is a division as to parties controlling the chambers.

Representative Stumbo said that Mr. Byerman had done his research on the staff at LRC, and was very complimentary of the staff. He said Mr. Byerman had spoken with his peers in other states, had commented that LRC has an excellent employee base, and stated that there should be fairness in the system so as to move forward.

A roll call vote was taken, and the motion passed unanimously.

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON AGRICULTURE

### Minutes of the 4th Meeting of the 2015 Interim

September 9, 2015

#### Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Agriculture was held on Wednesday, September 9, 2015, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Tom McKee, 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 C.B. Embry Jr., Chris Girdler, Dennis Parrett, Dorsey Ridley, Damon Thayer, Stephen West, and Whitney Westerfield; Representatives Lynn Bechler, Johnny Bell, Will Coursey, Mike Denham, Kelly Flood, Derrick Graham, David Hale, Richard Heath, James Kay, Kim King, Michael Meredith, Suzanne Miles, Terry Mills, David Osborne, Sannie Overly, Ryan Quarles, Bart Rowland, Steven Rudy, Dean Schamore, Rita Smart, Wilson Stone, James Tipton, and Tommy Turner.

Guests: Aidan Connolly, Alltech Chief Innovation Officer and Vice President, Corporate Accounts; Gene Lanham and Joe Livers, farmers, Marion County, Kentucky, and Marion County Judge Executive, David Daugherty.

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

The August 27, 2015 minutes were approved, by voice vote, upon motion made by Representative Rudy and second by Representative Graham.

#### Alltech and Alltech's Kentucky Agricultural Outreach

Aidan Connolly, Alltech Chief Innovation Officer and Vice President of Corporate Accounts, testified about Alltech and Alltech's Kentucky agricultural outreach. Alltech's major part of business is looking for natural ways to improve animal health.



Some parts of the technology have been moved into the area of crops to improve immune system, productivity of crops such as corn, beans, flowers, and fruits. The "Alltech Way" is to discover, innovate, and deliver. The business model is to see what the world needs, look for innovative solutions, and bring them to the marketplace. Alltech looks for people who are good innovators and have a great curiosity in learning more. Alltech trades in 128 countries and has manufacturing facilities in 77 locations, employing 4,200 people.

Mr. Connolly said by 2050, the estimated world population will be 10 billion. Producing enough food will be a challenge. The food production system will require more animals and a more efficient way to produce meat, milk and eggs. The food industry is the driving force for innovation. As an example, the industry is requiring that certain foods be antibiotic-free and poultry cage free. People want food that helps make them healthy, smarter, and live longer. The largest algae factory is in Winchester, Kentucky, which can manufacture DHA (omega 3 fatty acids). Algae is a valuable source of protein, pigments, vitamins, and fatty acids. The three most valuable commodities in agriculture are land, water, and sunshine.

Mr. Connolly said that Alltech is also involved in life sciences. Alzheimer's is a debilitating disease that has no cure. Mineral-enriched yeast may fight against human dementia and diabetes. Research shows a 50 percent reduction in plaques and tangles found in dementia patients. This could potentially help thousands of people around the world.

Mr. Connolly said that Kentucky is an entrepreneur's dream. Alltech reaches around the world and is an ambassador for the Commonwealth. Alltech was started 35 years ago by Dr. Pearce Lyons with \$10,000. Today, Alltech has 700 employees in Kentucky and nine manufacturing facilities. Alltech also supports education. Alltech has constructed 11 primary school labs and awarded \$500,000 in annual scholarships and \$100,000 annually to Kentucky philanthropic initiatives. Alltech's investments in Kentucky have totaled \$117 million along with a \$32 million state payroll.

Alltech has an interest in bridging the gap between understanding nutrition and genetics, otherwise called nutrigenomics. It is what happens when one eats the food and its effect on the genes. In addition to a person's genes, the food a person eats, whether the person smokes, and the environment the person lives in affect longevity and the lives of the future generation. Alltech has invested \$10 million in the Nutrigenomics center in Nicholasville. Other interests for Alltech in Kentucky have been the purchase of Connemara Golf Course and the Town Branch Distillery, which is part of the Kentucky Bourbon Trail. A new brewery will be built on the same property as Town Branch, making it the only place in the United States that has a brewery and distillery in the same location. Alltech is committed to investing in eastern Kentucky by creating more jobs at the Dueling Barrels Distillery.

Mr. Connolly said that the 2010 World Equestrian Games put Alltech and Kentucky on the map. The economic impact to the community

was approximately \$375 million. There were over 500,000 visitors, 900 horses, and 800 athletes. Alltech hopes that Kentucky will host another World Equestrian Games.

Mr. Connolly stated that Alltech feels a social responsibility to help countries like Haiti and other areas dealing with earthquakes and tsunamis by helping rebuild schools and other essential services.

Mr. Connolly said that, if he were asked what to suggest to young people what they could do to further their education, he would tell them to buy a passport and travel the world. Young people will need to embrace technology. For young people in Kentucky it is important to realize that Alltech is a global business. Agriculture is about feeding the world, and to feed the world a person must understand the world. For people who cannot travel, Alltech has an annual conference that has grown each year. In 2015, there were 3,000 attendees from 120 countries. The economic impact to the surrounding area was \$7.2 million. Alltech invited and encouraged committee members and staff to attend the May 22-25, 2016 conference in Lexington.

In response to Representative McKee, Mr. Connolly stated that Alltech was continuing its work researching the strains of algae that can produce very large amounts of oil. The oil rich algae can be a part of biofuels.

In response to Representative Kay, Mr. Connolly said that the people of the Commonwealth have a wonderful opportunity to learn more about Alltech and its global offices. Alltech is a company that is here to help Kentucky. Representative Kay encouraged all members to attend the 2016 Alltech Conference.

In response to Senator Hornback, Mr. Connolly stated that Alltech is involved in biotechnology but has not been involved in genetically modified organisms (GMO). Alltech does not take a position on GMO technology. However, GMOs will be a very important component of helping to feed to the world. Alltech is working to make a plant's immune system stronger by naturally fighting fungal and bacterial infections that are related to insects.

Representative Denham congratulated Alltech for its purchase of the Ridley plant in Maysville.

In response to Representative Bechler, Mr. Connolly stated that the number of Alltech employees was based on all companies. He was hesitant to say exactly how many employees Alltech had in Kentucky.

Representative Kim King stated that it was a pleasure to have Alltech in Jessamine County. Mr. Connolly said that if a new company were interested in locating in Kentucky that Alltech would be happy for it to visit.

Representative Tipton said that he had the opportunity to attend the 2015 Alltech Conference. He found it to be inspirational and encouraged members to attend next year. In response to Representative Tipton, Mr. Connolly stated that Alltech partners with the University of Kentucky, especially with Coldstream poultry facility. Alltech is familiar with businesses like Land O'Lakes and Cargill, but not their customers. Alltech is in the process of becoming more familiar with producers and farmers.

Representative Schamore complimented the 2015 Alltech Conference. He said he met and spoke with several people from other countries.

In response to Representative Hale, Mr. Connolly said that shrimp farming is beginning to grow. Shrimp are highly susceptible to disease. It will be extremely important to shrimp farmers that the immune system of shrimp is strong. Alltech is looking at natural ways to resist viruses, bacteria, and other issues that might occur.

#### **Potential Agricultural Impacts of the Proposed Tennessee Gas Pipeline Product Conversion Transport Plan**

Representative Terry Mills, Gene Lanham and Joe Livers, Marion County farmers and David Daugherty, Marion County Judge Executive, discussed issues and the impact of the proposed Tennessee Gas Pipeline conversion transport plan. Representative Mills explained that the Kinder-Morgan project is about gas lines in Kentucky carrying natural gas products. The proposal from Kinder-Morgan is to abandon one of those lines and restructure the pipeline so they will carry natural gas liquids in a different direction. It will involve 256 miles in Kentucky and 18 counties, including Marion County. There are major concerns with pipeline safety. Representative Mills said that before the project can proceed, the Federal Energy Regulatory Commission must approve the abandonment of the pipeline, which is still pending. Three fiscal courts have filed resolutions opposing the Kinder-Morgan project. Kinder-Morgan was invited to attend the meeting but declined.

Representative Mills introduced Mr. Lanham and Mr. Livers, who are farmers with a long history of pipelines crossing through their property. Mr. Lanham explained that the first pipelines were laid in the early 1940s. Landowners were not particularly concerned with the pipeline then but signed leases to help in the war effort. Most of the lines have been underground for at least 70 years creating safety issues due to corrosion. Those lines could explode at any time. If any line leaks or explodes it could affect all property within one mile of the line, causing serious issues for the landowner and contaminate drinking water. As time passed and other lines were installed it became apparent that no one would take responsibility for destruction of the land, loss of cattle due to open gates, or the inconvenience.

Mr. Lanham said that most easements included language that any damage to the property would be repaired. The gas company would do it, but at its price, schedule and way. Mr. Lanham said he personally experienced destruction on his property, and even though the gas company fixed the problem, it was not done correctly and still causes problems. He refused to take money from the gas company and ended up suing. Representatives from the gas company came to his house and told him to either take the money or the company would see him in court with its high-priced attorneys. Mr. Lanham said he filed suit but after two years he ended up taking the money offered. There have been other issues with easements throughout the years and it has not gotten better. He suggested that the laws be changed regarding easements and rights of the landowners.

Mr. Livers said that Kinder-Morgan is skirting around the Bluegrass Pipeline to make things happen with repurposing the gas lines. There are a tremendous number of hazards associated with repurposing and reversing the flow. He recently talked with a retired employee from Kinder-Morgan who specifically told him that if there was ever an explosion in the line, it would happen next to his parents' house. His farm and his parents' farm have all five gas lines crossing through. He said that "pipeline 1" was laid in the 1940s. If the line is repurposed from carrying natural gas to natural gas liquid, it would increase the weight at some of the joints to over 300,000 pounds. In addition, pipeline 1 would not pass today's inspection standards. Mr. Livers expressed concern with the use of eminent domain and the unjust compensation contained in the leases. Landowners are upset over the use of large equipment that is destroying some of their property and crops. Landowners should be notified prior to any construction.

In response to Representative Smart, Mr. Livers said that there will be environmental impacts. If someone does not hold the company accountable, it will do what it wants to do.

Representative Kay expressed concerns over the future value of the land being used for the gas project. Some of his constituents had already been told to either take the money that the Bluegrass Pipeline was offering or it would use eminent domain to acquire access to the property.

Representative Bell said counties in his district also have pipeline concerns. Some of the pipelines are not underground, therefore bringing up the issue of whether they can bear the weight of extra tonnage. If these companies are going to repurpose 75-year-old lines, then the state needs to be prepared for explosions.

There being no further business, the meeting was adjourned.

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

### **Minutes of the 2nd Meeting of the 2015 Interim**

September 22, 2015

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

The 2nd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, September 22, 2015, at 10:00 AM, at the Marriott Griffin Gate in Lexington, Kentucky. Representative Jeff Greer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Co-Chair; Representative Jeff Greer, Co-Chair; Senators Jared Carpenter, Chris Girdler, Christian McDaniel, Morgan McGarvey, Dennis Parrett, Dorsey Ridley, Albert Robinson, John Schickel, and Dan "Malano" Seum; Representatives Ron Crimm, Mike Denham, Joseph M. Fischer, Jim Gooch Jr., Mike Harmon, Chris Harris, Dennis Horlander, James Kay, Dennis Keene, Thomas Kerr, Adam Koenig, David Meade, Michael Meredith, Russ A. Meyer, Brad Montell, David Osborne, Sannie Overly, Ruth Ann Palumbo, Ryan Quarles, Steve Riggs, Bart Rowland, Jonathan Shell, Kevin Sinnette,

Fitz Steele, Wilson Stone, and Ken Upchurch.

Guests: Kevin Smith, President and CEO, Sharon Bird, Public Policy Director, and Shannon Smith, Community Ventures; Commissioner Charles Vice, Depart of Finance Insurance.

LRC Staff: Sean Donaldson, Dale Hardy, Dawn Johnson, and Rhonda Schierer.

#### **Approval of Minutes**

A motion was made by Representative Keene and Representative Stone seconded the motion to approve the August 25, 2015, committee meeting minutes. The motion carried by unanimous voice vote, and the minutes were approved.

#### **Review of DFI Regulations**

Commissioner Charles Vice discussed the following DFI regulations: 808 KAR 12:020, 808 KAR 12:021, 808 KAR 12:110, 808 KAR 9:010, and he added KAR 10:500 regarding crowd funding. There was no opposition to these regulations.

#### **Community Ventures Presentation**

Kevin Smith, President and CEO of Community Ventures gave a PowerPoint presentation on Community Ventures. Mr. Smith stated that Community Ventures (CV), is a nonprofit organization that started in 1982, has five regional offices, 45 employees, and the main headquarters is located at 1450 North Broadway, Lexington, Kentucky. The mission of CV is to build stronger communities, one home owner at a time. The company makes loans when banks cannot. It makes micro loans for starting or expanding businesses or simply helping a welfare mom with a \$500 loan to buy an air compressor. CV is a one-stop homeownership center, helping clients understand their credit, how to budget and save, find the right mortgage, and prevent and avoid foreclosure. CV helps people achieve their dreams of home and business ownership. From education to financing, their areas of focus offer the opportunity to enhance the quality of life for people across Kentucky. CV has helped over 600 people purchase a home, helped 100,000 get educated and trained, and provided counseling to over 2,000 people. CV has helped over 5,000 entrepreneurs start or expand their businesses, and has have helped create 10,500 jobs as a result of this process. CV has built small business incubators in Lexington and Louisville, serving 36 businesses. The incubators provide affordable space for people and supply administrative assistance and small business training, business financing, and ongoing support.

In rural areas, CV helps build and rehabilitate homes. Mr. Smith stated that CV buys, inspects, and helps with budget to save and maintain the homes for families. CV builds and rehabilitates rental apartment complexes. CV is involved in revitalization of neighborhoods, having revitalized or built 26 homes in the blighted Russell neighborhood in Louisville. CV hopes to bring in new businesses to turn the neighborhood around. CV will start construction in November on Cedar Street vacant lots.

CV has helped with community projects from healthy food projects to disaster relief. It focuses on areas of greatest need and the ways it can do the most good for communities. Some of the past projects include a healthy food kitchen in Louisville, a sports complex in Bowling Green, real estate development in Lexington, and a wellness center in Barbourville.

CV has helped rebuild Magoffin County schools following extensive tornado damage. CV saved 1,100 homes from foreclosures last year.

Mr. Smith discussed a kitchen incubator that will be opening this fall in Louisville. Located at 1812 W Muhammed Ali Boulevard, this commercially-licensed kitchen has space available with state-of-the-art equipment and business support services. It has 13,000 square feet, membership-based pricing plans, and member exclusive benefits, and is open 24/7.

Sharon Bird announced that a tour of the Lexington neighborhood that CV is renovating and lunch would be provided immediately after the meeting.

In response to a question from Representative Carpenter, Mr. Smith stated that CV receives capital from many private donations, banks, federal government, the Treasury Department, HUD, clients who pay for courses in the program, grants, and the legislature. CV is working on an annual budget of \$11 million, and hopes to increase the budget to \$15-\$20 million a year.

Representative Kay stated that he had seen how CV has helped save homes and families in despair that were not only low income families but middle class families who had simply struggled to make ends meet. He said that CV kept families from going into foreclosure and from uprooting their children from their homes.

In response to a question from Representative Crimm, Mr. Smith stated that to save blighted neighborhoods, CV is striving to sustain neighborhoods by incorporating 70 percent people who can become home owners and help them become qualified, and to attract people with higher incomes to the neighborhood as well as businesses to supply the needs and places that home owners can walk to.

In response to a question from Representative Stone, Mr. Smith stated that CV is hoping to add another location in western Kentucky and would appreciate his input on areas of need.

There being no further business, the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Minutes of the 4th Meeting of the 2015 Interim**

September 14, 2015

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

The 4th meeting of the Interim Joint Committee on Education was held on Monday, September 14, 2015, at 11:00 AM, in Fairdale, Kentucky, at Fairdale High School. Representative Derrick Graham, 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, Danny Carroll, Jimmy Higdon, Gerald A. Neal, Reginald Thomas; Representatives George Brown Jr., Regina Bunch, Leslie Combs, Jim DeCesare, Jeffery Donohue, James Kay, Brian



Linder, Mary Lou Marzian, Charles Miller, Ruth Ann Palumbo, Marie Rader, Jody Richards, Tom Riner, Jim Stewart III, Wilson Stone, and Addia Wuchner.

Legislative Guest: Representative Arnold Simpson.

Guests: Keven C. Brown, Kentucky Department of Education; Clyde Caudill, Kentucky Association of School Administrators.

LRC Staff: Jo Carole Ellis, Joshua Collins, Janet Stevens, Amy Tolliver, and Daniel Clark.

#### **Welcome**

Chairman Graham thanked Fairdale High School Principal Brad Weston and his staff for hosting the meeting and providing a tour of the Cambridge program classrooms as well as law enforcement, fire science, and heavy equipment classrooms.

Representative Donohue, talked about his alma mater and his pride in the recent turnaround of Fairdale High School under the leadership of Principal Weston. He thanked his colleagues for passing House Bill 268, resulting in the Cambridge International Exams being recognized for Kentucky Educational Excellence Scholarship (KEES) eligibility.

Principal Weston welcomed the committee, thanked Representative Donohue for sponsoring House Bill 268, and acknowledged the Cambridge students in attendance.

Jefferson County Public Schools (JCPS) Superintendent Donna Hargens welcomed the committee, acknowledged the Jefferson County school board members in attendance, and thanked them for their service.

#### **Presentation: Jefferson County Public Schools: Focus on Student Learning**

Donna Hargens, JCPS Superintendent, gave an overview of the district demographics. The JCPS district is the 27<sup>th</sup> largest district in the country with 101,000 students and consists of 1/7<sup>th</sup> of the students in Kentucky. Thirty-seven percent of students are African American, which is one half of all the African American students in Kentucky. The district has 172 school sites. About 52.7 percent of students are minority, and 63.6 percent receive free or reduced lunch. One hundred three different languages are spoken by the students, and 6.4 percent are homeless.

Dr. Hargens stated that in 2011-12 the district completed a school improvement audit, resulting in Vision 2015, a roadmap for improving student achievement with specific strategies and measurements to ensure progress. Since its implementation, the percentage of students scoring at proficient and distinguished in reading and math increased each year in all student groups. Students' college and career readiness rate improved by 28 percentage points and is now at 63.5 percent. The graduation rate increased to 79 percent, and JCPS redirected \$245 million of school expenditures into classrooms.

Dr. Hargens explained that the district is embarking on Vision 2020, which will be submitted to the board in October for approval. JCPS launched two district of innovation schools, repurposed a school back to an elementary school, opened a new alternative school, started an early childhood center, and have a new elementary school ready to open next year. The district is also participating in the

Compassionate Schools Project, which centers on a health and wellness curriculum, utilizes an equity score card to ensure schools are meeting the needs of individual students, and is part of the males of color pledge, which seeks to ensure that males of color are on a successful trajectory.

Chairman Graham thanked Dr. Hargens and the JCPS system for the implementation of a six-week early childhood education pre-kindergarten program, held at the Unsel Center this summer. The program was funded by the business community to benefit students entering the system from zip codes where students scored the lowest on ACT/SAT and state testing. He said this is a great example of a successful public/private partnership that is benefiting public school children. Chairman Graham said that he is looking forward to participating in a meeting where the pre- and post-summer program test results of students will be presented and discussed.

#### **Approval of the Minutes of the August 10, 2015, Meeting**

Upon motion from Representative Kay, seconded by Representative Stone, the minutes were approved by voice vote.

#### **Presentation: Cambridge International Program**

Brad Weston, Principal, Fairdale High School, explained that the Cambridge International Studies program is administered by a non-profit department of the University of Cambridge in England. The program gives students the opportunity to earn the Advanced International Certificate of Education (AICE) diploma, the most widely recognized international diploma. In its fourth year of participation in the human services international studies path, Fairdale has produced its first senior class of 38 AICE diploma-eligible students and has nearly 60 students enrolled in the freshman class. Fairdale offers Cambridge stage three and four courses which, thanks to House Bill 268, are KEES bonus money eligible. Fairdale's long term vision is to offer all four stages of the Cambridge program, which would begin with Cambridge Primary at Fairdale Elementary. Principal Weston explained that, in the student-centered Cambridge classrooms, students learn to be self-aware, self-disciplined, and self-motivated critical thinkers who can work collaboratively in diverse groups. Principal Weston acknowledged and introduced each of Fairdale's 11<sup>th</sup> and 12<sup>th</sup> grade Cambridge students who have in total earned over \$20,000 in KEES bonus money.

Senator Wilson commended Principal Weston for addressing the workforce skills gap by training students in law enforcement, fire science, and heavy equipment operation. Senator Wilson also thanked Joe Burks, Education Policy Analyst in the Senate, for introducing the Cambridge program to Fairdale High School and praised Senator Dan Seum for supporting House Bill 268 in the Senate.

Representative Charlie Miller thanked Principal Weston for his work. He said that he is proud to see such strong academic and vocational programs going into area schools.

In response to questions from Senator Carroll regarding Fairdale's law enforcement curriculum and graduate tracking, Principal Weston explained

that the curriculum is modeled after a large law enforcement magnet school in Florida and aligned with Louisville Metro Police policies and procedures. Principal Weston stated that Fairdale worked with the Kentucky Department of Education to get certification for the 911 dispatch program, so that students can go directly into the field after high school if they choose. Principal Weston explained that Cambridge students are easily and closely tracked after graduation, as are the heavy equipment operator students; however, tracking law enforcement and fire science students is more difficult because they cannot begin in the field until age 21. Fairdale is in the process of developing a tracking system to monitor these students after high school.

In response to a question from Representative Riner, Principal Weston stated that Fairdale's certified heavy equipment operator graduates are starting out making approximately \$15-\$18 per hour and moving up very quickly in the ranks due to on-the-job training they receive at Fairdale.

#### **Review of Administrative Regulations**

There was no action taken on 16 KAR 2:020, 16 KAR 4:030, 702 KAR 7:065, 704 KAR 3:303, or 705 KAR 4:041.

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

## **INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY**

### **Minutes of the 4th Meeting of the 2015 Interim**

September 15, 2015

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

The 4th meeting of the Interim Joint Committee on Labor and Industry was held on Tuesday, September 15, 2015, at 3:30 PM, at the 38<sup>th</sup> Labor-Management Conference at Kentucky Dam Village State Resort Park in Gilbertsville, KY. Representative Rick G. Nelson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Rick G. Nelson, Co-Chair; Senators Perry B. Clark, Denise Harper Angel, Ernie Harris, Jimmy Higdon, Wil Schroder, and Reginald Thomas; Representatives Denver Butler, Will Coursey, Jeffery Donohue, Jim DuPlessis, Jeff Greer, Dennis Horlander, Adam Koenig, Charles Miller, Terry Mills, Tom Riner, Jim Stewart III, James Tipton, and Brent Yonts.

Guests: Secretary Larry Robert, Kentucky Labor Cabinet; Commissioner Dwight Lovan; Department of Workers' Claims, Kentucky Labor Cabinet; Deputy Secretary Beth Brinly, Kentucky Education and Workforce Development Cabinet.

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

#### **Approval of Minutes**

A motion by Representative Yonts and a second by Representative Coursey to approve the minutes from the July 16<sup>th</sup> and August 20<sup>th</sup> meetings carried by voice vote.

#### **Partnership with U.S. Labor Cabinet for Employee Misclassification**

Secretary Larry Roberts, Kentucky Labor

Cabinet, testified about the partnership between the state and the U.S. Department of Labor (U.S.D.O.L.) to prevent the misclassification of employees as independent contractors. When employees are misclassified as independent contractors they are no longer eligible for overtime pay, unemployment benefits, or workers' compensation. While workers are being denied benefits, the government is also being denied revenue due to taxes not being withheld and unemployment insurance taxes being paid and workers' compensation insurance not being purchased. Lawful employers are also being denied a level playing field because of those employers that are misclassifying employees to reduce their costs and underbid their competitors. When an employer misclassifies workers it can conceal the actual nature and/or size of their business to insurance providers and governmental organizations.

Under this memorandum of understanding (MOU) with the U.S.D.O.L. the Labor Cabinet will be able to attack this issue with a combination of a training and outreach campaign and data-driven tactical implementation through information sharing and coordinated enforcement. This partnership will not change any current state laws or regulations, but it will allow the state to better utilize pertinent resources to combat employee misclassification. Secretary Roberts pointed out that the Labor Cabinet's website has information regarding misclassification and the difference between an employee and an independent contractor. The cabinet wants to ensure that Kentucky's workforce is treated fairly and are able to collect the wages they are due. The U.S.D.O.L. has entered in MOUs with 26 states, including Florida, Alabama, and Texas.

Responding to Representative Tipton, Secretary Roberts stated that the definitions of an employee and an independent contractor may vary slightly in wording among different state agencies but some have clear and specific definitions while others are based in case law.

#### **Update on Black Lung**

Commissioner Dwight Lovan, Department of Workers' Claims, Kentucky Labor Cabinet, testified about coal workers' pneumoconiosis (black lung) claims. There have been 1,300 new claims filed with the department in the last two and a half years, and the department is on track to have about 500 filed for 2015, which is causing stress on the system. Between 2005 and 2011, there were approximately 500 claims filed. The number of claims has increased in recent years due to the manner in which cases are now decided and the number of layoffs in the coal mining industry.

In April 2010, the Kentucky Supreme Court ruled that the state's process of analyzing black lung benefits was unconstitutional as a violation of equal protection because the claims were handled differently than any other occupational lung disease. As a result, the department has resorted to the use of statutory university evaluations to determine claims. This caused an issue due to the University of Kentucky and the University of Louisville not having the resources or staff to process the claims. Therefore, the state contracted Coal Miners Respiratory Clinic in Muhlenberg County and Commonwealth

Respiratory Consultants in Fayette County to assist with evaluations, and between the two facilities about 50 evaluations are performed a month.

Between May 2014 and September 8, 2015 201 claims have been referred for KRS 342.315 evaluations; 202 claims have appointments scheduled; 128 claims have completed the evaluation process; and 450 claims continue to be temporarily assigned to the Chief Administrative Law Judge (CALJ). There are 17 administrative law judges, and one of those specifically concentrates on black lung. Since January 2014, there have been 79 awards, 483 agreements, and 201 dismissals, which is a total of 763 cases that have been resolved. Commissioner Lovan said that the department is working diligently to eliminate the back log of black lung claims so that new claims can go into a normal queue of being processed but the department has not yet reached that point. The department is working on adding two additional facilities to assist with evaluations and the commissioner predicted, based on recent figures, that the number of new claims next year will likely be less than this year.

Answering a question from Representative DuPlessis, Commissioner Lovan said that the universities have been doing some evaluations but currently U of L is not performing them due to one doctor on staff leaving the facility and not being replaced as of yet. Between 30 percent and 40 percent of university evaluations are positive interpretations of black lung.

In response to Representative Yonts, Commissioner Lovan stated that when it comes to the evaluations and x-rays, each claimant is entitled to two medical reports but more often than not with black lung there is only one performed. An x-ray would qualify as one of the two allowed medical reports. Since 2012, there have been 40 to 45 complicated cases of black lung decided, and one to two have been controverted.

#### **Coal Self-Insurance Guaranty Fund**

Commissioner Lovan also gave an update on the Coal Employers' Self-Insurance Guaranty Fund. During the special session of 1996, guaranty funds for the self-insured industry were created which included individual self-insured employers, group self-insureds, and individual coal employer self-insureds. To be self-insured, a certification must be obtained from the Department of Workers' Claims and security must be posted in case of a default. Employers of the coal self-insurance guaranty fund are responsible for payment of claims, in the event of a default, if the security is insufficient. There is potential that is not always assessed. The statute provides an assessment of up to 2 percent of their simulated premium. Originally there were 23 self-insured coal employers, but today there are only four. One of those four is in the process of being sold and another has only 11 employees and has filed for bankruptcy. Therefore, according to the commissioner, by the end of 2015 the Kentucky Coal Employers' Guaranty Fund could be down to only two self-insured coal employers. Although the department does a good job assessing security, the commissioner sees potential problems if eventually there are only two self-insured coal employers that comprise the totality of the guaranty

fund.

Replying to a question from Senator Thomas, the commissioner said that the state holds no liability according to the statute if a self-insured coal employer is unable to pay for their employees claims, but if the state chose to take responsibility, the amount would be close to \$8 million as of right now.

#### **Update on Unemployment Insurance Trust Fund**

Deputy Secretary Beth Brinly, Kentucky Education and Workforce Development Cabinet, gave a presentation on the Unemployment Insurance Trust Fund and reported that the \$972 million UI loan has been paid off seven years ahead of schedule. For the first eight months of this year benefits have been down 11% from last year; contributions are up 2.5 percent; initial claims are down 7.5 percent; and the weeks benefits are claimed is down 14.6 percent. Collections for the surcharge are \$29.7 million, and the Title XII interest and JPMorgan repayments will total \$14.4 million for September 2015. The federal Title XII advance balance became positive in August 2015 and as of September 2015 is \$36.5 million. The balance will remain positive through November 10, 2015, which is the critical date for ensuring Kentucky employers will no longer face a "credit reduction" when filing their 2015 taxes which makes the total estimated savings for employers of \$165 million.

Kentucky is a credit reduction state and Kentucky employers started paying an additional tax beyond the normal \$42 or 0.6 percent net Federal Unemployment Tax Act (FUTA) tax in 2011. The total FUTA tax rate for 2015 is 2.1 percent, which is \$147 per employee and a gross amount of \$230 million. The loan repayment will save Kentucky employers \$165 million in federal taxes in 2015. Factors that enabled the state to pay the Title XII advance include implementing the recommendations of the Governor's Unemployment Insurance Task Force, the FUTA credit reduction, active financial management, and an improvement of the labor market.

The department expects to have sufficient surcharge receipts by mid-2016 to end surcharge collections from employers. Prior to July 1, 2015 the department applied for a benefit cost rate (BCR) add-on waiver and substitution and for a cap on FUTA credit reduction. A \$9.3 million payment was made to JPMorgan on September 1, 2015, and there will be an estimated \$5.1 million of Title XII interest paid to the U.S. Treasury before September 30, 2015. The Education and Workforce Development Cabinet will continue to monitor tax and benefit accounts as well as continue to sweep the accounts as needed to improve tax payments for employers.

There being no further business, the meeting was adjourned.

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

### **Minutes of the 3rd Meeting of the 2015 Interim**

September 10, 2015

#### **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 10, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Will Coursey, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Albert Robinson, Co-Chair; Representative Will Coursey, Co-Chair; Senators Julian M. Carroll, Perry B. Clark, C. B. Embry Jr., Carroll Gibson, Ernie Harris, Stan Humphries, Christian McDaniel, Gerald A. Neal, Dennis Parrett, Whitney Westerfield, and Mike Wilson; Representatives Regina Bunch, Tom Burch, Denver Butler, Larry Clark, Leslie Combs, Tim Couch, Ron Crimm, Jim Gooch Jr., Jeff Greer, David Hale, Donna Mayfield, Terry Mills, Tim Moore, Rick G. Nelson, Tom Riner, Dean Schamore, Rita Smart, John Tilley, and Russell Webber.

**Guests:** LuWanda Knuckles, Women Veterans Coordinator and Dennis Shepherd, Legal Counsel, Kentucky Department of Veterans Affairs; Representative Susan Westrom and her constituent, Susan Mosely.

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

#### **Update on Federal Military Trauma Legislation**

Representative Susan Westrom introduced a constituent, Susan Moseley, who is a female veteran who was subjected to sexual assault while serving in the military. Representative Westrom explained to the committee how the two of them met and the things she has learned from female veterans in various counseling and support groups. She also discussed the proposed legislation from Congressman Andy Barr that will amend the Veterans Access, Choice, and Accountability Act of 2014 to improve the private treatment of veterans who are victims of military sexual assault, known as the Military Sexual Assault, Victims Empowerment Act, or the Military SAVE Act. Representative Westrom stated that 26,000 active veterans expressed that they have been victims of sexual assault and they need help. Representative Westrom's constituent, Susan Moseley testified that she was sexually assaulted by her superior officer only four months after she was enlisted in the military. She was told that she would be sent home if she told about her assault. Ms. Moseley wanted to serve her country and continued to do so but developed an eating disorder as a result of MST. She was hospitalized and told that she was not stable enough to testify against her superior officer. After leaving the military, Ms. Moseley joined a military sexual assault victims group and realized that years after being assaulted herself, assault in the military has continued to grow in numbers and many veterans continue to suffer from Military Sexual Trauma (MST).

After pleas from Ms. Mosely and other MST survivors, Representative Westrom turned to Congressman Andy Barr for help with legislation in Congress to protect MST victims and allow them to seek medical help outside the VA. Ms. Moseley stated that there are only two places in Kentucky for women veterans to go outside the VA to get care.

One of the largest problems within the MST

victim groups is that most victims cannot vocalize what has happened to them. Susan is stepping up to be a voice for herself and the many other victims she has met. She is going to Congress to address the issue and hopes to get legislation passed to allow women to go outside the VA in order to get the proper care they need. Ms. Moseley came before the Kentucky Veterans, Military Affairs, and Public Protection Interim Joint Committee to prepare herself for Congress and to make legislators aware of what is happening in regards to sexual assault victims in Kentucky.

As a survivor of MST, Ms. Mosely still struggles with certain triggers from her MST. One of her triggers is seeing men in military uniforms. Representative Tim Moore, a Colonel in the Air Force, and committee member sat next to her at the testimony table to help her prepare to speak before Congress. Ms. Moseley stated that many of the victims in her support group are homeless or addicts and end up in jail or hospitalized. This leaves Kentucky to pick up jail and medical costs because there are no places for these victims to go to seek help or to feel safe. Most of the homeless shelters are male shelters, and women do not feel safe in that environment. Representative Westrom stated that the bill before Congress would allow women to go outside the VA to get proper care. The bill is not partisan or gender related.

In response to a question from Representative Rita Smart, Ms. Moseley stated that MST impacts her daily life. She prepares herself to be as good of a mother to her daughter as possible. Without her daughter, she would not be out in public as much. She makes herself very aware of all of her surroundings before she goes inside public buildings. Going into the VA is a difficult task for her due to the many men in uniform and the lack of knowledge that the VA has about MST.

In response to a question from Senator Clark, Ms. Moseley stated that she has been a veteran since 1996, and she has permanent care for her condition.

In response to a question from Senator Carroll, Ms. Moseley stated that she was told she was psychologically traumatized and could not go to a court martial. She stated that there are thousands of other victims in Kentucky with the same issue. As a patient of the VA, a veteran would only get one appointment a month for care, which is not enough care for victims of MST.

Representative Moore stressed the urgency of the situation and stated that the military has more women serving in the military each year. The military is stepping up measures to include mandatory trainings for managers to help prevent these kinds of assaults. General Steve Bullard, with the Kentucky National Guard, spoke up from the audience and stated that he has been in the military for 31 years and that today there is sexual assault prevention training for each member of the Air Force. There is special training for senior officers. The officers need to help hold each other accountable.

During the meeting, Congressman Andy Barr sent word to General Steve Bullard that there are 32 co-sponsors for the improved legislation so far.

In response to a question from Chair Coursey,

Ms. Moseley stated that MST and PTSD have differences in the type of care needed and received. Chairman Coursey stated that, when Ms. Moseley was assaulted, she was left in an environment where the people stood up for the perpetrator. Ms. Moseley stated that MST is about sexual power. Women are left powerless. The VA did not even know about MST when she sought treatment.

In response to a question from Representative Riner, Ms. Mosely stated that most women are brought before a jury of enlisted males and put under the pressure of destroying someone's career. Ms. Moseley stated that she was given a lie detector test, and her perpetrator still did not have any charges brought against him. This brought back the feelings of being assaulted and traumatized.

#### **Kentucky Department of Veterans Affairs: Year of the Woman Veteran**

LuWanda Knuckles, Women Veterans Coordinator, and Dennis Shepherd, Legal Counsel, gave a PowerPoint presentation on the Year of the Woman Veteran and services provided by women veterans. Mr. Shepherd stated that there are over 30,000 women veterans today. He introduced Ms. Knuckles, saying she is the newly appointed Women Veterans Coordinator. She is an Army veteran and a Guard's member, served in Iraq and Afghanistan, and knows the importance of veterans' benefits for women. Ms. Knuckles stated that the mission of the Kentucky Women Veterans Program (KWVP) is to ensure that Kentucky's women veterans have equitable access to federal and state veterans' services and benefits. KWVP's objective is to provide information, advocacy, outreach and support to women veterans and their families. KWVP strives to assure that women veterans receive benefits and services parallel to their male counterparts, to discourage discrimination, to assure that women are treated with respect and understood by veteran service providers. The goals of KWVP are to perform outreach to improve women veterans' awareness of eligibility for federal and state veterans services and benefits, make recommendations to the Commissioner to improve benefits and services, research projects to meet the needs of Kentucky women veterans, incorporate women veterans' issues in the department's strategic planning, and participate in national forums and committees for women veterans.

Mr. Shepherd stated that KWVP is committed to advocate on behalf of women veterans, encourage and support recognition of their contributions, provide outreach for programs and issues, and unite Kentucky women veterans so their voices will be heard. He stated that Commissioner Heather French Henry fully supports KWVP's commitment.

Ms. Knuckles stated that part of KWVP's outreach is establishing a database for Kentucky women veterans. The database includes volunteered information that is strictly confidential, and includes email addresses for distributing information of interest to them. There are 2,300 women veterans who have provided their information. The outreach efforts will work to increase shelter space for homeless women veterans, enroll women veterans in VA health care, and attend multiple events to meet and inform KY women veterans. KDVA has financially assisted 55

women veterans at a cost of \$13,737.43 through the KDVA Homeless Veterans Program.

In response to a question from Representative Mayfield, Mr. Shepherd stated that it is hard to have an exact number of homeless women veterans because many will not admit they are homeless. Mr. Shepherd stated that Trina Patty, Homeless Veteran Coordinator at KDVA, could better answer that question.

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

### Minutes of the Fourth Meeting of the 2015 Interim

September 16, 2015

#### Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, September 16, 2015, at 1:00 p.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called the meeting to order at 1:07 p.m., and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Tom Burch, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Julian M. Carroll, David P. Givens, Jimmy Higdon, and Reginald Thomas; Representatives George Brown Jr., Bob M. DeWeese, Joni L. Jenkins, Mary Lou Marzian, Reginald Meeks, Phil Moffett, Tim Moore, Darryl T. Owens, Ruth Ann Palumbo, David Watkins, Russell Webber, Susan Westrom, and Addia Wuchner.

Guests: Mary Haynes, CEO, Nazareth Home; Buffy Gaither, MBA, Regional Administrator, and Joseph Stotts, Vice President of Clinical Services, Generations/Gaither's Group; Paula Schenk, Executive Director, and Nathan Goldman, General Counsel, Kentucky Board of Nursing; Rick Masters, Council for State Government (CSG); Maryellen Myneer, Inspector General, Office of the Inspector General, Cabinet for Health and Family Services; Adam Haley, Agertis Management; Betsy Johnson, President, Wayne Johnson, Janet Justice, and Robert Parry, Kentucky Association of Health Care Facilities; Laura Begin, Robert Murphy, Julie McKee, Department for Public Health, Cabinet for Health and Family Services; Tony Lobianco; Sarah Nicholson, Kentucky Hospital Association; Jennifer Dudinskie, Department for Aging and Independent Living, Cabinet for Health and Family Services; Vicki Bradley, Alan M. Wade, Danielle Duncan, Diane Garrett, Steve McKinley, Florence Roberts, and Jim Grady, Genesis Healthcare; Melissa Robbins and Monica Johnson, Middlesboro Nursing and Rehabilitation; Joe Okruhlica, Theresa Durham, Michelle Unsilil, Parkway Rehabilitation and Nursing Center; Michelle Jarboe, Williamsburg Health and Rehabilitation; Janna Partin, Barbourville Health and Rehabilitation; Doug and Creasa Reed Rigsby; Kim Nall and Tiffany Evans, Woodland Oaks Healthcare Facility; Tom Davis, Harriett Wallace, Sue Arnold, and Jeanette Powers, Golden Living; Coryuna Coler, Denise Collins, and Patricia Neace, Tanbark; Tara

Bentley, PMD; Robert Platt, Essex Nursing and Rehabilitation; Greg Wells, Wells Health Systems; and Marian Hayden, Cull & Hayden.

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

#### Minutes

A motion to approve the minutes of the August 19, 2015 meeting was made by Representative Marzian, seconded by Representative Burch, and approved by voice vote.

#### Consideration of Referred Administrative Regulations

The following referred administrative regulations were on the agenda for consideration: **902 KAR 20:160** – establishes licensure requirements for the operation, services, and facility specifications of chemical dependency treatment programs, including programs which elect to provide outpatient behavioral health services for individuals with a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis; **902 KAR 20:320** – provides minimum licensure requirements regarding the operation of and services provided in Level I or Level II psychiatric residential treatment facilities, including those facilities which elect to provide outpatient behavioral health services (**deferred by the cabinet before the meeting**); **902 KAR 115:010** – establishes the requirements for the water fluoridation programs for the protection of dental health; and **910 KAR 1:270** – establishes the Hart-Supported Living grant program application and award procedures, the standards to monitor the quality of service delivery, and the appellate procedure. A motion to approve the referred administrative regulations was made by Representative Marzian, seconded by Representative Palumbo, and approved by voice vote.

#### Nursing Home Survey Process

Betsy Johnson, President, Kentucky Association of Health Care Facilities (KAHCF), stated the association represents 230 long-term care providers throughout the Commonwealth. Many are independent owners or multi-state corporations, profit and non-profit.

Mary Haynes, CEO, Nazareth Home, stated that currently there are 288 nursing facilities throughout the Commonwealth that employ 25,000 employees that serve approximately 23,000 residents. Nursing facilities generate over \$200 million in state and local taxes. There are approximately 180 regulatory standards that certified Medicare and Medicaid facilities must meet. The Centers for Medicare and Medicaid Services (CMS) enters into an agreement with state governments to conduct inspections or surveys of nursing facilities. Each nursing facility has an unannounced inspection on a 12-month average. If an inspection team finds that a nursing facility fails to meet a specific regulatory standard, a deficiency is issued to the facility. Kentucky has 20 percent fewer deficiencies cited per facility compared to the national average. Each deficiency has a scope and severity rating. Scope refers to how many people are affected, and severity refers to the seriousness of the issue. The highest level of severity is Immediate Jeopardy (IJ). IJ is defined as a situation in which

the provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident. Kentucky has over 500 percent more IJs cited per facility compared to the national average. A Civil Money Penalty (CMP) is assessed for each IJ cited. CMPs are assessed per day. For IJs, the amount can be as high as \$10,000 per day. Kentucky has 11.5 percent of all CMP fines in the nation but only has 1.6 percent of all nursing facilities in the country. Kentucky has over 500 percent more CMPs assessed per facility compared to the national average.

In response to questions by Representative Owens, Ms. Haynes stated that an immediate jeopardy is defined as a situation in which the provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident. The survey agency would be the entity to explain how a nursing home could have numerous severe deficiencies that cause imminent danger to residents without being cited or closed.

In response to questions by Senator Givens, Ms. Haynes stated that the survey agency is a federal agency that is responsible for the review of participation agreements annually. Ms. Johnson stated that the Office of Inspector General in the Cabinet for Health and Family Services employs surveyors who file reports with the federal agency in Atlanta that makes the final determination for complaints in Region 4. Region 4 consists of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. Ms. Haynes stated that the variance performance needs to be explained. There is a need to understand why the performance of an organization has a variance from the normal.

In response to questions by Senator Julian Carroll, Ms. Haynes stated that \$200 million in state and local taxes are paid by nursing facilities. The Centers for Medicare and Medicaid Services (CMS) writes the national standards that all facilities must follow. The Operations Manual provided by CMS that lists definitions that guide how interpretation of deficient practices are to be aligned. There needs to be more collaboration and education with CMS to have a more unified version of national standards. Senator Carroll requested that information be given to the committee about the problems with interpretation of the national standards. Ms. Johnson said that KAHCF members who are multistate corporations have said that there is a problem in Kentucky.

In response to a question by Representative Jenkins, Ms. Johnson stated that the western district has a higher number of IJs. The survey process is extremely subjective. Twenty-four states have a quality improvement survey (QIS) process that is more technology driven rather than individual biases. Kentucky does not have a QIS process.

In response to questions by Senator Alvarado, Ms. Haynes stated that the CMS June 2015 Certification and Survey Provider Enhanced Report (CASPER) provided information about nursing facility staffing ratios. The May 2015 CMS Nursing Home Compare website shows the number of deficiencies per nursing facility. Senator Alvarado requested that the reports be provided to the



committee. Ms. Johnson stated that state surveyors are not monetarily rewarded to find deficiencies in facilities. Federal standards require a facility to report anything a resident or family member says is missing no matter what the item costs. If the missing item is not reported to the state survey agency, the facility can be fined. Senator Alvarado stated that long-term care costs for facilities and residents could be reduced by decreasing regulatory burdens.

In response to questions by Senator Danny Carroll, Ms. Haynes stated that if facilities follow the state operations manual, there is less opportunity for a subjective opinion about the meaning of the regulation. Only major deficiencies should have to be reported. Ms. Johnson stated that Kentucky pays more in civil litigation compared to other states. Senator Carroll asked that statistics on civil lawsuits compared to other states be given to the committee. Ms. Johnson stated that she would provide a copy of the report when it becomes available. Ms. Haynes stated that the an immediate jeopardy deficiency a facility receives might be for only one person even though everything else is okay for the rest of the residents. Other states use education strategies to avoid negativity and unnecessary investigations when nothing is really wrong.

In response to a question by Senator Higdon, Ms. Johnson stated that fines assessed to facilities go into a fund overseen by the CMS. Currently, Kentucky has been assessed over \$20 million in fines, but cannot access the funds. She questioned why assess fines if the money does not benefit Kentucky. Ms. Haynes stated that in Kentucky staffing and quality measures are in balance with the nation, but the performance of the survey agency is out of balance with the nation. The survey agency needs to explain the variance that exists in when 12 percent of the national fines were assessed to Kentucky, when Kentucky only has 2 percent of the beds.

In response to a question by Representative Westrom, Ms. Haynes stated that compliance officers of corporations that belong to KAHCF reported that when the same training, practices, and resources are applied in Kentucky that are applied in contiguous states, the outcome of the survey process is radically different.

In response to a question by Representative Wuchner, Ms. Haynes stated that there is a benefit to having consistent standards followed in all the states. The goal of changing the survey process nationally was to move it away from a subjective process. CMS wants each state to move to a survey process that weighs heavily on outcomes date. In the QIS process, the satisfaction of staff, residents, and families are important factors in quality measures.

Representative Brown stated that discussions need to take place to determine the reasons why Kentucky has more CMPs per facility than other states.

Maryellen Mynear, Inspector General, Office of Inspector General, Cabinet for Health and Family Services, stated that the challenge is to fulfill the mission of good resident care and protection of citizens in a way that does not drive providers out of Kentucky. The CMS makes the final determination

as to the level of deficiency citation. The CMS, not the Kentucky OIG, determines the daily CMP that is assessed. The Kentucky OIG does not receive or keep any portion of the penalties. The full amount is placed and held in a restricted account that is reported quarterly to the CMS. The CMP funds assessed to facilities are available through a grant process for projects that demonstrate a direct benefit to the quality of life for residents. During state fiscal year 2014-2015, Medicaid reimbursed facilities \$944,876,725.

Of the eight states in Region 4, Kentucky ranks fifth in the total number of facilities. The Five-Star Quality Rating System is based upon health inspections, staffing, and quality measures. According to the CMS Nursing Home Compare, September 2015, Kentucky has the largest percentage of facilities at 42.4 percent that rank below average by the CMS. Averaging the number of jeopardies per facility by dividing among all facilities is misleading, because one significantly deficient facility may receive multiple jeopardy citations.

Surveys are conducted when someone files a complaint about a facility not just on an annual basis. There is a lot of grey area on what can cause harm. The OIG enforces laws and regulations from the CMS. The CMS gives Kentucky funds for collaborative training between providers and survey teams. There needs to be better communication between the OIG and providers.

Senator Adams requested that the committee be provided reports that include statistics given during the testimony of the KAHCF and the OIG. Ms. Mynear provided the facts and figures quoted during her testimony.

Senator Adams questioned why there is such a discrepancy in the number of IJs per facility in Kentucky compared to Region 4. Kentucky has .82 IJs per facility and is fined \$24,523 while the average for Region 4 is .26 IJs per facility and \$8,855 in fines.

Inspector General Mynear stated that she would ask CMS if Kentucky could submit a waiver to use some of the \$22 million Kentucky has been fined to move the QIS process forward. The funds have to be used to directly benefit the quality of life for residents.

Inspector General Mynear stated that she would compile data listing the CMPs by group and the reasons for the penalties and provide it to the committee.

Senator Julian Carroll asked information about the ability to set a monetary value on a complaint to determine if there merit for a facility to have to report the complaint.

Inspector General Mynear stated that the surveyor cannot inspect a facility more than once a year unless a new complaint has been filed or there is an open deficiency that requires a facility to be reinspected.

#### **Mental Health Treatment Homes**

Joseph Stotts, Vice President of Clinical Services, Generations/Gaither's Group, stated that the levels of care in their facility are adult residential treatment facility, enhanced supportive living, and supportive housing. Individuals are placed in the most appropriate level of housing depending on the severity of their mental health symptoms.

Depending on the response to treatment, service recipients may step up or step down in the level of care required. Recipients are involved in the decision making process of treatment, follow-up care, and the transition from one level of care that empowers them in the recovery process. Over the last ten years, 40 percent of housing recipients are able to successfully reintegrate into society, and another 40 percent are able to live successfully in a group home setting without repeat psychiatric hospitalization or emergency room visits.

The high quality of services provided along with the qualification and experience of the individuals providing the treatment combine to form a mental health treatment. Services provided are housing, medication management and education, participation in activities, assisted daily living, skills development, formation of health social supports, counseling on finances and budgeting, transportation, provision of a supportive environment, and relearning positive coping skills.

There is a growing need for mental health services in Kentucky that can function as an alternative to the growing costs and recidivism associated with incarceration and hospitalization. Over the last 15 years, Generations has provided an alternative placement for individuals with severe and persistent mental illness (SPMI) in Tennessee who have lost psychiatric hospital placement due to the reduction of long-term beds in state institutions.

Over the past decade, the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) has been systematically reducing the state's psychiatric hospital bed capacity. Since 2008, Generations has increased its community based housing bed capacity in Tennessee from 86 beds to 341 beds. Many of the individuals transitioned from state hospitals to Generations' houses had been hospitalized for over 20 years.

In Kentucky, Generations treatment housing would significantly reduce numerous emergency room visits for psychiatric and substance abuse problems. Incarceration and hospitalization is not the answer for treating mental health and substance abuse issues. A case manager for crisis intervention for behavioral health emergencies is on call 24 hours per day. The average staff ratio is 2 to 8 per day.

Generations' Outpatient Mental Health Center would increase access and availability to mental health services in rural communities in Kentucky. Services can serve as a deterrent for the ongoing substance abuse issues in the Commonwealth that contribute significantly to the development of SPMI. The average cost of psychiatric inpatient stay in Kentucky is approximately \$5,700 for an average length of stay of 4 to 14 days. The same length of stay at Generations Treatment Housing will average from \$340 to \$1,250. Lack of follow-up care or access to follow-up care creates an increased cost for mental health services for Kentucky's citizens.

In response to a question by Senator Adams, Mr. Stotts stated that the level of care (adult residential, enhanced housing, or supportive housing) would determine the savings to the Medicaid program.

In response to questions by Representative Burch, Ms. Stotts stated that treatment housing is a

new type of service, and not a lot of data is available on patient outcomes for this type of service. The rate of turnover of direct care staff is higher than for providers. Buffy Gaither, MBA, Regional Administrator, Generations/ Gaither's Group, stated that Generations is proposing a pilot program in Bell County.

In response to a question by Senator Danny Carroll, Mr. Stotts stated that Generations would only be in competition with community mental health centers if it opened its own mental health center and provided some of the same types of services.

In response to Senator Alvarado, Ms. Gaither stated that Generations provides a more integrated care in the home setting. Currently there are no administrative regulations for this level of care in Kentucky. A request for licensure would come after administrative regulations are in place.

#### **Nurse Licensure Compact**

Representative Wuchner stated that she is working with the Kentucky Board of Nursing on legislation that would update the Nurse Licensure Compact (NLC). There needs to be uniformity for participating states in the compact.

Paula Schenk, Executive Director, Kentucky Board of Nursing (KBN), stated that in 2007, Kentucky implemented the Nurse Licensure Compact. The current NLC gives multistate privilege unless limited to single state. An applicant must meet home state requirements. A Nurse Licensure Compact Administrators (NLCA) is a governing body. A NLCA may develop regulations which must be adopted by each member state through each state's own procedure. A party state may submit issues in dispute to an arbitration panel. The new compact gives license privileges for multistates or a single state. An applicant for multistate must meet uniform licensure requirements established by the NLC. An applicant for single state license must meet the home state's requirements. An Interstate Commission of Nurse Licensure Compact Administrators is established as the government body. The Commission is given rule making authority that is legally binding on all member states. The procedural requirements in the NLC are based on the National Model Administrative Procedures Act. The dispute resolution process covers both disputes between states and disputes between a state and the Commission. Telenursing/telehealth is rapidly becoming a standard of care and is integrating into the transformation of the United State healthcare system. Other healthcare professions have introduced or are developing interstate licensure compacts.

Rick Masters, Special Counsel for National Center for Interstate Compacts, Council for State Government (CSG) stated that Kentucky has been in a NLC since 2007. Issues that other states have in joining the NLC are that they do not have provisions to conduct criminal background checks and do not have uniform licensure requirements. States need to be specific about who may practice on a multistate privilege under a compact. The compact clarifies how rules will be made and how compact provisions will be enforced.

In response to questions by Senator Givens, Mr. Masters stated that currently the Nurse Licensure Compact Administrators is the governing body and

has the authority to make rules. The new compact just streamlines the process. Currently the NLA can develop uniform rules that have to be adopted by each member state by administrative process. For the past 15 years the NLA has not been able to promulgate a single rule, because each member state has to take it through its own administrative process. The newly established Interstate Commission of Nurse Licensure Compact Administrators (commission) does not have the authority to change the scope of practice for nurses. The compact allows narrow, procedural, administrative rulemaking for the process in which the multistate privilege transfers from one state to another. Director Schenk stated that there needs to be uniformity about how quickly a state has to submit discipline data to the National Discipline Database. The compact only gives the commission authority to make rules not to enact legislation.

Representative Wuchner stated that nothing in the compact would supersede any current or future state law. Mr. Masters stated that the compact is a contractual agreement between member states and cannot be amended in a way that substantially changes the operational nature of the contract.

In response to a question by Senator Higdon, Director Schenk stated that the KBN recently amended an administrative regulation giving the KBN the ability to implement a post-licensure biometric criminal background check. The KBN wants the authority to conduct post-licensure renewal random audits of any nurse who has renewed his or her license to undergo a criminal background check. Mr. Goldman stated that since 2000, Kentucky statutes have required a nurse to report a felony or misdemeanor conviction to the KBN within 90 days. The new compact would allow this requirement for all member states. Representative Wuchner stated that some nurses who hold a long-time license are upset about having to have another background check. Director Schenk stated that the only way for the KBN to learn about criminal convictions that have not been reported is when someone files a complaint against a licensed nurse and it becomes part of the investigation. Only a state-based criminal background check is conducted on the nurse. Some nurses still do not self report criminal convictions, either because they do not know they are required to do so or they just do not want to. The cost of a FBI criminal background check is \$14.75.

In response to a question by Representative Wuchner, Mr. Goldman stated that the even if Kentucky chooses not to become part of the new compact, the old compact would stay into effective until the last state drops out.

#### **Adjournment**

There being no further business, the meeting was adjourned at 3:33 p.m.

## **INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM**

### **Minutes of the 3rd Meeting of the 2015 Interim**

September 17, 2015

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

The 3rd meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, September 17, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Representative John Short, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Alice Forgy Kerr, Co-Chair; Representative John Short, Co-Chair; Senators Carroll Gibson, Chris Girdler, Denise Harper Angel, Ernie Harris, Wil Schroder, Reginald Thomas, and Mike Wilson; Representatives Lynn Bechler, Kevin D. Bratcher, George Brown Jr., Hubert Collins, Leslie Combs, Tim Couch, Jim DeCesare, Mike Denham, Bob M. DeWeese, Jeffery Donohue, Myron Dossett, Jim Gooch Jr., Mike Harmon, Chris Harris, Richard Heath, James Kay, Dennis Keene, Kim King, Tom McKee, Terry Mills, David Osborne, Ruth Ann Palumbo, Arnold Simpson, Fitz Steele, Wilson Stone, David Watkins, Gerald Watkins, and Russell Webber.

**Guests:** Dr. Len Peters, Secretary, Energy and Environment Cabinet; Dr. Lee Todd, Bruce Dawson, Vice President, Drone Systems, LLC; Clif Morehead, Government Relations Manager, GE Aviation; Dr. Ben Malphrus, Director, Space Science Center, Morehead State University; Dr. Tim Smith, Executive Director, National Air & Space Education Institute; Twyman Clements, President, Space Tango, Inc.; Robert Riggs, Kentucky Aviation Association; and Mike Young, Kentucky Aerospace Council.

**LRC Staff:** John Buckner, Lou DiBiase, and Dawn Johnson.

#### **Minutes**

A motion by Senator Harris, seconded by Representative Simpson, to approve the minutes of the July 16, 2015, and August 20, 2015, meetings carried by voice vote.

### **2015 House Bill 84, AN ACT relating to nuclear power.**

Representative Gerald Watkins and Dr. Len Peters, Secretary of the Energy and Environment Cabinet, discussed 2015 HB 84 and provided background information on the Paducah Gaseous Diffusion Plant. HB 84 would lift a 31 year moratorium on construction of a nuclear power facility in Kentucky only in a location previously used in the manufacture of nuclear products, which would limit any new facility to the property in Paducah within a 50 mile radius. Five of seven surrounding states have operating nuclear power plants, and the other two do not have moratoria. Representative Watkins explained this is not an affront to the coal industry. Energy options must be diverse to enhance economic development opportunities.

Dr. Len Peters, Secretary of the Energy and Environment Cabinet, spoke in favor of 2015 HB 84. Repealing the ban sends the message that the state is open to an honest and full discussion about the energy challenges faced by the state.

Responding to Representative Denham's question, Dr. Peters said there will never be another facility like Maxey Flats, Kentucky.

In response to Chairman Short's question, Secretary Peters said a majority of costs for nuclear sourced energy are upfront during construction. Nuclear fuel is much cheaper than gas-sourced



energy, the price of which can fluctuate significantly.

Responding to Representative DeCesare's question, Representative Watkins said it is time to address alternative power sources in Kentucky and it is up to House members to obtain a floor vote to move the process forward in 2016.

Representative Combs said that, with recent Environmental Protection Administration rulings, the cost of mining coal is largely prohibitive. With massive layoffs in eastern Kentucky, nuclear power could be a viable option.

Representative Gooch said this has become a state level issue due to the inaction of federal officials on the Yucca Mountain Nuclear Waste Repository.

Representative Kim King requested LRC staff acquire recent New Madrid fault line earthquake data due to potential earthquake hazards. Secretary Peters said new construction requires earthquake protection for the highest probable earthquake.

Representative Heath said that he visited a nuclear power plant in Tennessee and was impressed with the safety and security of the operation, and that he supports lifting the moratorium.

#### **Aerospace Industry in Kentucky**

Mike Young, Acting Director of the Kentucky Aerospace Council spoke about job creation in the aerospace industry. Mr. Young gave an overview of the council's history and mission. Funds from the state's jet fuel tax go into an airport development fund. The council oversees approximately \$8 million that is used to support small regional local airports. Kentucky's aerospace manufacturing industry is larger than the three automobile facilities in the state combined. Kentucky ranks third in the nation in aerospace manufacturing. The industry provides high wage jobs with college graduates entering the field at a \$50,000 average annual salary. To capitalize on the aerospace industry, three things are needed: education, industry, and federal government support. He asked members for their support in coordinating the three to become number one in the industry.

Clif Morehead, Government Relations Manager, GE Aviation, explained that GE manufactures and services commercial and military aircraft engines as well as an avionics. GE Aviation is a global, long-cycle business that is growing quickly—mostly fueled by international demand. The company has approximately 45,000 employees worldwide, with locations in 22 countries, 79 manufacturing sites, and 11 engineering centers. There are two sites in Kentucky—a manufacturing facility and a material handling distribution center. Mr. Morehead said the opportunities are greater than ever. As engines become more sophisticated there is greater opportunity with GE Aviation.

Twyman Clements, President, Space Tango, Inc., gave an overview of Kentucky Space, a Lexington-based nonprofit umbrella organization that works with different universities throughout the state. Mr. Clements explained his Kentucky-based education and training in NASA small satellite development.

Mr. Clements explained the ExoMedicine Institute which studies how living systems and disease processes change in zero gravity.

Mr. Clements gave an overview of Space Tango, Inc., a for-profit company that develops equipment for

microgravity use in the International Space Station. The equipment supports customer experiments with near-real-time interaction.

Dr. Ben Malphrus, Director, Space Science Center, Morehead State University explained the importance of the aerospace industry on a state and national level. Including the Department of Defense sector, aerospace accounts for approximately 15 percent of the United States Gross Domestic Product. This year, Kentucky's aerospace manufacturing exports were \$8 billion. Dr. Malphrus indicated one of their goals is to see more counties in central and eastern Kentucky included in one of the twelve federally designated manufacturing zones. Dr. Malphrus explained Morehead State's involvement in nanosat technologies. Five satellites built in Kentucky have flown into space. Nanosat technology and its wide range of uses is an important industry to expand upon. The inventor of CubeSat is Bob Twigs. CubeSat established the worldwide standard for small satellites. Dr. Malphrus said the most important issue is a cohesive strategy between industry, private sector, government, and education statewide. State infrastructure appropriations are key to supporting the \$16 million research and development space research facility at Morehead. He explained other projects at the research facility. The three goals of the center are expanding the southwest regional aerospace corridor, developing an aerospace strategic plan, and having the Exomedicine project anchored in Kentucky.

Dr. Tim Smith, Executive Director, National Air & Space Education Institute, explained that the purpose is to bring the industry to the students with courses including dual college credit, industry certifications, competitions, informal learning opportunities, summer camps, and teacher professional development. It serves over 40 school districts with 1,000 students currently studying flight and aeronautics, aerospace engineering, and manufacturing and maintenance. Students use full scale aircraft, nanosatellites and unmanned aerial systems. Participants go through a process of design and engineering, manufacturing, operations, and logistics and maintenance. The institute's goals are a private/public support model with the private sector providing programs, equipment and labs, and the public sector financial support to renovate a hanger to serve as a beacon for aerospace education in the state.

Bruce Dawson, Vice President of Drone Systems, LLC, explained the commercial uses for professional drones. Some uses include assisting emergency management personnel, law enforcement accident mapping, agriculture, surveying, power and pipeline inspections, and coal and construction excavation mapping. Mr. Dawson expressed concerns about restrictive legislation that may hinder professional use of drones.

Robert Riggs, Kentucky Aviation Association spoke about the economic impact of aviation and aerospace on Kentucky. Logistically, Kentucky offers two international world air hubs, significant interstate, rail, and waterway access, advanced manufacturing and advanced materials, low energy rates, and an advanced workforce through educational partnerships. He noted the need for a skilled workforce in the coming years in areas such

as advanced manufacturing, aerospace engineering, and pilots.

Dr. Lee Todd spoke on the need of higher education to advance and expand innovation in Kentucky. Many engineering students leave the state to find jobs. The state needs more entrepreneurial Kentucky graduates like Twyman Clements. Programs like those offered by the National Air & Space Education Institute are important to reach children at an early age. Dr. Todd said good things are happening at the state's public universities. He commended the legislature for funding Advanced Placement classes.

Dr. Todd said the state has suffered from a lack of vision in economic development for many years. The state strives to protect declining industries like tobacco and coal rather than having a progressive vision by investing efforts and dollars in the direction of an ascending market such as aerospace and advanced manufacturing. He recommended investing in creating opportunities to retain college graduates to enable them to make competitive wages and start their own companies such as Space Tango and being progressive about company recruitment. The state has reached an economic tipping point to begin thinking about a progressive business economy that uses the state's talent.

Responding to Senator Thomas's questions about their facility, Dr. Smith explained that teachers receive training to teach in their local areas and students from outside areas attend summer camps. Mr. Riggs said it is important to send the message to students that most stereotypes of manufacturing careers are outdated. Advanced manufacturing requires a specific technical skillset.

There being no further business, the meeting adjourned at 3:10 PM.

## **SPECIAL SUBCOMMITTEE ON ENERGY**

### **Minutes of the 4th Meeting of the 2015 Interim**

September 18, 2015

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

The 4th meeting of the Special Subcommittee on Energy was held on Friday, September 18, 2015, at 9:00 AM, at the Bullion Room, Fort Knox, Kentucky. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Senators Ernie Harris, Dorsey Ridley, and Robin L. Webb; Representatives Tim Couch, Jim Gooch Jr., Jerry T. Miller, Dean Schamore, John Short, and Brent Yonts.

Guests: Senator Dennis Parrett, Robert "RJ" Dyrdyk, Energy Program Manager-CEM, Directorate of Public Works, United States Army, Tom Abele, Vice President, Harshaw Trane, and Mike Weaver, Mayor of Radcliff.

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

#### **Tour of Fort Knox Energy Conservation Efforts**

Mr. Robert “RJ” Dyrdek, Energy Program Manager-CEM, Directorate of Public Works, United States Army, explained that Fort Knox is the 6<sup>th</sup> largest city in Kentucky. Fort Knox has a weekday population of 25,000. He said that the 2009 ice storm knocked out power to the military base for five days. U. S. Army officials have said that would never happen to them again. Since then, Fort Knox has completed a \$60 million energy project that provides the base with 44 MW of peak-load power. Four of six gas-fired Cat® generators provide power to the base 24/7 through a combined heat and power (CHP) system. Besides providing energy security, the new power system has reduced the base’s energy costs by an estimated \$8 million per year. The total project payback is expected in approximately seven and one-half years.

Mr. Tom Abele, Vice President and project developer for Harshaw Trane, said that Fort Knox is one of the best military bases in the world for overall energy reduction. CHP systems are efficient, capturing heat generated when producing power. Buildings use the captured heat in various forms such as steam heat, hot water, and in chillers to produce air-conditioning. The captured heat is converted into chilled water to serve Fort Knox’s data center, and air-conditioning and heating is provided to the 400 bed hospital and the extremely large Human Resources Center. The Human Resources Center is the largest office building in the state, employing approximately 4,300 soldiers and civilians. Harshaw Trane has partnered with Caterpillar dealer Wayne Power Systems, which provided 16 of the 21 generators.

In response to Senator Carpenter, Mr. Dyrdek said that the monthly energy bill of \$1.5 million had been reduced by 50 percent.

Senator Parrett stated that approximately 22,000 to 25,000 people live on base. He praised the energy conservation efforts and noted the numerous energy awards received, including the coveted Secretary of the Army Energy Award.

Mayor Mike Weaver asked how Fort Knox compares to other Army installation in energy conservation. Mr. Dyrdek said that Fort Knox always ranks either 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup>.

In closing, Mr. Dyrdek stated that Fort Knox expects to complete a project converting methane gas from shale gas reserves into enough electricity for the entire post.

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

### Minutes of the 3rd Meeting of the 2015 Interim

September 23, 2015

#### Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Local Government was held on Wednesday, September 23, 2015, at 10:00 AM, in the Gheens Room of the Islands Pavilion, Louisville Zoological Gardens, Louisville, Kentucky. 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 Ralph Alvarado, Morgan McGarvey, and Dorsey Ridley; Representatives Linda Belcher, Ron Crimm, Mike Denham, Jim DuPlessis, Adam Koenig, Brian Linder, Tom McKee, Michael Meredith, Russ A. Meyer, Phil Moffett, Arnold Simpson, Rita Smart, James Tipton, and Susan Westrom.

Guests: Kelly Grether, Louisville Zoological Gardens; David Adkisson and Trevor Burton, Kentucky Chamber of Commerce; Russell Salsman, Darren Sammons, and Tammy Vernon, Department for Local Government; Jack Couch, KIPDA Area Development District; Darryl Link, Kentucky Council of Area Development Districts; Bryanna Carroll, Kentucky League of Cities; and Jeff Busick, McCarthy Strategic Solutions.

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

#### Approval of Minutes

Upon a motion of Representative Simpson and second by Senator McGarvey, the minutes of the August 26, 2015 meeting were approved.

#### Discussion of Louisville Zoo Programs and Plans

Kelly Grether, Development Director with the Louisville Zoological Gardens, said that the Louisville Zoo is the largest non-profit attraction in the region, attracting about 850,000 visitors on average annually. The Zoo strives to meet the region’s needs for lifelong academic attainment and increased quality of life amenities and environmental awareness through conservation and education programming.

The Louisville Zoo plans to have an expanded elephant yard that will open early next spring and a new penguin exhibit. As part of the Zoo’s \$10.4 million campaign, there is going to be an expanded dining experience and an African primate experience. Much emphasis is put on education, and there is an award-winning school at the Zoo. Also, the Zoo will be taking early childhood education messaging throughout the state. The classroom that the Zoo will be housing will be focused on early childhood education. There is a great need to help preschoolers be prepared for kindergarten.

The Louisville Zoo is producing a master plan that will be effective through 2028 or 2030 which will include a new African Savannah. The Zoo is going to take the multi-species rotation that it has and take it to the next level. There are only a few zoos within the United States and a few in Europe that actually have multi-species sharing at the same exhibits booth and not just rotating through spaces. The Zoo will have multi-species in the same exhibit space, which is unique.

The Louisville Zoo plans to have an education expansion that is going to be housed at the front of the zoo. The Zoo intends to have a Kentucky trails exhibit featuring the animals that are native to the state of Kentucky. There are plans for an animal encounter, and the Zoo intends to expand its waterpark by four or five times its current size. The Zoo plans to add a crocotorium, which no other Zoo has, to feature Cuban crocodiles.

In response to a question from Senator Bowen, Ms. Grether said that the Zoo’s budget is \$15 million.

Senator McGarvey commented that the Zoo has won numerous awards and has had a big economic impact for the state.

In response to a question from Representative Smart, Ms. Grether stated that the Zoo offers several programs to the community and classroom space for early childhood education. In addition, the Zoo takes some of their programs to the schools.

In response to a question from Representative Riggs, Ms. Grether said that schools outside Louisville take field trips to the Zoo.

In response to a question from Representative Simpson, Ms. Grether said that new Zoo attractions have increased attendance as a result of funding that was requested and received from the legislature.

In response to a question from Senator Bowen, Ms. Grether said that the Louisville Zoo compares itself to the Cincinnati, Nashville, and Indianapolis zoos, even though those zoos have bigger budgets.

Representative Riggs commented that he would like to see the state be a bigger partner with the Zoo.

#### Presentation of the Kentucky Chamber of Commerce’s Report: “Kentucky’s Workforce Challenges”

David Adkisson, President and CEO of the Kentucky Chamber of Commerce, said that the top concern of Chamber members is workforce challenges. About 500 people responded to a survey as it relates to the workforce: 15 percent of potential employees cannot pass a drug test; eight percent of the overall workforce has good skills; 23 percent of employers have trouble finding people with the right technical skills; 27 percent of employers have trouble finding people with good “soft” skills; ten percent of employees have good skills but need retraining for specific technical skills; and 17 percent cite concerns with a generational difference in work ethic.

Challenges facing Kentucky’s workforce include: lack of employer engagement; serious skills gap; need for transparency in workforce programs; insufficient program coordination; inconsistent use of credentials; finding drug-free applicants; and better soft skills among workers.

Educational recommendations include: developing and incorporating soft skills and work readiness certification into college and career readiness requirements for schools; and increasing coordination between the education and business communities.

The Chamber recommends the following: identifying all funding sources of workforce programs and ensuring accountability; a greater role for employers in choosing local workforce board members; Kentucky’s next governor should order a review of the state’s workforce training and development system; promoting what is available through outreach campaign; and incorporating drug screening into the application process for workforce training programs.

Congress passed the new Workforce Innovation and Opportunity Act, which will more meaningfully engage employers.

In response to a question from Senator Bowen, Mr. Adkisson stated that the 500 people surveyed



form a good cross-section of the state.

In response to another question from Senator Bowen, Mr. Adkisson said that the workforce was the top concern by a large margin.

In response to a question from Representative Crimm, Mr. Adkisson said he was not worried about the Governor of Florida coming to recruit employees from Kentucky. There are ways to improve business conditions, but at the same time, Kentucky has much to offer.

In response to a question from Representative DuPlessis, Mr. Adkisson stated that the Chamber favors state investments in early childhood education but also supports career ready programs.

Regarding workforce challenges, Representative Denham commented that his district has been able to solve all of them but the drug problem. In response to a question from Representative Denham, Mr. Adkisson said the legislators must weigh in at budget time and bring stories to Frankfort from their districts. The legislature's oversight is essential. A signal needs to be sent that if an employee does not pass a drug test there will be no job.

In response to a question from Representative Simpson, Mr. Adkisson stated that Michigan, South Carolina, Georgia, and Arizona are doing well with workforce issues.

Representative Westrom commented that senior citizens would be an option for helping with workforce challenges. There should also be jobs for non-violent offenders.

In response to a question from Representative Westrom, Mr. Adkisson said that employers are practical and may be able to adjust the sensitivities relating to drug use in consideration of the responsibilities of the job. There should be an all hands on deck approach and agreed that senior citizens, disabled persons and non-violent offenders would be an option. Congratulations are in order, also, to the Workforce Cabinet for regulations that promote accountability in response to the new federal regulations that are in effect.

In response to a question from Representative Meyer, Mr. Adkisson said that the Department of Education should have information on how many school systems have technical schools.

Representative McKee commented that in his district, which includes Scott County, there is a technical school that is in partnership with Toyota and other businesses that has become a model for the whole country.

Representative Belcher commented that she was glad to hear that the Chamber was interested in early childhood education. In response to a question from Representative Belcher, Mr. Adkisson stated that determining curriculum and filling needs is as simple as making connections between the business community and the schools.

Representative Moffett suggested letting younger students, such as those of middle school age, know what trade schools are available and what they have to offer.

Regarding the skills gap, Representative Meredith commented that the business community should have more say and play a bigger role. Evaluations should be making sure a successful

contact is made. Regarding the drug issue, a prospective employee should be directed where to get treatment.

In response to a question from Representative Riggs, Mr. Adkisson stated that the Chamber has not explored which drugs are the problems. Representative Riggs commented that the drug needs to be known so the issue can be addressed.

#### **Implementation of 2013 HB 1 relating to Special Purpose Governmental Entities by the Department for Local Government**

Russell Salsman, Chief of Staff, Department for Local Government (DLG), said that Florida was used as the benchmark in the drafting of HB 1. Prior to the Auditor's report in 2012, about 1,200 special districts had been identified. Today there are over 1,800 in the registry.

Darren Sammons, Staff Attorney with DLG, said that special districts can be traced back almost to the time Kentucky became a state, and that they have been a part of American government almost since the nation was founded. There is evidence that a special district was organized in Philadelphia as early as 1790.

Special Purpose Governmental Entity (SPGE) means any agency, authority or entity created or authorized by statute which exercises less than statewide jurisdiction; exists for the purpose of providing one or a limited number of services or function; is governed by a board, council, etc. with policy-making authority that is separate from the state, county or city; and has the independent authority to generate public funds; or may receive and expend public funds, grants, awards, or appropriations from the state, from any agency or authority of the state, from a city, county from another SPGE.

Many citizens are likely to confuse the services of special districts with their cities and counties because their boundaries often match those of local governments and the local governments often retain the job of collecting fees, charges or taxes for the district. This partly why special districts remained relatively obscure for such a long time.

In November, 2012, State Auditor Adam Edelen published the report, "Ghost Government: A Report on Special Districts in Kentucky." He noted the difficulty with determining the number of such districts and whether they comply with the law.

The Auditor's report found more than 1,200 special districts with very little oversight and accountability, yet they spend \$2.7 billion annually. In all but three counties, taxpayers pay more to special districts in property taxes than to their county governments. The report paved the way for 2013's HB 1, which passed and created a new chapter of Kentucky Revised Statutes—KRS 65A. For the first time in the history of the Commonwealth, the new law called for centralized oversight and transparency for special districts, and DLG was tasked with this enormous responsibility. KRS Chapter 65A defines SPGEs, requires registration with DLG, and compels financial reporting.

One of the big challenges for DLG was to create a registry of these "ghost governments." This meant identifying all of the SPGEs which were known, finding previously unknown entities, and reaching

out to let them know about the new law. Due in part to the historical lack of a centralized registry, even contacting some of those entities has been a challenge—getting up-to-date contact names and information was merely one part of the task. But DLG staff worked diligently and contacted each known SPGE. Identifying new and existing SPGEs is an ongoing process. To date, 96.9 percent of identified SPGEs are registered through DLG's online portal, allowing unprecedented public oversight. Of the 1,800+ SPGEs currently identified, 93.5 percent properly submitted their FY 2015 budgets for public review. DLG staff continues to notify delinquent entities as it continues its goal of 100 percent compliance.

Tammy Vernon, Branch Manager for DLG, explained that compliance with KRS Chapter 65A includes registration and financial disclosure. Registration should be completed annually and basic information should be collected about the SPGE, including: district's point of contact; physical local and area of operation; a list of entities that have oversight over the SPGE; statute under which the SPGE was formed; date, time and location of board meetings; a listing of board members; if the entity has taxing authority; and types of services provided by the SPGE. Registration fee payment is calculated off previous fiscal years' total revenues and is between \$25 and \$500.

Financial disclosure includes one year reflection of a SPGE's finances and audit/attestation engagement.

Ms. Vernon showed members how to use the online public portal.

In response to a question from Representative Simpson, Mr. Salsman stated that DLG does not have a branch that oversees discrepancies in the financials from the public.

In response to a question from Representative Koenig, Mr. Salsman said the 6 percent that do not comply will not get funding. Mr. Sammons added that the bill has several penalties for those SPGEs that do not comply including public notice of non-compliance, possible special audits and potential dissolution.

In response to a question from Representative Meredith, Mr. Salsman said important consideration is given to smaller special districts with small budgets to educate them to be compliant.

Representative Meredith said that there needs to be a change in the newspaper notification process to work for the smaller special districts.

Representative Riggs asked members who wanted changes to the bill to contact LRC staff.

In response to a question from Representative Tipton, Mr. Sammons there is a mechanism in the bill where the state can dissolve a special district for non-compliance.

In response to a question from Representative Westrom, Mr. Salsman said that the Metropolitan Sewer District was the largest district, and that DLG has no way to verify the audits from the SPGEs.

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

# INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

## Minutes of the 2nd Meeting Of the 2015 Interim

September 23, 2015

### Call to Order and Roll Call

The second meeting of the Interim Joint Committee on State Government was held on Wednesday, September 23, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Presiding 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 Julie Raque Adams, Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Albert Robinson, and Damon Thayer; Representatives John Carney, Leslie Combs, Will Coursey, Jim Gooch Jr., Derrick Graham, David Hale, Mike Harmon, Kenny Imes, James Kay, Martha Jane King, Mary Lou Marzian, David Meade, Phil Moffett, Brad Montell, Darryl Owens, Tanya Pullin, Jody Richards, Tom Riner, Steven Rudy, Sal Santoro, Diane St. Onge, John Tilley, Tommy Turner, and Ken Upchurch.

**Guests:** Representatives Ruth Ann Palumbo and Jerry Miller; Joe Cowles and Sharron Burton, Personnel Cabinet.

**LRC Staff:** Judy Fritz, Alisha Miller, Karen Powell, Brad Gross, Greg Woosley, Kevin Devlin, Terrance Sullivan, and Peggy Sciantarelli.

### Recognitions and Approval of Minutes

Senator Bowen recognized in the audience Hancock County Judge/Executive Jack McCaslin and magistrate Chic Roberts, accompanied by Representative Dean Schamore. Later in the meeting, the minutes of the August 26, 2015, meeting were approved without objection.

### 2016 Kentucky Employees' Health Plan (KEHP)

Joe Cowles, Commissioner, Department of Employee Insurance, Personnel Cabinet, and Sharron Burton, Deputy Executive Director, Office of Legal Services, Personnel Cabinet, reviewed the 2016 Kentucky Employees' Health Plan. They provided print copies of their slide presentation.

In January 2015 Anthem replaced Humana as plan administrator. Other KEHP vendors are CVS/Caremark, WageWorks, VitalsSmartshopper, and Humana Vitality. Benefits for 2016 are unchanged, and employee premiums will not increase.

KEHP, self-insured since 2006, has 153,000 planholders and 266,000 covered lives. Total plan spend is approximately \$1.6 billion annually. School boards represent 54 percent of covered lives; state agencies represent 20 percent. LivingWell CDHP, the highest value plan, currently has the largest number of enrollees—118,033, or 40 percent. LivingWell PPO has 37 percent; Standard CDHP, 8 percent; and Standard PPO, 5 percent. Planholders who waive coverage and have a health reimbursement account (HRA) represent 10 percent of covered lives. Single coverage plans in 2015 include 33 percent of covered lives; 28 percent of covered lives are enrolled in family plans.

Mr. Cowles said he receives many calls from other states. Tennessee, for example, is trying to replicate KEHP's success with the consumer driven (CDHP) plans. There has been a dramatic increase in CDHP enrollment in Kentucky. In 2013, consumer driven plans represented 28,565 covered lives but in 2015 cover 140,292 lives. This is one reason why KEHP has been able to accumulate substantial savings and to maintain rates, benefits, and coverage levels for the last several years. Enrollment in LivingWell plans increased from 81.22 percent in 2014 to 86 percent in 2015. Consumerism and wellness components put in place in 2014 continue to be effective. Medical and pharmacy claims cost in 2014 decreased to the 2011 level, and it is projected that 2015 claims cost will be even lower. The 2015 savings can be attributed not only to more informed consumers making better choices but also to improved discounts achieved when Anthem became plan administrator. Completion of the LivingWell Promise exceeded 97 percent in both the 2014 and 2015 plan years—a significantly higher success rate than that of similar plans in Tennessee and Georgia.

KEHP has partnered with local health departments to provide the biometric screenings (Vitality Checks). There was a slight decrease in health risk assessments completed in 2015 but a significant increase in the number of biometric screenings. Completion of either complies with requirements of the LivingWell promise. New data reveals that 27,000 members have achieved silver status in 2015. Silver status and device usage increased dramatically from July 2014 to July 2015. More than 11,700 members are participating in the new 15-Day Dash walking challenge.

Ms. Burton said there are no premium increases in 2016. KEHP is offering the same health plan options and coverage levels as 2015. This is due to lower plan medical and pharmacy expenses, improved member consumerism, and continued wellness participation. Open enrollment will be held October 12-26. The first of 14 statewide benefit fairs will be held in Frankfort on October 1.

Active enrollment is not mandatory for 2016. Enrollment will only be required to change a health plan, elect or choose to keep the employer-funded health reimbursement arrangement (HRA), or to elect a healthcare or dependent care flexible spending account. Members who failed to complete the LivingWell Promise in 2015 must enroll online and select either the Standard PPO or the CDHP plan for 2016. Otherwise, they will be automatically defaulted to the Standard CDHP single coverage plan.

LivingWell CDHP is the highest actuarial value plan. LivingWell PPO has the second highest actuarial value. Both plans require completion of the LivingWell Promise between January 1 and May 1, 2016. Standard PPO and Standard CDHP plans have the third and fourth actuarial value, respectively, and do not require the LivingWell Promise. In addition to local health departments, Vitality Checks are available at Kroger and Walgreen clinics, select KEHP onsite locations, or from a member's primary care doctor.

Mr. Cowles said that while premiums will not increase, the employer contribution will increase two

percent, which was included in the last budget cycle. More than 90 percent of the benefits analyzers to be mailed to members recommend either the Standard CDHP or the LivingWell CDHP plans. The Diabetic Value Benefit is new in 2016. Diabetic members will pay reduced copays and coinsurance, with no deductibles, for nearly all of their maintenance diabetic prescriptions and supplies. Mr. Cowles said this benefit represents additional cost to the plan but should prove to be an appropriate and cost-efficient investment. In 2014, Kentucky became one of the first states to offer a diabetes prevention plan and is a model for its 16-week Diabetes Prevention Program (DPP). Diabetes is expected to be a huge cost driver in the future. Almost 24,000 KEHP members are diabetic; probably 80,000 are pre-diabetic. Diabetic claims now total about \$70 million annually, and that cost is expected to increase substantially.

A telemedicine benefit—LiveHealth Online (LHO)—was launched in June 2015. Kentucky is one of the first four or five states to offer this service. It provides instant doctor visits through live two-way video chat—at no cost to members. The doctor will answer questions, diagnose health problems, and may prescribe basic medicines when needed. The cost to KEHP is \$50 per visit, which is less than visits to a physician's office. Mr. Cowles said he is confident the service will save money. Reducing the number of visits to emergency rooms and urgent treatment centers will also contribute significant cost savings. LHO will improve access for rural members, create a viable medical service alternative, and reduce lost employee productivity. There have been 6,714 LHO registrations and 545 visits. The service is not designed to replace the primary care doctor.

Representative Graham commended Mr. Cowles and Ms. Burton for their hard work. He also commended the Governor and the entire administration for their efforts to promote wellness and provide health care coverage to state employees at the lowest possible cost.

Answering questions from Senator Alvarado, Mr. Cowles said the average age of members is about 37, but KEHP has a large pre-65 population. The early retirees receive the same premium rates as an 18-year-old. KEHP pays \$1.33 in claims per every dollar paid by the retirement systems. The promotion of generic medication usage in 2014 has saved probably \$10 or \$15 million. The number of members who smoke is self-reported and is about 15 or 16 percent. Smokers pay higher premiums, and a smoking cessation program is available to members. Senator Alvarado commended Mr. Cowles and his staff for a job well done. He said he can understand why other states are looking at KEHP. He is impressed by the large drop in claims cost, the exercise programs that have been implemented, and the success in motivating members to engage in their health care and choose lower cost options. He suggested that the KEHP model should be considered for Kentucky's Medicaid program. Indiana and some other states offer tiered coverage levels for Medicaid recipients.

Senator Bowen said that Senator Alvarado's points are well taken. Society is better served and costs can be reduced when people engage in their own health care.



Representative Carney commended Mr. Cowles and staff. He said it is good news that premiums will not increase in 2016. The Humana Vitality point system and other KEHP initiatives are working well and, he believes, will continue to get better. He concurred in Senator Alvarado's suggestion that KEHP could be a model for Kentucky's Medicaid program.

Representative King said she appreciates the new LHO telemedicine option. She serves counties that are predominantly rural, and LiveHealth Online will be helpful to KEHP members in her district.

Representative Montell commended Mr. Cowles and staff for their work. He referred to the transfer of \$63.5 million from the Public Employee Health Trust Fund to the General Fund, which was a provision of the updated budget bill enacted in the 2015 regular session. He asked whether those funds, if they were still available to KEHP, could be used in constructive ways to hold down future premium costs or make the plan more efficient. Mr. Cowles said KEHP is expected to accumulate a significant surplus in 2015, based on current projections, so today the answer would be "not necessarily." The program has been performing very well for the last two years. However, claims are likely going to increase in the future, and it is possible that in three to five years those funds might be needed. HRA funds are preserved in the trust fund. More than 100,000 plans include HRA funds, which roll over if unused. Some members' HRAs have accumulated as much as \$10,000. Unused HRA funds represent an accrued liability and cannot be taken. Representative Montell thanked Mr. Cowles for his candid answer. He said legislation has been prefiled for 2016 to redirect the \$63.5 million—for which KEHP appears to have no current need—from the General Fund to the retirement systems. He hopes the General Assembly will give serious consideration to that legislation in the 2016 regular session.

Representative St. Onge commended KEHP for the new Diabetes Value Benefit. She also questioned why only individuals with group coverage are eligible for the waiver general purpose HRA—a question that she also raised during the previous interim. Ms. Burton said that the U. S. Departments of Treasury, Labor, and Health & Human Services jointly issued guidance regarding non-group coverage in September 2013. The federal government's interpretation of the law is that persons cannot have the stand-alone general purpose HRA unless they can attest to having other group health insurance. Persons covered by government-sponsored plans like Medicare or Tricare are also not eligible. Representative St. Onge said the federal government's exclusion of individual private insurance coverage makes no sense to her. Mr. Cowles agreed that it makes no sense. He said the exclusion, which went into effect for the first time in 2014, resulted in about 3,500 members moving to a limited purpose HRA.

Representative Harmon commended KEHP for offering LiveHealth Online and said he used it recently when he had a bad case of poison ivy. He accessed LHO on his mobile phone, was given a list of several doctors, and was helped in about five minutes. A prescription was called in for him from California, and he picked it up the same day.

Representative Riner said he appreciates the emphasis on diabetes and asked what is being done to motivate the pre-diabetic population to make lifestyle changes. Mr. Cowles said diabetes prevention classes are conducted at several state government sites in Frankfort and in counties around the state. The program is championed by Kentucky's Health and Family Services Secretary Audrey Haynes. Kroger onsite clinics and local health departments are also participating. Classes are actively recruited each month, and about 500 have joined so far. Members can also self-refer to the program. Diabetes prevention programs can reduce the influence of type-2 diabetes by more than 50 percent. Upward of 80,000 KEHP members have conditions that can lead to diabetes. The diabetes prevention program is free to members but costs the plan about \$350 per individual.

Senator Bowen thanked Mr. Cowles and Ms. Burton and said the committee appreciates their thoroughness and expertise. There being no further business, the meeting was adjourned at 2:12 p.m.

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

### **Budget Review Subcommittee on General Government, Finance, and Public Protection**

#### **Minutes of the 4th Meeting of the 2015 Interim**

September 24, 2015

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

The fourth 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, September 24, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Rita Smart, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Rita Smart, Co-Chair; Senators Joe Bowen and Dennis Parrett; Representatives Adam Koenig, Brad Montell, Tom Riner, Tom McKee and Steve Riggs.

Guests: Major General Edward W. Tonini, Adjutant General, Kentucky National Guard; Major Jake McKinney, State Education Director, Kentucky National Guard and James Fowler, Chief Information Officer, Commonwealth Office of Technology.

LRC Staff: Joe Lancaster, Katie Comstock, Raymont Griffith, Stephanie Rich, and Ashlee McDonald.

#### **Update on National Guard Tuition Award Program and the National Guard Youth Challenge Program**

Major General Edward W. Tonini, Adjutant General, Kentucky National Guard, provided an overview of the Kentucky National Guard Tuition Assistance program. The Kentucky National Guard Tuition Assistance program is the most effective recruiting and retaining programs. Under the Kentucky National Guard Tuition Assistance Program, tuition is paid up to the in-state tuition rate in support of a member of the Kentucky National Guard for attendance at an in-state public or private postsecondary educational

institution. The Kentucky National Guard Tuition Assistance only pays for expenses for programs up to a bachelor's degree level of education. The assistance program utilizes the full program budget of \$4.8 million dollars per year.

Responding to a question from Representative McKee, Major General Tonini explained that the tuition assistance program is not receiving any federal funding and the General Assembly is the sole source of funding for the program.

In response to a question from Representative Montell, Major Jake McKinney, State Education Director, Kentucky National Guard, explained that although the cap is 10 semesters or \$50,000.00, a student may choose how to use those semesters and credit hours, as long as it does not go above the allotted 10 semesters or \$50,000.00 cap.

Responding to a question from Representative Riggs, Major McKinney estimated that it is an even split on the attendance of college through technical colleges or universities. Major McKinney said that there was not an additional commitment with the KYNG after a degree is acquired.

Brigadier General Steven Bullard, Legislative Liaison, said that the traditional commitment with any military branch is one additional year after completion of education, however, there has not been any issues since they usually remain in the KYNG for their initial six to eight year commitment.

In response to Representative Denham, Major General Tonini stated that the number one retention program is the KYNG Tuition Assistance. The target age is 19-24 years old and Criminal Justice is the major with the most interest. The KYNG has partnered with major universities so that members of the guard can receive college credit hours for classes taken while in the KYNG.

Representative Koenig suggested that the KYNG Tuition Assistance Program provide an incentive for those willing to take their basic academic classes at technical colleges where cost per credit hour is cheaper to help their tuition dollars go farther.

Responding to a question Representative Smart, Major Tonini estimated that there has been a steady increase in the number of students that graduate from the KYNG.

The Kentucky National Guard's Youth ChalleNGe is a 22 week program designed to help at-risk youth. With two academies in Kentucky, the Bluegrass ChalleNGe Academy at Fort Knox and the Appalachian ChalleNGe Academy in Harlan, the curriculum covers extensive academic studies geared toward completing a high school diploma as well as fitness, leadership, and community awareness projects.

Responding to a question from Representative Montell, Major General Tonini said that the students are originating and enrolling from every part of the state. Major McKinney added that it is approximately \$8,100.00 per student per cycle of the program. The KYNG Youth ChalleNGe is receiving SEEK dollars.

Responding to a question from Representative Riner, Major Tonini stated that the main objective of this KYNG program is to get the students back to their home school and on track academically.

In response to a question from Representative

Riggs, Major Tonini emphasized that the training received at the program is for “soft skills” needed to be successful with further schooling and employment.

Responding to a question from Representative McKee, Major Tonini explained that Job Corp is not affiliated with the KYNG Youth program.

#### **Commonwealth Office of Technology (COT) Services – Agency Cost Allocation and Billing Methodology**

James Fowler, Chief Information Officer, Commonwealth Office of Technology, provided a PowerPoint presentation on the cost allocation for COT. COT operates in accordance with a federally approved Statewide Cost Allocation Plan that is monitored by the Kentucky Office of the Controller and receives no general fund appropriations. Rates are set every two years in conjunction with the biennium budgeting process.

In response to a question from Representative Montell, Mr. Fowler stated that COT receives no allocation from the general funds. Any rates that are provided to agencies that get federal funding cannot over-recover by more than 6 percent, and the 6 percent is to be reinvested in the technology.

Responding to a question from Representative Denham, Mr. Fowler said that NASCIO (National Association of State CIOs) rated Kentucky as one of the top five effective infrastructures in the United States.

In response to a question from Representative Riner, Mr. Fowler stated that the facility where the information is stored is hardened and was designed to be a data storage center.

In response to a question from Representative Montell, Mr. Fowler explained that COT is audited annually and routinely checks for bids to provide services at lower costs.

Responding to a question from Representative Smart, Mr. Fowler stated that the top four top agencies that use COT services are Cabinet for Health and Family Services, Education and Workforce Development, Department of Transportation and the Justice and Public Safety Cabinet. COT has 117 field technician employees across the state.

There being no further business, the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS**

### **Minutes of the 4th Meeting of the 2015 Interim**

September 11, 2015

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

The 4th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, September 11, 2015, at 10:00 AM, at New Riff Distillery, 24 Distillery Way, Newport, KY. Representative Dennis Keene, 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; Senator Dan “Malano” Seum; Representatives Tom Burch, Denver Butler, Larry Clark, Jeffery Donohue, Joni L. Jenkins, Reginald Meeks, Brad Montell, David

Osborne, Darryl T. Owens, Arnold Simpson, Diane St. Onge, and Susan Westrom.

Guests: Ken Lewis, President and owner, New Riff Distillery; Jack Moreland, President, South Bank Partners; Tom Fromme, City Manager, Newport, Mike Giffen, City Manager, Dayton; Tim House, Executive Director, Kentucky Association of Master Contractors; Kristin Meadors, Director of Governmental & Regulatory Affairs, Kentucky Distillers’ Association.

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

#### **Welcome and introduction**

Ken Lewis, President and owner of New Riff Distillery, said New Riff opened in May 2014. The distillery just completed a 50 percent expansion, doubling the workforce with over 20 full time jobs. In the sixteen months since opening, New Riff has experienced 30,000 visitors. Approximately 7,500 barrels of whisky have been produced. Mr. Lewis said the great heritage distilleries created and continue to maintain the industry. However, bourbon’s future customers are influenced by craft distillers. Craft distilling is behind in Kentucky, but the legislature can help distilling move forward and become competitive with other states. Laws and regulations that are crippling and anti-competitive must be changed.

#### **Economic Development in Northern Kentucky**

Jack Moreland, President of South Bank Partners, said that, in 2009, six cities and two counties created an inter-local agreement to develop the riverfront. Tom Fromme, City Manager for the city of Newport, said the Route 9 corridor is important to Newport. Along the corridor are vacant sites, including an old steel mill that will be developed as this highway project is completed in early 2017. Mike Giffen, City Manager for Dayton, KY, said there is an extensive project in Dayton known as Manhattan Harbor that includes 142 acres of development. Currently under construction is a single family development. Lots are being sold from \$900,000 to \$1.6 million. East of this development, a commercial site is being planned. Riverfront Commons will be to the west of this development.

Jack Moreland said Riverfront Commons is an 11 mile walking and biking trail beginning in Fort Thomas and ending in Ludlow. This has been broken into four projects, the first of which will be bid in next two weeks. Construction should be completed by the end of 2015.

Tom Fromme said Aqua on the Levee is an \$80 million project. This brings new residents to the city. A new attraction on the Commons is a 180 foot observation wheel that will have heated/air conditioned gondolas that will accommodate up to six people. This will provide a panoramic view of the city and the skyline.

Newport, at the foot of the Taylor-Southgate bridge coming from Cincinnati, supports a large amount of foot traffic to Reds or Bengals games. People come to Newport to have dinner and then walk to the games.

Jack Moreland said that Festival Park is

currently being used. However, the space is in need of upgrades. One goal with Riverfront Commons is to increase connectivity. The Ohio, Kentucky, Indiana Council on Governments awarded a \$1.3 million grant to complete the project.

There is an old school building approximately one block from Newport on the Levee that has been sold for development. A development with store fronts and apartments named Monmouth Row is open and has a waiting list for occupancy. Red bikes have been installed in Covington and Newport that can be rented by credit card and returned to the rack after use. Ludlow is in phase one of development of a city park.

Representative Burch said that the work done in this area is remarkable, complimenting the northern Kentucky legislators who brought the issue of redevelopment before the General Assembly.

Senator Schickel said that the renewal is a generational issue with millennials moving to urban areas.

In response to a question from Senator Schickel, Mr. Moreland said the Transit Authority of Northern Kentucky (TANK) system has a trolley used for the regional public transit rather than bus due to a weight limit on the bridge that is used on the route.

In response to a question from Representative Westrom, Mr. Moreland said fundamentally cities and counties must compromise on changes for progress in any area.

In response to a question from Senator Seum, Mr. Moreland said South Bank Partners is a not-for-profit group.

#### **2016 BR 72–AN ACT relating to licensing fees and making an appropriation therefor**

Representative Montell said his bill addresses the issue of sweeping restricted funds into the General Fund. Several boards have asked if there is any solution to ending this practice. The last budget, FY 2014/2015, swept \$214 million dollars with an additional \$70 million coming out of the 2015 budget. This makes it necessary for those boards and agencies that have been swept to raise fees in order to operate. In the last eight years, \$10.8 million has been swept from three agencies in the Department Housing, Buildings, and Construction.

The bill addresses the sweeping of funds from the departments of Electrical, HVAC and Plumbing in the Department of Housing, Buildings and Construction. The bill defines excess funds for these three divisions. They will be allowed to carry forward up to 20 percent in excess of their annual budget. Anything above 20 percent would be considered excess and could be swept. This ability to carry forward some revenue may allow for the reduction of license fees.

Tim House, Executive Director, of the Kentucky Association of Master Contractors said his association is in support of BR 72. Since 2000 it has been a common practice to transfer funds from agencies into the general fund. When the fiscal year closed in 2000, an emergency meeting was called to notify all departments in HBC that fees would be raised across the board, some as much as 350 percent. In 2008 after \$5.9 million dollars were swept, members of the association filed a law suit in Franklin Circuit court.



In 2014 the Kentucky Supreme Court ruled in favor of sweeping excessive restricted funds. By defining excessive funds and permitting only excessive funds to be swept, BR 72 allows programs to operate without raising fees. However, it is anticipated that the department will not support this legislation.

In response to a question from Representative Burch, Representative Montell said money is swept from one agency to meet a need in another area.

In response to a question from Senator Seum, Mr. House said the departments of HVAC, Plumbing and the electrical department have seen \$11 million swept.

#### **Tourism and hospitality modernization**

Kristin Meadors, Director of Governmental and Regulatory Affairs for the Kentucky Distillers' Association said KDA was founded in 1880 with a mission to promote, protect, and unite Kentucky's signature Bourbon and distilled spirits industry. Kentucky makes 95 percent of the world's bourbon. Production has increased over 170 percent since 1999, and the state has the highest inventory since 1975.

The Kentucky Bourbon Trail was created in 1999 to give visitors a first-hand educational experience of the art of creating the world's finest bourbon. In 2012, KDA launched a bourbon trail for Craft distilleries. A tour map shows the locations of both the large distilleries and the craft distilleries. Both tours have seen record-breaking growth, with visitors from all 50 states and more tourist visiting every year. KDA has a "Passport" program. Each distillery on the map has a space for a visit stamp. Upon completion of the tour with nine stamps, the visitor can redeem the map for a Bourbon Trail tee-shirt. Since 2007, more than 75,000 completed maps have been redeemed.

Eight-five percent of distillery visitors come from out-of-state. The majority of visitors have come specifically for the Bourbon Trail with 31 percent making more than one visit to complete their bourbon visit map. The average visitor spends approximately \$1,000 during a stay.

Kentucky, however, is falling behind in bourbon production, ranking eighth in operating distilleries. Other states are changing laws and reducing fees to attract the next generation of distillers. Rhode Island has permanently exempted wine and spirits from its 7 percent sales tax, while in 2009 Kentucky added the 6 percent sales tax to alcohol. In New York, laws were changed to allow distilleries to operate restaurants and sales by the drink. In Washington state, distilleries now participate in special events and have no limit on sales. In 2005, there were no distilleries in Washington, but now there are 110. The number of craft distilleries nationally is on the rise as well. There is a direct correlation between what each states legislature has done to change legislation making laws more business-friendly and the growth of distilleries in those states.

Kentucky cannot afford to lose its historic distilling industry. Change is needed to modernize tourism and hospitality. International and out-of-state visitors are asking for change. Tourists can visit a winery or a brewery and purchase a drink or a flight; however, when visiting a distillery they cannot purchase the spirits.

KDA is asking the legislature for help by allowing distilleries to increase sample sizes, or sell spirits by the drink, and authorize local option elections for distilleries. KDA asks that the legislature permit the sale of antique spirits at the retail level. This concept is already permitted at Kentucky's beer and wine sites. Everyone benefits when a visitor becomes a fan of Kentucky bourbon. Kentucky's bourbon industry must stay competitive. If laws are not modernized, Kentucky could see a loss in jobs and revenue and the loss of its identity as the authentic home for bourbon.

Representative Keene stated that the bourbon industry is a true opportunity for economic development in rural areas.

Representative Clark said the industry should come to the chairs of this committee for help rather than the executive branch.

Representative St. Onge said Kentucky is known for bourbon and horses but each stands to be lost if the legislature does not help increase their revenue.

Senator Seum noted that Louisville has an Urban Bourbon trail.

Representative Keene announced that a brief tour of the New Riff distillery is available for those interested.

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

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

### **Minutes of the 4th Meeting of the 2015 Interim**

September 24, 2015

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

The 4th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 24, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Rick Rand, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Rick Rand, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Chris Girdler, David P. Givens, Stan Humphries, Morgan McGarvey, Dennis Parrett, Wil Schroder, Brandon Smith, Robin L. Webb, and Stephen West; Representatives Denver Butler, John Carney, Larry Clark, Leslie Combs, Ron Crimm, Mike Denham, Bob M. DeWeese, Jeffery Donohue, Myron Dossett, Kelly Flood, Joni L. Jenkins, Martha Jane King, Reginald Meeks, Terry Mills, Tanya Pullin, Marie Rader, Sal Santoro, Arnold Simpson, Rita Smart, Fitz Steele, Wilson Stone, Tommy Turner, Susan Westrom, Addia Wuchner, and Jill York.

Guests: Tim Hazlette, President, Kentucky State Police Professional Association; Sherriff Berl Perdue, Jr., President, Kentucky State FOP and Sherriff, Clark County; Jerry Wagner, Executive Director, Kentucky Sheriffs' Association; Joe Baer, President, Kentucky Professional Fire Fighters Association; Chief Michael Morgan, President, Kentucky Association of Fire Chiefs; Michael Curtsinger, Kentucky Fire Commission; Dr. Carl Rollins, Executive Director, Kentucky Higher Education Assistance Authority,

David Lawhorn, KESPT Program Manager, Kentucky Higher Education Assistance Authority, Erin Klarer, Vice President, Government Relations, Kentucky Higher Education Assistance Authority; Jack Moreland, Southbank Partners; Thomas Fromme, City Administrator of Newport; Michael Giffen, City Administrator of Dayton.

LRC Staff: Pam Thomas, John Scott, Charlotte Quarles, Eric Kennedy, Jennifer Hays, and Jennifer Beeler.

#### **Approval of Minutes**

Senator Alvarado made a motion, seconded by Representative Stone, to approve the minutes of the August 27, 2015 meeting. The motion carried.

In memory of Kentucky State Trooper Joseph Ponder, the members observed a moment of silence to honor his service and dedication to the Commonwealth.

#### **Trooper Compensation and Retention**

Tim Hazlette, President, Kentucky State Police Professional Association (KSPPA) gave a brief overview of Kentucky State Trooper recruitment and retention challenges.

Mr. Hazlette said that KSPPA is an association formed for the purpose of advocating for troopers and dispatchers, and improving the welfare of current and former KSP personnel.

KSP is governed by KRS Chapter 16, which requires a biennial salary survey of the states bordering Kentucky. The last significant increase in trooper compensation was in 2006, when by executive order the Governor allowed KSP troopers to begin receiving a \$3,100 stipend from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF). The results of the most recent salary survey confirms that KSP troopers remain underpaid compared to surrounding states, particularly with regard to compensation in relation to years of service.

Mr. Hazlette noted that comparatively low starting salaries impact recruitment. As an example, the most recent cadet class was selected from approximately 600 applicants over a five month period. In contrast, 35 years ago, the number of applicants would have exceeded 4,000 for the same size class. Lack of adequate compensation also impacts retention. Because of stagnant pay during the past eight years, the ability to retain troopers is proving difficult. In many cases, as soon as troopers are retirement eligible, they leave to seek other employment to improve their financial status.

Mr. Hazlette requested that the General Assembly consider a 5 percent raise for all KSP personnel, and a \$5,000 base pay increase for sworn Kentucky State Troopers of all ranks.

All members of the committee expressed their gratitude for the work of the troopers and all they do for the state of Kentucky.

In response to a question from Representative Clark, Mr. Hazlette stated that the 5 percent raise would apply to 1836 personnel, and the \$5,000 base pay raise would apply to 878 sworn troopers and would equal approximately \$15.1 million in total cost.

In response to a question from Senator Carroll, Mr. Hazlette explained that KSPPA has considered proposing incremental salary increases rather than

the across the board raise proposed, but they view the current request as a first step and will propose incremental raises at a later date.

#### **KLEFPF fund and the Firefighters Program Fund**

Sheriff Berl Perdue, Jr., President, Kentucky State Fraternal Order of Police, gave an overview of the KLEFPF fund. Under KRS 136.392, all Kentuckians pays a 1.8 percent surcharge on their casualty insurance premiums. The proceeds from this surcharge are statutorily designated for the purposes of the Kentucky Firefighters Foundation Program Fund (KFFPF) and KLEFPF. The revenue generated is split between the two.

Sheriff Perdue described how amounts from the KLEFPF fund are used to pay the annual proficiency incentive to officers who complete the annual mandatory training, to fund the Department of Criminal Justice Training (DOCJT) which administers training for most of Kentucky's law enforcement officers; and to fund the Kentucky Law Enforcement Council, which manages the training standards and requirements statewide.

The Peace Officer Professional Standards program (POPS) was established in 1998 House Bill 455 to address a need for a standardized pre-hiring process and level of training across the Commonwealth for all law enforcement officers. Kentucky's DOCJT was the first nationally accredited public safety training program. The standards established by POPS have resulted in Kentucky's law enforcement officers being among the best trained in the nation with a minimum of 888 hours for basic training and 40 hours a year of continued proficiency training. KLEFPF is the only funding mechanism for police standards and training.

KLEFPF started as an incentive program to encourage training before training became mandatory under POPS. The stipend has since evolved into pay incentive for all officers who meet the high standards set forth through POPS. In 1998, the incentive was set at \$3,000 per year. The incentive was increased slightly to \$3,100 in 2001.

Sheriff Perdue noted that the stipend has remained the same since 2001 even though the total amount in the fund has increased 410 percent from 2001, when the fund total was \$14.3 million to \$58.7 million in FY 2012-2013. According to the Bureau of Labor Statistics, the proficiency pay would need to be \$4,177 in today's dollars to equal the value of the \$3,100 in 2001 due to inflation and cost of living increases.

Sheriff Perdue stated that law enforcement officers from across the state and in all communities are held to the same high standards regardless of their pay. That means that the officer who works in one of the twelve lowest paid departments whose average starting salary is \$17,511 is expected to perform at the same level as an officer in one of the top paid departments whose starting annual salary is \$44,141. The DOCJT 2015 compensation study reported the average starting annual salary across all of Kentucky's law enforcement agencies at \$28,727.

The groups of law enforcement officers who do not receive KLEFPF proficiency pay are Fish and Wildlife officers, Agriculture Officers, Charitable

gaming officers, Parks officers, Alcoholic Beverage Control Officers, Insurance Fraud officers, Attorney General investigators, and School Resource officers.

FOP goals for the 2016 legislative session are to advocate for an increase in the KLEFPF annual proficiency pay to at least \$4,000 in order to return the value lost over a decade of cost of living increases, and to ensure that all full time law enforcement officers who meet the POPS level of professional training receive the annual proficiency pay.

In response to a question from Chairman Rand, Sheriff Perdue stated that when a law enforcement officer attends a POPS training, it is paid for through the KLEFPF fund.

In response to a question from Representative Butler, Sheriff Perdue explained that the information that they are working from currently was discussed during a legislative work group at the end of last session.

In response to a question from Chairman McDaniel, Joe Baer, President, Kentucky Professional Firefighters Association, stated that for firefighters, there are two programs that are administered out of the firefighters foundation fund, first is the training incentive which is \$3,100 and goes to approximately 3,600 paid professional firefighters, and the second is state aid that goes to approximately 800 volunteer fire departments in the amount of \$8,250 annually.

In response to a question from Chairman McDaniel, Mr. Baer stated that the proposal from the firefighters will be to increase the training incentive pay to \$4,000 and the amount to volunteer departments to \$10,000 annually.

In response to a question from Representative Stone, Sheriff Perdue explained that there are 339 officers that are not currently included in KLEFPF.

In response to a question from Representative Jenkins, Mr. Baer stated that, as it currently stands, the proficiency pay does not extend to EMS service workers, just firefighters, some of whom are cross trained as EMT or paramedics.

In response to a question from Representative Denham, Sheriff Perdue explained that volunteer fire departments get funds from the firefighters foundation fund as well, and the request is to raise their funding from the \$8,250 annually to \$10,000 annually.

In response to a question from Representative Denham, Michael Curtsinger, Kentucky Fire Commission, explained that cost of the proposed increases for firefighters would be approximately \$4.7 million.

#### **Incentives for Saving for College and Kentucky Education Savings Plan**

Dr. Carl Rollins, Executive Director, Kentucky Higher Education Assistance Authority (KHEAA), discussed the Kentucky Education Savings Plan Trust, which is one of the 529 plans.

Dr. Rollins explained that the plan is to help families save for future higher education expenses of their children. This plan is administered by the KHEAA and the funds are managed by TIAA-CREF tuition financing. There are currently 15,400 active accounts totaling \$180 million, and the average account size is approximately \$11,700.

Dr. Rollins gave a brief overview of the history

of the 529 plan. Several surrounding states offer some form of tax incentive to encourage savings for college through these plans. He noted that, for these savings plans, Kentucky is one of eight states that has an income tax and that does not provide some type of tax incentive to residents.

Dr. Rollins discussed KHEAA's legislative proposal. The primary goal of legislation is to encourage Kentuckians to save for college using the state-sponsored 529 program. The proposed legislation would allow Kentucky residents to deduct up to \$5,000 per year by an individual taxpayer and up to \$10,000 for married couples filing jointly from their state income taxes for amounts deposited in a 529 account.

In response to a question from Representative Pullin, Dr. Rollins stated that grandparents can open accounts for their grandchildren.

In response to a question from Representative Smart, David Lawhorn, KHEAA stated that part of the management agreement with TIAA-CREF allocates a marketing budget each year that KHEAA oversees and utilizes to promote the program.

In response to a question from Representative Carney, Dr. Rollins stated that most school districts and local libraries are very helpful in promoting these products.

#### **Developments in Northern Kentucky**

Jack Moreland, Southbank Partners, Inc., Thomas Fromme, City Administrator of Newport and Michael Giffen, City Administrator of Dayton, gave an overview of developments and construction projects in Northern Kentucky.

#### **Other Business**

The chair informed members that various documents were available in their folders for review, including a list of executive branch agency reports that had been submitted to the committee.

There being no further business, the meeting was adjourned at 2:45.

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

### **Minutes of the 4th Meeting of the 2015 Interim**

September 25, 2015

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

The 4th meeting of the Interim Joint Committee on Judiciary was held on Friday, September 25, 2015, at 10:00 AM, at the Audubon Youth Development Center in Louisville, Kentucky. Senator Whitney Westerfield, 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 Danny Carroll, Perry B. Clark, Wil Schroder, Dan "Malano" Seum, and Robin L. Webb; Representatives Denver Butler, Chris Harris, Joni L. Jenkins, Mary Lou Marzian, Reginald Meeks, Suzanne Miles, Ryan Quarles, Tom Riner, and Brent Yonts.

Guests: John Ellington, Kristie Stutler, Rob Sanders, Chris Cohron, Mike Foster, Bill Patrick, Senator Julie Raque-Adams, Representative Kim King, and Mike Cox.



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

### **Prosecutorial Issues and Concerns**

After an introduction, Rob Sanders, President of the Kentucky Commonwealth Attorney Association, Commonwealth Attorney Chris Cohron, KY Commonwealth Attorneys Association Executive Director Bill Patrick, and Christian County Attorney Mike Foster testified.

Mr. Sanders discussed the budget. He stated that due to budget cuts prosecutors have had trouble recruiting and retaining new prosecutors throughout the Commonwealth. Because of the high turnover rate, costs to the entire court system have increased. Mr. Cohron then discussed several items that they hoped to see acted upon during the 2016 legislative session, including:

A statutory amendment to existing law addressing ongoing course of criminal conduct in regards to abuse that has continued over an extended period of time;

The standardization of the discovery rule in obscenity cases so that it is consistent with the Adam Walsh Act;

DNA upon felony arrest. Mr. Sanders stated he believed a bill like this would solve many crimes, help prevent crimes before they happen, and reduce investigative cost to law enforcement agencies;

Increased protection for police K9s. Right now the severity of the punishment for assault on a service animal is determined by whether the animal can return to work after the assault. Mr. Sanders stated that they would like to see a tweak to the law so that the punishment is actually determined by the actions of the assailant;

Rescheduling of Hydrocodone to match the national Schedule II classification.

Also, Mr. Cohron stated that the prosecutors would like to see the synthetic drug statutes strengthened with the goal of deterring abuse.

Mr. Foster discussed the rocket docket program and funding that was established during the 2015 Legislative session. The treatment programs are amazingly successful. Many individuals are being assessed properly and receiving the treatment they need, which is an investment that Kentucky should keep funding. Mr. Foster also discussed staffing issues. Many prosecutors are overwhelmed with cases and frustrated with the caseloads other agencies face as well, especially social workers. Another item the County Attorneys Association hoped would be looked at by the legislature is clarifying the misdemeanor expungement law.

Alan George, Woodford County attorney, said that language used for alcohol DUIs should be parroted for Drug DUIs, which would help eliminate sentencing issues. He said that the non-per se DUI no presumption level should be lowered to .04, which makes it consistent with the CDL DUI law. He suggested that technical tweaks be done to the ignition interlock law that was passed during the 2015 legislative session. He suggested that driving on a suspended license or driving without a license

be added to the list of exceptions to KRS 431.015 allowing warrantless arrests. Representative Tilley said that a fix to that issue is already being considered.

Responding to a question from Senator Webb, Mr. Cohron stated that many are hopeful that the money used for rocket docket programs will be reappropriated into their budgets for the next biennium.

Responding to a question from Senator Schroder, Mr. George stated that because of the responses from several judges, it would clear up a lot of confusion if the drug DUI language were clarified.

### **Juvenile Justice Reform: SB 200 Update**

Senator Westerfield, Representative Tilley, and the Department of Juvenile Justice's (DJJ) Kristie Stutler presented an update on Senate Bill 200.

Senator Westerfield gave an overview of the intentions of Senate Bill 200. Senate Bill 200 was designed to overhaul Kentucky's juvenile code, changing the treatment of status offender and low level public offender children. Multiple studies have been completed showing that money spent on detaining these children could be cut to a smaller fraction if handled differently. Although the bill did not go into effect until July 2015, there are already positive results being seen. Over the course of the year there have been a number of pilot programs set up across the state in different environmental settings, which is providing data to the Juvenile Justice Task Force and showing members what needs to be fixed. Short term outcomes for DJJ youth placed out of home are at 41 percent adjudicated within one year of release. Long term outcomes are at 52 percent of DJJ youth placed on community supervision are adjudicated within three years, and 64 percent of DJJ youth placed on out of home are adjudicated within three years of release. Despite these numbers which are expected to improve overtime due to this bill, Kentucky has had a lot of success when youth are diverted early in the juvenile justice system, only 1/4<sup>th</sup> of youth that have successfully completed diversion have a new offense within one year. Just over 1/3<sup>rd</sup> have a new offense within three years. Use of the risk assessment tool is being required early in the process to assure that youth are receiving the services they need.

Kristie Stutler testified on the work of the Department of Juvenile Justice. Much time has been spent researching best practice and working with the technical assistance group from the criminal justice institute to ensure that practices being put into place are data informed and the right kind of services to Kentucky's youth. She believes it is important to take into consideration that SB 200 set determinate timelines for low level offenses, which could affect the amount of disparity at the moment of charge. Ms. Stutler stated that juvenile justice reform is not a matter of just implementing the four structural changes that were outlined in SB 200, but identifying all procedures and processes and revisions that need to be changed to receive more favorable outcomes for all youth.

Ms. Stutler discussed how the DJJ gives the courts risk information that includes criminogenic need areas and treatment needs. Other areas that that DJJ has been working on include a consistent system across programs with advancement based on-

treatment compliance, graduated Sanctions protocol that establishes limits for consequences that might extend a juveniles length of stay, treatment plan based on needs assessment, and the addition of evidence based programs.

Representative Tilley said that this bill has only been in effect for two months, but many have been preparing for this bill for some time. With Family Accountability Intervention and Response (FAIR) teams that have been that are running, 79 percent of juvenile cases were resolved without going to court. The US Department of Justice has put a focus on Kentucky and Texas as national models.

Lieutenant Josh Judah, with the Louisville Metro Police Department (LMPD) discussed some concerns LMPD has faced. The intent of SB 200 is good, but the law interferes with the Louisville's curfew ordinance. He discussed incarceration and crime control issues that the department is facing. Senator Westerfield and Representative Tilley responded by thanking Lieutenant Judah for his testimony and expressing interest in speaking with LMPD about its concerns.

Responding to a question from Senator Seum, Ms. Stutler stated that one of the biggest challenges that the DJJ faced was resistance within the system, and that SB 200 made collaboration across agencies much smoother and effective.

### **Shock Probation in DUI Homicide**

Senator Julie Raque-Adams, Carolyn Sharf, Debbie Moskwa, and Morgan Sprague, with the Kentucky State Police discussed shock probation in DUI homicide cases. Senator Adams spoke of Carolyn Sharf's daughter, a victim of DUI, and the heartbreak the family of that victim faced. Senator Adams discussed a bill that will be introduced in the 2016 legislative session that will prohibit shock probation if a person is convicted of Manslaughter in the 2<sup>nd</sup> Degree or Reckless Homicide and found to be in violation relating to driving under the influence. She spoke about Kentucky's 13 exceptions eliminating shock probation as an option for other offenses, and asked members to consider this additional exception.

Mrs. Moskwa told the story of her son's unfortunate passing in 2002, when he was killed in a four car accident while on vacation. She asked members to consider passing this bill in the upcoming session.

Ms. Sprague discussed the bill draft and assured members that it had the support of the Kentucky State Police.

### **Transforming How We Look at Treatment**

Representative Kim King along with Mike Cox, Isaiah House President, and Jason Roop testified about the Isaiah House program and treatment options. Mr. Cox stated that treatment has become a generic term, and that treatment is more than helping an individual get through the challenges of detox, and it is more than tough love and discipline. He stated that a holistic approach and model is what is needed for alcohol and drug treatment, and that is what the Isaiah House does and wishes to share with others in the Commonwealth. Not only is addiction addressed but the mental, physical, legal, educational, and financial needs of clients are also addressed.

Mr. Cox also discussed funding for Isaiah House, which, despite being state licensed and accredited,

receives no state funding. Although money has been allocated for treatment facilities, Mr. Cox stated that there is a need for more. He discussed issues with insurance companies and the constant battles faced while trying to help clients with their claims. He encouraged members to continue coming up with creative ways to fund treatment.

Mr. Roop expressed support for Isaiah House. As a former addict who attended the program, he now works there.

Responding to a question from Representative Tilley, Mr. Cox stated that the current percentage of their clients who have served jail time is 48 percent.

There being no further business, the meeting was adjourned at 12:22 PM.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Transportation**

### **Minutes of the 1st Meeting of the 2015 Interim**

September 24, 2015

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

The first meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 24, 2015, at 10:30 AM, in Room 131 of the Capitol Annex. Representative Leslie Combs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Leslie Combs, Co-Chair; Senators Ernie Harris, Jimmy Higdon, and Robin L. Webb; Representatives Hubert Collins, Jim Gooch Jr., Russ A. Meyer, Sal Santoro, John Short, and Jim Stewart III.

Guests: Senator Joe Bowen; Representative Jerry Miller; Juva Barber, Executive Director, Kentuckians for Better Transportation; Anne Lawson, Vice President, Elizabethtown Flying Service, Inc.; Andrew Aiello, General Manager, Transit Authority of Northern Kentucky; Brian Wright, President and CEO, Owensboro Riverport Authority; and, Russ Romine, Deputy Secretary, Transportation Cabinet.

LRC Staff: Justin Perry, Jeff Schnobrich, and Spring Emerson.

#### **Kentuckians for Better Transportation; Aviation, Transit, and Waterways**

Juva Barber, Anne Lawson, Andrew Aiello, and Brian Wright provided a brief presentation regarding aviation, transit, and waterways in Kentucky.

In response to questions from Representative Collins, Ms. Barber said the excise tax assessed on aviation fuels brings in approximately \$9 million to \$11 million per year, and a portion of that money goes back to the general aviation airports for improvements. River barge lines pay a federal tax on diesel fuel, and none of that money goes to the state. The only state appropriation for the general aviation airports are the Aviation Economic Development funds through the Transportation Cabinet budget, in the amount of approximately \$10 million per year. Ms. Barber stated that the barge companies are assessed

a tax at the beginning of the year on the property but not on the commodity on the boat, and those moneys go to the state then back to the counties that sit along the river, not directly to the ports. Aviation gets approximately \$9 million to \$11 million which is spent on general aviation projects. The river barge industry pays approximately \$8 million per year in assessed taxes on the barges, which is not directly appropriated to the river barge industry.

Ms. Lawson said the sales tax on jet fuels in Kentucky produces an income stream in order to protect and grow the infrastructure of aviation in the commonwealth. The tax is specifically reported by the retailer of the fuel. Ms. Lawson stated that DHL and UPS are capped at \$1 million. The 59 general aviation airports and four commercial airports also report monthly what portion of sales tax that is paid is from jet fuel sales tax. In recent years, the amount of local funds needed to match federal funds was increased. Some of the airports are sponsored by their cities or counties. Ms. Barber said each general aviation airport has its own budget, and each public transit system has its own budget. Mr. Aiello said large urban transit systems primarily utilize their own funds, but some federal capital funds are received which require a local match. Some available federal funds are not being used because of a lack of match.

In response to a question from Chair Combs, Ms. Barber stated that she was unaware of how many carriers hit the \$1 million cap on jet fuel sales tax.

In response to questions from Chair Combs, Mr. Romine said the Transportation Cabinet received approximately \$14 million in jet fuel tax revenues last year and is seeking an appropriation increase. He said the average is \$9 million to \$11 million per year, and Department of Revenue collects the funds on the cabinet's behalf. Approximately \$1.8 million in General Fund money is provided for matching funds for transit authorities across the state. About \$500,000 of General Fund money goes to waterways, since Road Fund money cannot be spent on waterways. The state also uses toll credits to match federal dollars for highways and transit.

In response to a question from Chair Combs, Ms. Barber said the commercial airports in Kentucky include Louisville, Lexington, Northern Kentucky, Barkley Regional, Owensboro, and Bowling Green.

In response to a question from Chair Combs, Mr. Aiello said an additional \$5 million would allow the transit authorities to provide a ten percent match in cash, as opposed to toll credits, the buying power of federal dollars.

In response to a question from Chair Combs, Ms. Barber said the \$1 million per year that was requested for waterways in the last budget cycle was based on the needs of the riverports, such as building access roads. The \$500,000 that was appropriated was used very quickly.

In response to questions from Representative Collins, Mr. Romine said there are four or five commercial airlines that reach the \$1 million cap each year. Some of the airport boards across the state provide local funds to add to the match, and the state provides some assistance as allowable. The airport boards are comprised of volunteers.

Chair Combs welcomed Senator Wise as co-

chair of the subcommittee.

Senator Wise commended Mr. Wright and said that he had been in Owensboro a few months ago and was impressed with the Riverport area and the renovations that have been completed there. Senator Bowen said there had been approximately \$150 million invested in downtown Owensboro, with about \$44 million of that being an appropriation from the federal transportation fund for riverfront abatement for erosion. The riverfront was shored up, making it possible to expand some properties to develop a park, revitalize the shoreline, and incorporate that into a commercial entertainment development.

In response to questions from Representative Short, Mr. Wright said dredging rivers is unique to different locations, specifically in the western tip of the state where dredging is done more often to provide access for barges. Permitting is required through the Corps of Engineers.

There being no further business, the meeting was adjourned at 11:12 AM.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Primary and Secondary Education**

### **Minutes of the 2nd Meeting of the 2015 Interim**

September 24, 2015

#### **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 24, 2015, at 10:00 AM, in Room 169 of the Capitol Annex. Representative Kelly Flood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative Kelly Flood, Co-Chair; Senators C.B. Embry Jr., Gerald A. Neal, and Mike Wilson; Representatives Jeffery Donohue, Dennis Horlander, Charles Miller, Rick G. Nelson, Steven Rudy, and Wilson Stone.

Guests: Shae Hopkins, Executive Director, Kentucky Educational Television (KET); Nancy Carpenter, Senior Director, Education, KET; Tim Bischoff, Senior Director, Marketing and Online Content, KET; David Couch, Associate Commissioner, Office of Knowledge and Information Services, Kentucky Department of Education (KDE); Marty Park, Office of Knowledge and Information Services, KDE.

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

#### **Kentucky Educational Television**

Executive Director Shae Hopkins, gave an operations update for Kentucky Educational Television (KET). She highlighted education resources that KET provides to school districts throughout the Commonwealth.

In response to a question from Chair Flood, Ms. Hopkins said master teachers are very interactive with students and often initiate contact with them.

In response to a question from Representative



Belcher, Ms. Hopkins said that KET would look into posting information addressing suicide prevention.

In response to a question from Representative Miller, Ms. Hopkins explained that one teacher can reach many students. She said that master teachers are paid what a typical Fayette County teacher's salary would be. KET is able to handle high need, low number courses that typical school districts cannot.

In response to a question from Representative Stone, Ms. Hopkins said that KET has discussed academic at-home days for students to address snow and other catastrophes. She said that KET would need to work with the Kentucky Department of Education about the availability of technology in students' homes.

#### **Kentucky Department of Education**

Associate Commissioner David Couch, gave a K-12 broadband expansion update. He spoke about Kentucky's digital advancements and how school districts are benefiting from the state's broadband expansion.

In response to a question from Representative Belcher, Mr. Couch said that the biggest challenge is making dense wireless networks available to more districts. Mr. Park said that instructional practice is the next step for digital learning.

There being no further business, the meeting adjourned at 11:13 a.m.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Postsecondary Education Minutes of the 2nd Meeting of the 2015 Interim**

September 24, 2015

### **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 24, 2015, at 10:00 AM, in Room 169 of the Capitol Annex. Representative Kelly Flood, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Senators C.B. Embry Jr., Gerald A. Neal, and Mike Wilson; Representatives Linda Belcher, Larry Clark, Kenny Imes, and Reginald Meeks.

Guests: Shae Hopkins, Executive Director, Kentucky Educational Television (KET); Nancy Carpenter, Senior Director, Education, KET; Tim Bischoff, Senior Director, Marketing and Online Content, KET; David Couch, Associate Commissioner, Office of Knowledge and Information Services, Kentucky Department of Education (KDE); Marty Park, Office of Knowledge and Information Services, KDE.

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Associate Commissioner David Couch, gave a K-12 broadband expansion update. He spoke about Kentucky's digital advancements and how school districts are benefiting from the state's broadband expansion.

In response to a question from Representative Belcher, Mr. Couch said that the biggest challenge is making dense wireless networks available to more districts. Mr. Park said that instructional practice is the next step for digital learning.

There being no further business, the meeting adjourned at 11:13 a.m.

## **INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Human Resources**

### **Minutes of the 4th Meeting of the 2015 Interim**

September 24, 2015

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

The 4th meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, September 24, 2015, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Joni L. Jenkins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Joni L. Jenkins, Co-Chair; Senators Julie Raque Adams, Carroll Gibson, and Denise Harper Angel; Representatives George Brown Jr., Tom Burch, Mary Lou Marzian, Donna Mayfield, Darryl T. Owens, and Addia Wuchner.

Guests: Eileen Rectenwald, Executive Director, Kentucky Association of Sexual Assault Programs; Sherry Currens, Executive Director, Kentucky Coalition Against Domestic Violence; Tanya Thomas, Executive Director, SpringHaven; Darlene Thomas, President, Board of Directors, Kentucky Coalition Against Domestic Violence; Jennifer Lainhart, Executive Director, Hope's Wings Domestic Violence Program; Caroline Ruschell, Executive Director,

Kentucky Association of Children's Advocacy Centers; and Andrew Oliver, Executive Director, Children's Advocacy Center of the Bluegrass.

LRC Staff: Cindy Murray, James Bondurant, and Benjamin Thompson.

### **Kentucky Association of Sexual Assault Programs**

Ms. Eileen Rectenwald discussed the Kentucky Association of Sexual Assault Programs (KASAP) and its budget.

### **Kentucky Coalition Against Domestic Violence**

Ms. Sherry Currens and Ms. Tanya Thomas discussed the Kentucky Coalition Against Domestic Violence (KCADV) and its budget.

In response to questions from Representative Wuchner, Ms. Currens stated that KCADV has about \$8.1 million in contract funds, including state and federal funds. Ms. Thomas noted that the faith-based community gives money for basic everyday needs but not enough to sustain a program.

In response to a question from Senator Gibson, Ms. Currens noted that a domestic violence petition is signed by a judge, but there is generally no financial support for the victim in the petition.

In response to a question from Senator Adams, Ms. Currens stated that KCADV is attempting to determine what its federal funds will be for the upcoming biennium.

In response to a question from Representative Owens, Ms. Currens confirmed that KCADV frequently collaborates with KASAP.

In response to a question from Chair Jenkins, Ms. Darlene Thomas said that KCADV has previously made a specific request for facility maintenance. Ms. Thomas stated that KCADV could put together a request for funding to improve facilities.

### **Hope's Wings Domestic Violence Program**

Ms. Jennifer Lainhart discussed the Hope's Wings Domestic Violence Program and its budget.

In response to a question from Representative Burch, Ms. Lainhart noted that, for the protection of the victims currently staying in the facility, security is very tight at Hope's Wings. Ms. Lainhart stated that the facility's strongest security measure is a close relationship with law enforcement.

In response to a question from Chair Jenkins, Ms. Lainhart confirmed that Hope's Wings is not a member of the Kentucky Retirement System.

### **Kentucky Association of Children's Advocacy Centers**

Ms. Caroline Ruschell and Mr. Andrew Oliver discussed the Kentucky Association of Children's Advocacy Centers (KACAC) and its budget.

In response to questions from Senator Alvarado, Mr. Oliver noted that, in Lexington, KACAC is exploring new partnerships with the University of Kentucky Hospital.

In response to a question from Representative Wuchner, Ms. Ruschell stated that KACAC would have to at the numbers to see if it would have been more beneficial to raise salaries than to have opted into Kentucky Retirement System.

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

# INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT

## Minutes of the 4th Meeting of the 2015 Interim

October 1, 2015

### Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Natural Resources and Environment was held on Thursday, October 1, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Chris Girdler, Ernie Harris, Paul Hornback, Ray S. Jones II, John Schickel, Brandon Smith, Johnny Ray Turner, Robin L. Webb, and Whitney Westerfield; Representatives Hubert Collins, Tim Couch, Jim DuPlessis, Chris Harris, Reginald Meeks, Tim Moore, Marie Rader, John Short, Kevin Sinnette, Fitz Steele, and Jim Stewart III.

Guests: Ms. Leah MacSwords, Director, Division of Forestry; Mr. Bob Bauer, Executive Director, Kentucky Forest Industries Association; Mr. Tom FitzGerald, Director, Kentucky Resources Council; Ms. Sandy Gruzesky, Department for Natural Resources; Mr. Clyde Caudill, Impact Government Relations; and Ms. Arnita Gadson, Environmental Quality Commission.

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

A quorum being present, the minutes from the September 3, 2015 meeting were approved.

### Ongoing Efforts and Recommendations to Combat Timber Theft

Leah MacSwords, Director, Division of Forestry, gave an overview of timber harvesting operations in the Commonwealth. Kentucky is 47 percent forested, with forest industries in 109 counties and merchantable timber in all 120 counties. Kentucky forest industries contribute over \$8 billion annually to the state's economy with a \$12.8 billion total economic impact per year. Kentucky has 1,500 logging firms whose timber harvesting operations are inspected by the Division of Forestry. The division also works with private forest landowners, who own 88 percent of Kentucky's forested land, to help them manage their property to ensure sustainable harvests, maintain wildlife habitats, and provide recreational opportunities.

Private landowners are particularly vulnerable to the problem of timber theft, not only because they own such a large percentage of Kentucky's forested land, but also because timber can likely only be harvested once during their ownership of the property. Timber theft also takes money away from reputable loggers who would be lawfully harvesting the timber that is being stolen by the timber thieves. Although the division inspects commercial logging operations, it has no authority to investigate or enforce any laws directly relating to timber theft.

Bob Bauer, Executive Director, Kentucky Forest Industries Association (KFIA), discussed the

impact of timber theft on the sawmills, loggers, and landowners that the association represents. During the 2015 Session, the General Assembly unanimously passed SB 92, which imposed tougher requirements and restrictions on repeat "bad actors" with unpaid fines and uncompleted reclamation plans. He hopes this bill will help curtail timber theft, because many of the repeat bad actors are also suspected to be timber thieves.

Current timber theft and trespass laws in Kentucky are already strong. Victims are entitled to legal costs and triple damages for the stumpage value of stolen timber and damage to property. The problem is that criminal prosecutions are often not pursued, and recovery in civil suits can lead to inconsistent results. Representative Combs has sponsored legislation for several years to establish a timber theft and trespass reduction task force that has not yet passed the General Assembly. Last year, KFIA assembled representatives of many of the stakeholder groups named in that legislation to try to find consensus recommendations to address the problem. One widely agreed-upon recommendation was to pursue more criminal prosecutions for timber theft. Already scarce prosecutorial resources are more likely to be dedicated to higher-priority crimes, and it is often more difficult to track and value stolen timber than other stolen goods that have more easily verifiable identifying characteristics. It is important to continue to educate state and local prosecutors on the seriousness of timber theft. One possible proposal to increase awareness of the crime and increase criminal prosecutions is to assemble a timber theft task force through the Attorney General's office, much like the arson task force. Other state agencies, like the Department of Fish and Wildlife Resources, could be engaged to help identify and report timber theft in the field. Additional laws and regulations should be considered only after the current laws are better enforced.

Tom FitzGerald, Director, Kentucky Resources Council, discussed the impact of timber theft and trespass on private timberland owners in Kentucky. Timber theft is estimated to cost \$1 billion per year nationally and results in financial loss and property damage to landowners that often goes uncompensated. Timber theft negatively impacts the legitimate timber harvesting industry. Victims rarely see justice served for the crime because of the difficulty with engaging law enforcement and prosecutorial resources. This difficulty can be attributed at least in part to poor training and lack of resources to investigate and prosecute timber theft and the indefinite, unmarked, and disputed property boundaries often found in rural areas. Victims also must overcome financial burdens to pursue claims of timber theft, including hiring experts to survey the property, estimate the cost of repairing any damage to the property, and value the stolen timber. Total compensation for the loss is difficult to ascertain because of the difference between the stumpage value that used to calculate damages by statute and the actual value of the timber at sale, which may have been greater.

Because the General Assembly has not yet passed Representative Combs's resolution to establish a timber theft and trespass reduction task force, it may

be beneficial to establish an informal working group with many of the named members of that task force and members of the General Assembly to address these issues. The working group could engage state agencies and stakeholders to mobilize the resources available to address these persistent issues, much like the arson task force was able to do.

Chair Gooch recognized Representative Combs's hard work on this issue and underscored the difficulty in establishing intent to trespass when so many boundary lines for rural properties are poorly marked.

In response to a question from Senator Webb, Mr. FitzGerald agreed that it is difficult to pursue perpetrators of timber theft and trespass in civil court because the thief often has few financial assets from which to satisfy a judgment. Other states, like South Carolina, allow seizure of timber harvesting equipment.

Representative Stewart commented that where the timber is sold would perhaps be a good place to impose some documentation requirements for timber harvesters to ensure that the correct amount of timber has been harvested from the correct place.

In response to a question from Senator Jones, Mr. FitzGerald said that commercial logging operations are required to have a master logger on site to minimize the impact on water quality, but there is no bonding requirement, no requirement for a reclamation plan, and no reforestation requirement. The General Assembly may be interested in requiring signed reclamation plans for commercial loggers.

In response to a question from Representative Harris, Mr. FitzGerald said that South Carolina and Georgia have both increased their interagency cooperation to help respond to timber theft and trespass. Those states have also increased criminal penalties. Other states have notification, reclamation, and survey requirements for all timber harvesting operations. Mr. Bauer said that some southern states have hired dedicated law enforcement to investigate timber theft, but that Kentucky has the most stringent notice requirements of any southern state.

Chair Gooch noted how cooperative the timber harvesting industry had been with addressing logging issues.

In response to a question from Representative Meeks, Ms. MacSwords said that the division maintains a list of bad actors by county on its web site.

In response to a question from Senator Webb, Ms. MacSwords said that the regulation requiring notification for bad actors just took effect and that violation of the regulation would place the logger in the four-step bad actor process currently in force.

In response to a question from Representative DuPlessis, Mr. FitzGerald said that the water well drillers came to the General Assembly to request a framework for certification in order to weed out their own bad actors. It is worth considering a permitting or certification requirement for responsible timber harvesters to be able to separate themselves from the bad actors. Mr. Bauer said that the industry favors increasing communication as long as it is not onerous on the majority of loggers who are already abiding by the rules.



There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON AGRICULTURE

### Minutes of the 5th Meeting of the 2015 Interim

October 2, 2015

#### Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Agriculture was held on Friday, October 2, 2015, at 10:00 AM, at the University of Kentucky, Agricultural Science Center North, Seay Auditorium, 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 C.B. Embry Jr., Chris Girdler, Stan Humphries, Dennis Parrett, Damon Thayer, Robin L. Webb, Stephen West, and Whitney Westerfield; Representatives Lynn Bechler, Richard Heath, James Kay, Kim King, Martha Jane King, Michael Meredith, Suzanne Miles, Terry Mills, Ryan Quarles, Tom Riner, Bart Rowland, John Short, Rita Smart, Wilson Stone, James Tipton, and Tommy Turner.

Guests: Senator Jimmy Higdon, Drew Graham, Assistant Dean, UK College of Agriculture, Food and Environment, Dr. Nancy Cox, Dean, UK College of Agriculture, Food and Environment, Dr. Eli Capilouto, President, University of Kentucky, Dr. Rick Bennett, Associate Dean for Research and Director of the Kentucky Agricultural Experiment Station, UK College of Agriculture, Food and Environment, Dr. Sue Nokes, Chair, Department of Biosystems and Agricultural Engineering, University of Kentucky and Dr. David Williams, Department of Plant and Soil Sciences, University of Kentucky.

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

The September 9, 2015 minutes were approved by voice vote, without objection, upon motion by Representative Martha Jane King and second by Representative Rita Smart.

#### Welcome and Opening Remarks

Drew Graham, Assistant Dean, UK College of Agriculture, Food and Environment, said this is the 12<sup>th</sup> year that UK has hosted the Agriculture Committee at Round Up. The College of Agriculture has evolved from traditional agriculture and the UK College of Agriculture to UK College of Agriculture, Food and Environment. Mr. Graham recognized Senator Dennis Parrett as being selected the “Friend of Extension.” This is the highest award given to extension.

Dr. Nancy Cox, Dean, UK College of Agriculture, Food and Environment, thanked members for their support of the UK College of Agriculture, Food and Environment, and agriculture throughout the state. The University of Kentucky is celebrating its 150<sup>th</sup> anniversary, and one of the first departments was Agriculture and Mechanical Arts. There are approximately 2,600 students participating

in the College of Agriculture, Food and Environment. She said animal science has more than 350 students, equine, 320 students, agriculture economy, 250 students, and human nutrition has over 230 students. Dr. Cox said that the College of Agriculture, Food and Environment has a new strategic plan called “Building our Future on the Land Grant Legacy” based on increasing student quality, support for faculty and staff, building a stronger relationship with the General Assembly and service orientation to the state. The College of Agriculture, Food and Environment is the second college at UK in terms of external grants, having received \$36 million in awards in 2014.

In response to Representative McKee, Dr. Cox said the College of Agriculture, Food and Environment is reaching its physical facility capacity, especially with the growth of the animal programs. There is room for growth but the College has to be mindful of the lack of facilities. If larger classrooms were available, the equine and animal science majors would have more than 150 students in each class.

In response to Representative Tipton, Dr. Cox said there are classroom constraints to increasing the student body. The College of Agriculture is seeking public/partnerships to help with funding. UK has a partnership with Caltech for the poultry unit and is in discussion with a partnership for a new dairy milking parlor.

Dr. Eli Capilouto, President, University of Kentucky, said that, for the second straight year, UK’s freshman class has over 5,000 students, and approximately 110 are merit scholars, which ranks UK in the top ten of all the national public research universities.

It is a priority to graduate students and hold the university accountable. The retention rate is 83 percent for first year students. The five year graduation rate increased approximately 3 percent, and the six year graduation rate--highest ever for UK--is 61.3 percent. Dr. Capilouto said there is \$1.8 billion of construction being undertaken on campus. UK philanthropy and public/private partnerships have been important to the costs of construction. The engineering program has a high number of transfers. The new space for the Engineering Department has brought about several changes in the design of the curriculum. There is one standard curriculum the first year, and students will immediately start applying their knowledge in the Engineering program. In closing, Dr. Capilouto stated that the University is not just the University “of” Kentucky, but rather is the University “for” Kentucky.

Senator Hornback thanked Dr. Capilouto for his commitment to Kentucky and Kentucky agriculture in bringing status to the University of Kentucky and the high rankings and high graduation rates.

In response to Representative Stone, Dr. Capilouto said that a partner was chosen for dining services at the University of Kentucky. That partner and UK settled on a \$250 million arrangement over 15 years and involves \$70 million in capital. There is a \$30 million dining facility (termed “The 90”). The partner is supposed to provide \$15 million toward the renovation of Patterson Hall. Dr. Capilouto said that he was not sure if that included a dining facility. The

partner is providing \$5 million to Food Connection so UK can partner with and expand local purchases such as Kentucky Proud products. He explained that the six meal plans decreased in price. There is a dining facility that went down by \$600. The 90 has an all-you-can eat meal plan for \$6.00. The other commitment that the partner had was to expand local purchases. UK’s commitment is for Kentucky Proud and local products to be 25 percent of all food purchases. UK and its partner are deeply committed to local foods.

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

Dr. Rick Bennett, Associate Dean for Research and Director of the Kentucky Agricultural Experiment State, UK College of Agriculture, Food and Environment, updated members on the Grain Center of Excellence project in Princeton. The proposal includes an expansion of the facilities at the Education Center in Princeton, with an upgrade to the main building and greenhouses, and an expanded irrigation system, all with the intent to develop greater facilities to increase research and technician positions and enhance the program on grain crops. The expansion of the grain crops center enhances all of the research and extension activities, such as livestock, tobacco, and horticulture. One issue important to the expansion of the facilities is land. The University of Kentucky leases 60 acres from a family farm in Princeton. UK reached out to the family to purchase the 60 acres and an additional 240 adjoining acres and is waiting for a response.

In response to Senator Webb, Dr. Bennett said that all the programs are important, and that purchasing the additional acres would be a better opportunity for livestock research. UK does not have a “Plan B” if the land purchase does not happen but is fairly confident that it can work toward an agreement.

Senator Hornback stated that the facility has always been called the Grain Center, which has always had an impact on livestock and forage research.

In response to Representative Smart, Dr. Bennett said UK will be addressing the issue regarding consumer sciences. The university is still in the process of defining programs for the expansion at the Research and Education Center at Princeton.

In response to Senator Humphries, Dr. Bennett said that the design of the facility includes new classrooms and auditorium.

Dr. Sue Nokes, Chair, Department of Biosystems and Agricultural Engineering, and Dr. Mike Sama, Assistant Professor, Machine Systems Automation Engineering, Department of Biosystems and Agricultural Engineering, University of Kentucky, discussed drones and precision agriculture. Dr. Sama stated the department had recently received a grant examining weather related data and the operation of drones in the low atmosphere. Data will assist in the prediction of weather and its relationship to farming. The biggest topics in precision agriculture are drones and big data. The big data project will include the collection of information from vehicles such as tractors and farm implements, and will help with building models to improve how grain is harvested, processed, and stored. Dr. Sama stated that a person can purchase a drone from a few hundred dollars to a

few thousand dollars.

In response to Senator Hornback, Dr. Sama said that the department is trying to develop laser sensors to go on the bigger drones. Sensors would help to develop a resolution topography map and maps to look at drainage. The smaller drones are good for remote sensing. Users can put a simple camera on the drone and take pictures or videos while flying over fields. Using infrared is another way to measure differences in crops. It could be used to measure nitrogen levels and other materials.

Senator Hornback stated that using drones helps the environment, clean waters, efficiency, and conservation.

In response to Representative McKee, Dr. Sama stated that there will be some progressive producers who will buy their own drones. In the future, more customer operators will most likely be needed to read the massive amounts of data collected by drones. Drones are collecting data now, but it is happening on a limited pace because of federal regulations.

In response to Senator Westerfield, Dr. Sama said that the university is building several different sensors. All the pieces are there, but they do not work together very well, and limited data packages are available. The university has exemptions to operate drones. At this time, there is no such thing as commercial drone operation in the U.S. without an exemption. The university must apply for an authorization to operate drones. UK is working to get local exemptions for farm research and statewide exemptions for training.

In response to Representative Bechler, Dr. Sama said UK has been working with several commercial drone pilots who are veterans. UK is already working to train pilots. The FAA is drafting rules for operator applications.

Senator Parrett predicted that future agriculture retailers will have a drone service. Mr. Sama stated that there will probably be changes in flying drones for safety concerns.

Senator Webb encouraged the department to contact legislators regarding proposals.

Dr. David Williams, Department of Plant and Soil Sciences, University of Kentucky, said efforts in hemp research for 2015 have been generally successful. There were two old-fashioned hemp standard variety trials that were very successful. One trial was a grain variety which averaged around 1,000 pounds per acre, which for corn growers would equate to 165 bushels of corn. UK partnered with Western Kentucky University (WKU) to evaluate the tolerance of industrial hemp to several common agricultural herbicides. There are no herbicides available for hemp but by continuing with the trials there will be a breakthrough. A dual-purpose trial where the crop is grown primarily for the grain and subsequently harvested for fiber production. Yields were at or about 1,000 pounds per acre. UK also has a large natural fiber trial funded by the Sundstrand Corporation. The trial includes three different varieties of industrial hemp and one variety of kenaf. Future trials will include a variety of flax. This trial's goal was to identify which of the species produced the highest quality natural fibers. The trial was the least successful. Other research work includes row spacing,

planting depth, and manipulating plant growth with plant growth regulators. Additional research includes gene identification associated with the oil quality pressed from hemp seed. Dr. Williams has met with Dr. Nokes about the potential of grant support for industrial hemp relative to building materials. It is highly likely, in 2016, that UK will begin some level of work in organic hemp production.

In response to Senator Hornback, Dr. Williams said that a seed shipment to UK was held up due to inadequate paperwork. The holdup had nothing to do with the hemp seeds. There will be some in-state hemp seeds available for 2016.

Representative McKee said one of the biggest issues in growing hemp is that there is nothing to help with weed control. Dr. Williams said Canada uses Assure II for grass control in industrial hemp production. There is still on-going research for weed control. Planting depth is key to successful establishment of hemp. When planting is done correctly, weed control has been successful. There will likely be some form of weed control in 2016.

In response to Representative Tipton, Dr. Williams said projections for next year should come from the Kentucky Department of Agriculture (KDA). Dr. Williams said he receives countless inquiries about industrial hemp from in and outside the state.

Senator Hornback stated the Kentucky Department of Agriculture did a great job of placing a producer with a processor.

Dr. Williams said that the National Hemp Association held its national meeting in Lexington. There is no doubt that Kentucky is in a good position due to the efforts of KDA.

There being no further business, the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON TRANSPORTATION**

### **Minutes of the 4th Meeting of the 2015 Interim**

October 6, 2015

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

The 4th meeting of the Interim Joint Committee on Transportation was held on Tuesday, October 6, 2015, at 1:00 PM, in Bluegrass Hall at Kentucky Speedway in Sparta, Ky. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll. The minutes from the Committee's September 1, 2015 meeting were approved.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Hubert Collins, Co-Chair; Senators Jared Carpenter, C.B. Embry Jr., Jimmy Higdon, Albert Robinson, Brandon Smith, Johnny Ray Turner, Whitney Westerfield, and Mike Wilson; Representatives Denver Butler, Leslie Combs, Tim Couch, Donna Mayfield, Tom McKee, Russ A. Meyer, Jerry T. Miller, Terry Mills, Steve Riggs, Sal Santoro, John Short, Arnold Simpson, Diane St. Onge, Fitz Steele, Jim Stewart III, and Addia Wuchner.

Legislative Guests: Representative Rick Rand.

Guests: Mark Simendinger, General Manager, Kentucky Speedway; Mike Hancock,

Secretary, Kentucky Transportation Cabinet (KYTC); Rob Hans, Chief District Engineer, District 6, KYTC; David Talley, Innovative Finance Manager, KYTC.

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

#### **Welcome**

Mark Simendinger, General Manager, Kentucky Speedway, welcomed members and guests to the Kentucky Speedway, highlighted important historical facts and figures, gave a brief overview of the Speedway's operations.

In response to a question asked by Representative Riggs concerning attendance at Kentucky Speedway, Mr. Simendinger stated approximately 25 percent of the attending fan base has been from the Louisville Metropolitan area and approximately 35 percent of the attending fan base has been from the Cincinnati Metropolitan area.

In response to a question asked by Senator Harris concerning the marketing slogan used for Kentucky Speedway, "The Roughest Track in NASCAR," Mr. Simendinger stated the slogan began due to the result of weathering which caused rough spots on the track. Instead of fixing the rough spots, it was suggested that they be left to cause a challenge for the drivers and to set apart Kentucky Speedway, which does not have other NASCAR venues' history, from other racetracks.

#### **Infrastructure improvements for Kentucky Speedway**

Mike Hancock, Secretary, KYTC, and Rob Hans, Chief District Engineer, District 6, KYTC, gave a presentation on the infrastructure improvements to correct traffic and parking issues for Kentucky Speedway that became apparent at its inaugural race in July, 2011. Secretary Hancock stated KYTC and Kentucky Speedway worked together to implement the improvements. Mr. Hans stated at the inaugural race I-71 north and southbound were completely gridlocked with traffic, and KY-35 had pedestrian issues. A solution was needed. After that race, meetings between KYTC, Kentucky Speedway staff, and Governor Beshear's office took place to discuss possible solutions. The result was a widening of KY-35 from three lanes to five with two shoulder lanes, for a total of seven lanes to be used if needed. It was also determined through the evaluation of traffic congestion that the majority of the traffic was coming from north to south and utilizing those interstate exits. Capacity was added to the southbound exit lane of I-71 to KY 35, which resulted in three continuous lanes of traffic exiting the interstate and making a right turn to come into the Speedway. In addition to the widening of KY-35, Kentucky Speedway acquired an additional 150 acres of land on the opposite side of KY-35 to be used for added parking space. A pedestrian tunnel was constructed to ease pedestrian traffic issues on KY-35.

Planning and execution of the solutions were expedited for completion by the NASCAR race that was to occur at Kentucky Speedway the following year. There was a competitive bidding process for the changes, and Sunesis Construction won with a bid of about \$3.7 million, approximately \$220,000 less than the KYTC engineer's estimate. The plan was executed in nine months. Mr. Hans discussed a



timeline of that process.

Mr. Hans stated that, because there was no need to acquire right-of way width on KY-35, construction was able to occur within the footprint. There was a small easement that was acquired from the Speedway. There were also some overhead electrical power lines that were moved, and utility companies were prompt about their removal. The pedestrian tunnel took the longest to construct, therefore was the most time sensitive portion of the project. The pedestrian tunnel is valuable because it allows pedestrians coming to the Speedway, and who are not parking onsite, the ability to cross KY-35 without stopping traffic.

The option to have a counter-flow lane was also implemented so I-71 southbound traffic at the north-end of the median barrier wall could be redirected if traffic was beginning to back up. One of the southbound lanes could be put on the northbound side of I-71 to allow duel flow traffic, which would allow traffic to continue without congestion.

The Speedway hired Stantec to conduct a parking lot and traffic flow simulation of all the exits and entrances into and out of the speedway. The improvements have worked.

#### **Electronic tolling processes used on the Ohio River Bridges Project**

David Talley, Innovative Finance Manager, KYTC, testified about the electronic tolling process that will be used on the Ohio River bridges. The Kennedy Bridge and the two new bridges that are being constructed will be tolled using a single all-electronic tolling system. The Sherman Minton and Second Street Bridges will remain toll free. Indiana and Kentucky procured the services of Kapsch to construct, test, and operate the tolling system. There will not be an ability to pay cash for the tolls at the bridges, which will improve safety and time and reduce costs.

Mr. Talley stated there are different tolling costs associated with crossing the bridges depending on the option for passing. If a customer opens a prepaid account and places a transponder in a vehicle, the transponder is recognized on the bridge and the appropriate toll is deducted from the account. The costs associated with the use of a transponder are \$1.00 for a frequent user, \$2.00 for a passenger vehicle, \$5.00 for a medium truck, and \$10.00 for a heavy truck. The number of times a person crosses the bridge to be considered a frequent user has not been decided upon, however the initial suggestion is that a person must cross the bridge 40 times within a month. The second tolling option that a customer can choose when crossing is to open a prepaid account, but choose not to place a transponder in the vehicle. The license plate is recognized when crossing the bridge, and the appropriate toll is deducted from the account. This option is referred to as the registered video option, and the costs are \$3.00 for a passenger vehicle, \$6.00 for a medium truck, and \$11.00 for a heavy truck. There is no frequent user alternative for the registered video option. The third tolling option is the unregistered video option. This option is for a customer who chooses not to establish a prepaid account. The license plate is photographed upon crossing, and an invoice is sent to the registered owner for the appropriate toll owed. The costs associated

with the unregistered video option are \$4.00 for a passenger vehicle, \$7.00 for a medium truck, and \$12.00 for a heavy truck. There is no frequent user alternative for the unregistered video option.

Mr. Talley stated transponders will be available online, at a customer service center, and at retail outlets. The local transponders will be free, and the E-ZPass transponders will cost less than \$20.00, but the exact price has not been set. A customer preferring to only deal in cash can reload a prepaid account at a customer service center or a retail outlet.

If a person does not pay after the original invoice is mailed to the registered vehicle owner, a series of reminders is mailed. Fees are then charged to cover the cost of collection. Eventually, a customer will receive a violation notice along with additional fees. Enforcement may include a vehicle registration renewal hold, collection activity, and legal action.

The next step to finalizing the electronic tolling process is getting the business rules finalized, which will occur in November, 2015. The public information campaign will begin shortly thereafter and continue through 2016 and beyond. The electronic tolling system will be capable of opening accounts in spring of 2016. The system will then be capable of collecting tolls in the fall of 2016.

In response to a question asked by Representative Simpson concerning the finality of the costs of tolls and the location of the cameras, Mr. Talley stated the toll rates were adopted by a tolling body in 2013 consisting of three Kentucky members and three Indiana members. The rate that was decided upon was based on a traffic and revenue study that was conducted at that time and the rate that was needed to support a bond sale on the Kentucky side to finance a portion of the project cost. The toll rates can be overridden by that tolling body at any time, and there is a mechanism for the rates to increase annually by the rate of inflation or 2.5 percent to ensure the collected tolls are sufficient to pay the ongoing and maintenance costs of the project. The cameras and antennas will be located close to the bridges' entries, but not on the bridges themselves.

In response to a question asked by Representative Short concerning the possibility of the invoices being returned to sender and the intended party not receiving them, Mr. Talley stated KYTC will send the invoice to the registered owner of the vehicle. If the invoice does not reach the intended recipient, there will be tracing used by third parties to try to reach the intended party. In response to a second question asked by Representative Short, Mr. Talley stated the cabinet will work with automobile dealers to come to an equitable solution to figure out how temporary tags should be tolled.

In response to a question asked by Senator Embry, Mr. Talley stated the total loss due to the inability to collect tolls that are owed is estimated to be approximately a 2.5 percent of all tolls due, according to the traffic and revenue study that was conducted. In response to a second question asked by Senator Embry concerning what might happen if a person with an outstanding balance passes away, Mr. Talley stated he is unsure what would happen and that an attorney would have to be contacted.

In response to a question asked by Representative

St. Onge concerning the frequent user rate, Mr. Talley stated that rate is not available for medium and heavy trucks, and only available to passenger vehicles that use a transponder.

In response to a question asked by Representative St. Onge, Mr. Talley stated it is in the best interest of the tolling system and all customers that as many people use the transponders as possible, therefore in an effort to get as many transponders as possible distributed, the cabinet has decided that the local transponders will be free. Local transponders refer to the transponders only working on the three Louisville and southern Indiana bridges. A local transponder will not benefit a customer passing through another tolling system.

In response to a question asked by Senator Wilson, Mr. Talley stated the tolls will be in place until all of the financing of the project is paid, which should be at least until 2053. Fifty percent of the combined toll revenue collected of both the Downtown and East-End bridges will go to Kentucky, and 50 percent of the combined toll revenue of both bridges will go to Indiana. The cost of collection is dependent upon how many people use the transponder method and how many people use the invoicing method. The cost could be from four to five cents, if people heavily use the transponder, to twenty-five or thirty cents per one dollar collected if most people use the invoicing method. It is more advantageous to the cabinet for customers to use the transponders, therefore the tolling rates have been set to try to drive the customers to use the transponder method.

In response to a questions asked by Representative McKee, Mr. Talley stated there are other states that have successfully utilized electronic tolling. There will be signs before the bridges alerting motorists of the electronic tolls.

In response to a question asked by Chairman Harris concerning payment of tolls for motorists using rental cars, Mr. Talley stated there are two primary ways to address that issue. One option is that rental agency in a toll area would place a transponder in the rental car and offer the renter the option to utilize the transponder for the tolls. If the renter agrees to the use of a transponder, tolls will be charged on the renter's credit card through the rental agency. This option often involves a fee assessed by the rental agency. The other option is to open a prepaid account and elect to add the rental vehicle to the account. The second option does not mandate the motorist pay an additional fee to the rental agency. However, the motorist must be sure to add the rental car to the prepaid account and delete the rental car from the prepaid account after the rental car is returned.

Representative Riggs stated his concern for the complexities and administrative costs involved in not having a cash only option to pay the tolls. In response to Representative Riggs, Mr. Talley stated that employees contracted under Kapsch who are utilized to collect, send invoices, and enforce invoices are under a contract that is structured by service level and the number of transactions needed for a set fee. The amount of personnel that it takes for the company to achieve the task is a cost function that is placed upon Kapsch. Kapsch operation will have employees in Kentucky and Indiana and outside those states.

The goal to provide fast, efficient, and appropriate services.

In response to a question asked by Representative Wuchner, Mr. Talley stated the Kapsch contract has a seven year term with a renewal option for one additional year. After that time, there would be a new competitive procurement process. The tolls rates are independent from the contractor that is selected.

In response to a question asked by Senator Westerfield, Mr. Talley stated the cabinet will use aggregated data to find trends and see when motorists are using the system the most. However, KRS 175B, which authorizes the collection of tolls, provides that the information collected must be used for toll collection purposes and for no other reason.

Chairman Harris thanked members and guests for attending the meeting and adjourned the meeting at 2:37 P.M.

## LEGISLATIVE RESEARCH COMMISSION

### Minutes of the 551st Meeting

October 7, 2015

#### Call to Order and Roll Call

The 551st meeting of the Legislative Research Commission was held on Wednesday, October 7, 2015, at 1:30 PM, in Room 125 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators Julian M. Carroll, David P. Givens, Jimmy Higdon, Ray S. Jones II, Gerald A. Neal, and Dan “Malano” Seum, Representatives Rocky Adkins, Jim DeCesare, and Jody Richards.

LRC Staff: Christy Glass and Robert Jenkins.

There being a quorum present, Senator Stivers called for a motion to approve the minutes of September 23, 2015, meeting, and accept and refer as indicated items A. through F. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated and approve items C. through G. under New Business; and accept and refer as indicated items 1. through 13. under Communications. A motion was made by Senator Carroll and seconded by Senator Seum. A roll call vote was taken, and the motion passed unanimously. The following items were approved, accepted, or referred.

The minutes of the September 23, 2015, meeting were approved.

#### STAFF AND COMMITTEE REPORTS

Information requests for September 2015.

Committee Activity Report for September 2015.

Report of the Administrative Regulation Review Subcommittee meeting of September 8, 2015.

Committee review of administrative regulations by the Interim Joint Committee on Education during its meeting of September 14, 2015.

Committee review of administrative regulations by the Interim Joint Committee on Health and Welfare during its meeting of September 16, 2015.

From Pam Thomas, CSA of the Interim Joint Committee on Appropriations and Revenue, Jenny

Anglin, Assistant Budget Director, and Justin Perry, Legislative Fiscal Analyst: Memo regarding the Review of Off-Budget Accounts.

#### NEW BUSINESS

Referral of prefiled bills to the following committees: **BR 77** (relating to ziplines) to **Agriculture**; **BR 122** (relating to the impact of federal funds of natural resources severance and processing tax upon distributions from the local government economic assistance fund) and **BR 255** (relating to legislative procedures for state fiscal measures) to **Appropriations and Revenue**; **BR 126** (relating to medical coverage) to **Banking and Insurance**; **BR 134** (relating to tuition waivers for children) and **BR 257** (relating to school notification of persons authorized to contact or remove a child) to **Education**; **BR 125** (relating to physicians) and **BR 127** (relating to the Board of Medical Licensure) to **Health and Welfare**; **BR 1** (relating to powdered or crystalline alcoholic beverage products), **BR 11** (relating to tenancies in real property), **BR 65** (relating to the safety of minors and declaring an emergency), **BR 158** (relating to involuntary treatment for substance abuse), **BR 222** (relating to donated clothing, household items, or other items), **BR 225** (relating to public benefit corporations), **BR 241** (relating to the safety of persons and animals and declaring an emergency), **BR 254** (relating to sex offender registrants) and **BR 256** (relating to foreign law) to **Judiciary**; **BR 45** (relating to welding safety) to **Licensing and Occupations**; **BR 236** (Concurrent Resolution directing the staff of the Legislative Research Commission to study municipal bankruptcy) to **Local Government**; **BR 7**, (relating to the Health Insurance Trust Fund and making an appropriation therefor), **BR 176** (relating to elections) and **BR 258** (proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly) to **State Government**; and **BR 91** (relating to emergency medical services) to **Veterans, Military Affairs, and Public Protection**.

Referral of the administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): **907 KAR 1:055** (Payments for primary care center, federally-qualified health center, federally-qualified health center look-alike, and rural health clinic services) to **Appropriations and Revenue**; **808 KAR 10:500** (Required forms, fees, filing procedures, and recordkeeping requirements for persons operating pursuant to KRS 292.411 and KRS 292.412, the Kentucky Intrastate Crowdfunding Exemption) to **Banking and Insurance**; **11 KAR 15:090** (Kentucky Educational Excellence Scholarship (KEES) program), **11 KAR 15:100** (Comprehensive transition and postsecondary programs) and **11 KAR 16:060** (Early Childhood Development Scholarship Program system of monetary incentives) to **Education**; **201 KAR 2:370** (Pharmacy services in long-term care facility (LTCF)), **201 KAR 20:056** (Advanced practice registered nurse licensure and certification requirements), **201 KAR 20:062** (Standards for advanced practice registered nurse (APRN) programs of nursing), **201 KAR 20:064** (Repeal of 201 KAR 20:061), **201 KAR 20:070** (Licensure by examination), **201**

**KAR 20:110** (Licensure by endorsement), **201 KAR 20:215** (Continuing competency requirements), **201 KAR 20:225** (Reinstatement of license), **201 KAR 20:230** (Renewal of licenses), **201 KAR 20:370** (Applications for licensure), **201 KAR 20:390** (Nursing Incentive Scholarship Fund), **900 KAR 5:020** (State Health Plan for facilities and services), **900 KAR 10:010** (Exchange participation requirements and certification of qualified health plans and qualified stand-alone dental plans), **902 KAR 20:420 & E** (Pain management facilities), **902 KAR 45:120** (Inspection and permit fees: hotels, manufactured or mobile home communities, recreational vehicle communities, youth camps, and private water supplies), **908 KAR 3:050** (Per Diem rates), **908 KAR 3:060** (“Means test” for determining patient liability), **921 KAR 1:400** (Establishment, review, and modification of child support and medical support orders), **921 KAR 3:060 & E** (Administrative disqualification hearings and penalties) and **921 KAR 3:070 & E** (Fair Hearings) to **Health and Welfare**; **501 KAR 6:241** (Repeal of 501 KAR 6:240) to **Judiciary**; **787 KAR 2:040 & E** (Local workforce development area governance) to **Labor and Industry**; **201 KAR 12:110 & E** (School license), **804 KAR 4:390** (License renewals), **804 KAR 4:400 & E** (ABC basic application and renewal form incorporated by reference), **804 KAR 4:410 & E** (Special applications and registration forms incorporated by reference), **804 KAR 9:040** (Quota retail package licenses), **804 KAR 9:050** (Quota retail drink licenses), **810 KAR 1:070** (Kentucky thoroughbred breeders’ incentive fund), **810 KAR 1:300** (International medication protocol as a condition of a race), **811 KAR 1:300** (International medication protocol as a condition of a race), **811 KAR 2:300** (International medication protocol as a condition of a race), **815 KAR 20:060** (Quality and weight of materials), **815 KAR 20:100** (Joints and connections), **815 KAR 20:130** (House sewers and storm water piping; methods of installation), and **815 KAR 35:020** (Electrical inspections) to **Licensing and Occupations**; **301 KAR 1:015** (Boat and motor restrictions) and **301 KAR 1:201** (Taking of fish by traditional fishing methods) to **Natural Resources**; **30 KAR 7:010** (Standard form for occupational license fee return), **101 KAR 2:034** (Classified compensation administrative regulations), **105 KAR 1:200** (Retirement procedures and forms), and **200 KAR 5:365 & E** (Alternative project delivery methods for capital construction) to **State Government**; **603 KAR 5:155** (Removal and pruning of vegetation), **603 KAR 10:002** (Definitions for 603 KAR Chapter 10), **603 KAR 10:010** (Static advertising devices), and **603 KAR 10:021** (Electronic advertising devices) to **Transportation**.

From Senator Joe Bowen and Representative Steve Riggs, Co-Chairs of the Interim Joint Committee on Local Government: Memorandum requesting approval to meet on November 18, rather than the regularly scheduled meeting date of November 25. There are no apparent conflicts.

From Senator Paul Hornback and Representative Tom McKee, Co-Chairs of the Interim Joint Committee on Agriculture: Memorandum requesting authorization and approval of the Subcommittee on



Rural Issues and Horse Farming, and also requesting approval to meet on November 4, rather than the regularly scheduled meeting date of November 11. There are four potential conflicts.

From Senator Julie Raque Adams and Representative Tom Burch, Co-Chairs of the Interim Joint Committee on Health and Welfare: Memorandum requesting approval to meet outside of the interim, on December 16. There are no apparent conflicts.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum adjusting memberships of Budget Review Subcommittees

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum appointing Representative Lynn Bechler to the Interim Joint Committee on Labor and Industry.

#### **COMMUNICATIONS**

From the Finance and Administration Cabinet: Monthly Investment Income Report for the month of August 2015

From the Office of the Attorney General: Constitutional Challenge Report for the months of May, June, and July 2015.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Period 2 of BFY 2016, and year-to-date activity for the period of July 1, 2015, through August 31, 2015

From the Cabinet for Health and Family Services: Report of the Hospitalization of Kentucky Long-Term Care Facility Residents Due to Influenza Virus, Pneumococcal Disease, and Associated Complications.

From the Kentucky Judicial Form Retirement System: Operating Statements of the Judicial Retirement Fund and the Legislators Retirement Fund for FY15; List of investments held by the Fund as of June 30, 2015; and Portfolio Valuations of the Fund as of June 30, 2015

From the Tourism, Arts and Heritage Cabinet, Kentucky Department of Fish and Wildlife Resources: FY 15 Hunger Relief Program Report. (Staff suggested committee referral: Natural Resources and Environment and Appropriations and Revenue.) Pursuant to KRS 150.150.

From the Public Protection Cabinet, Department of Insurance: Semiannual Report on Independent External Review Program, January-June 2015

From the Public Protection Cabinet, Department of Insurance: 2014 Annual Early Warning Analyst Report.

From the Cabinet for Health and Family Services: 2015 Child Abuse and Neglect Annual Report of Fatalities and Near Fatalities.

From the Auditor of Public Accounts: FYS 14-15 Report of the Audit of the Examination of the Lease Law Compliance.

From the Education and Workforce Development Cabinet: Unemployment Insurance Report for the third quarter of 2015

From the Cabinet for Health and Family Services: 2015 Charitable Health Providers registered with the Cabinet of Health and Family Services.

From the Kentucky Board of Medical Licensure: 2015 Annual Report.

#### **New Business**

Senator Stivers introduced the new LRC Director, David Byerman, and asked Mr. Byerman to say a few words regarding his first few days with LRC.

Mr. Byerman expressed his thanks to the Commission for the timing of his arrival, as he explained that October 6-10 is Kentucky Public Service Recognition week. Mr. Byerman made the Commission aware of some steps he had taken to show staff that they are appreciated. Some of the things he has initiated include an OpEd, which Mr. Byerman has sent to several newspapers around Kentucky recognizing LRC's 390 permanent, nonpartisan legislative staff. He is also giving away gift cards all week long to random staff employees. Finally, he has created a sign with the LRC logo and the words "We are LRC" underneath the logo. Mr. Byerman has asked all staff, partisan and nonpartisan to sign the sign proclaiming that we are, in fact, LRC. This sign will be framed and hung outside the Director's office.

Mr. Byerman stated that he and staff have a legislative session to prepare for in three short months, and his priority has to be that he and staff provide the services that legislators need to make that session go off without a hitch.

Mr. Byerman said that, after getting past the session and into the next interim, he will be in a position to make more substantive progress on issues. He believes that this is a realistic timeline, and he feels he has support from staff that he is moving in the right direction. Mr. Byerman expressed that it is his great pleasure to lead this organization and to lead the staff and to work with legislators to make that vision a reality.

Senator Stivers thanked Mr. Byerman and asked if any other members were seeking recognition.

Representative Stumbo told Mr. Byerman that he was excited about seeing these events come true. Representative Stumbo said he felt that once he understood some of the actions that had been taken by the previous director, he felt as much responsibility as anyone, because it was his job to watch him, and that maybe he didn't watch the previous director as much as he should have. Representative Stumbo said after the incident with former Representative Arnold, he gave a floor speech and invited every LRC staff person that had any type of harassment to come see him and that he would offer that again today. No one came, however, and he thinks that is a testament to the fact that much of what was reported in the media may have been over exaggerated. He said he thinks LRC does have excellent staff and they provide top notch work. He wants staff to know if they work hard and do their job, then they should be rewarded properly, through pay and moving up the career ladder.

Representative Stumbo presented Mr. Byerman with a Kentucky Colonel certificate on behalf of himself, the President, members of the Legislative Research Commission, and LRC staff.

Mr. Byerman expressed his appreciation. He

said that he had offered an invitation for staff to come by his office for 15 minutes and express any concern, idea, or suggestion. He said he is happy to report that, in the five days this offer has been open, there have already been over a dozen people to sign up. He said he hopes to have spoken to the majority of the staff by the end of the year so that he can find out what different jobs entail and how everything fits together. Mr. Byerman said he will be very visible in the Annex as well as the Capitol.

There being no further business, the meeting was adjourned.

## **INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS**

### **Minutes of the 5th Meeting of the 2015 Interim**

October 9, 2015

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

The 5th meeting of the Interim Joint Committee on Licensing and Occupations was held on Friday, October 9, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Dennis Keene, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Dennis Keene, Co-Chair; Senators Joe Bowen, Julian M. Carroll, Jimmy Higdon, Paul Hornback, Ray S. Jones II, Christian McDaniel, and Dan "Malano" Seum; Representatives Tom Burch, Larry Clark, David Floyd, Dennis Horlander, Reginald Meeks, Charles Miller, Brad Montell, David Osborne, Ruth Ann Palumbo, Sal Santoro, and Arnold Simpson.

Guests: Marc Guilfoil, Director of Racing, Susan Speckert, General Counsel, Kentucky Horse Racing Commission; Drew Faulkner, Vice President, American Distilling Institute; Stacy Kula, Stoll Keenon Ogden PLLC.

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

#### **Approval of minutes from August 14, 2015 and September 11, 2015**

A motion to approve the minutes from the August 15, 2015 and September 11, 2015 meeting was made by Representative Osborne and seconded by Representative Floyd. The motion carried by voice vote.

#### **Licensure of historical racing machine suppliers**

Susan Speckert, General Counsel for the Kentucky Horse Racing Commission, said that the commission would have legislation in the 2016 legislative session that will amend the distribution of the wagering tax on historical horse race wagers. It will also license the operation and manufacturers of historical horse race wagering equipment. The bill will amend the Standardbred purse supplement fund and Standardbred Breeder Incentive Fund.

In 2014 the General Assembly placed an excise tax on historical horse race wagers. A portion of that tax is distributed to purse supplement funds, based on the type of live racing that is being conducted at that track. The commission proposes to clarify that, when

two or more tracks offer different breeds of live racing and have formed a joint venture to offer historical horse race wagering, the excise tax will be divided between the applicable breed development funds. Keeneland and Red Mile have formed a joint venture to offer historical race wagering at the Red Mile. This bill would clarify how the excise tax would be divided between the Thoroughbred purse supplement fund and the Standardbred purse supplement fund. The rate of the tax would not be affected.

The KHRC has the specific authority to license every participant in pari-mutuel horse racing, including individuals and entities such as race tracks, tote companies and advance deposit wagering (ADWs) companies. The commission does not have the specific authority to license the entities that manufacture and sell historical horse race wagering equipment, or the specific authority to license the play of those machines at race tracks that offer this type of historical horse race wagering. The commission will ask to amend KRS 230.260 to grant it permission to license the manufacturers and vendors of historical horse race wagering systems. This would be one license for one system with an annual license not to exceed \$50,000.

This amendment will also give the KHRC authority to grant a specific license for historical race wagering at horse race tracks. This annual license fee will not exceed \$100,000. Currently the race tracks are required to pay for the cost of the testing of the wagers and the terminals to certify compliance with Kentucky law. With the change, the vendors of the historical race wagering equipment will be required to certify their product before it is marketed in Kentucky. KHRC charges the tracks a monthly fee to cover the cost of certifying these machines. Currently Kentucky Downs has 488 historical race wagering terminals, Ellis Park has 177 terminals, and Kentucky Red Mile Joint Venture has 902 terminals. The KHRC anticipates a regulatory cost increase due to inspection and certifying of these machines. The commission will ask for flexibility in changing fees in order to study the actual regulatory cost.

All four of the race tracks that will be affected by these changes have written letters of support for these amendments. These proposed amendments will not authorize historical race wagering and do not have any impact on current litigation. KHRC believes that historical race wagering should be taxed and properly regulated.

In response to a question from Representative Floyd, Ms. Speckert said that the language was broad. Currently there are two manufactures, RaceTechRBG and EncoreRBG. The tracks either buys the historical racing machines outright or lease them from the manufacturer. The entities that actually own the system that would be licensed. However, there could possibly be another type of business arrangement that the commission is not aware of at this time.

The Supreme Court found that the regulation establishing historical horse racing as pari-mutuel was properly promulgated by the KHRC. The commission has the authority to regulate pari-mutuel wagering on historical horse racing. The Circuit Court is in the discovery phase on an appeal of the legality of historical horse racing, with a trial date set

for September of 2016.

In response to a question from Representative Clark, Ms. Speckert said the KHRC is estimating the cost of fees. However, licensing vendors, manufacturers or entities that own the equipment and require them to test and certify all the equipment prior coming to Kentucky it will decrease the regulatory time and costs to the commission. Race tracks perform all testing on tote equipment. KHRC believes the companies who create the product should be responsible for time and cost of certification of their machines.

In response to a question from Senator Hornback, Ms. Speckert said Keeneland and Red Mile have formed a joint venture called KRM LLC. This company is located at the Red Mile and offers historical horse race wagering. Because both tracks are owners, the proceeds of the excise tax should be split between the thoroughbred purse supplement fund and the Standardbred purse supplement fund.

In response to a question from Senator Seum, Ms. Speckert said the Supreme Court has ruled that the KHRC has the authority to promulgate regulations and approve the request to offer the historical horse race wagering machines and the commission is confident that they are legal.

#### **Alcoholic Beverage Competitions**

Andrew Faulkner, Vice President, American Distilling Institute, said in April of this year the institute held its annual conference in Louisville. There were approximately 1,000 members representing 600 distilleries in the 50 states. In addition to the conference, the institute also holds competitions, workshops, and publishes a magazine. There have been 12 conferences to date, six of which have been in the Louisville area. The mission of the institute is to educate distillers and start up distilleries.

The institute has two events, an annual judging of craft spirits, which currently cannot be held in Kentucky, and an annual conference and vendor expo. The institute receives spirits from distilleries throughout the country. Because most are not listed in the state of Kentucky, they cannot be poured for the judges to sample. The judging, referred to as a spirits competition, is a professional evaluation of a product distilleries are producing. Typically there are 450 distilled spirits entered. The distillers pay to enter these competitions. In return they receive tasting notes. Awards are also handed down. The institute operates a budget of \$80,000, some of which is paid to the host city.

ADI has staff who check in bottles in advance of a competition. There are six panels with four judges each. The judges are made up from buyers, retailers, bartenders, bloggers and journalists who are influential in the distilling industry.

Because Kentucky law does not allow for tasting of spirits that are not registered in the state, the next competition will be hosted in San Diego this next spring. In the past Ted Huber of Huber Orchards acquired a waiver of Indiana laws so that the ADI could hold a competition at that property.

In response to a question from Senator Carroll, Mr. Faulkner said if a spirit is not listed in the state of Kentucky it cannot be poured at a competition.

Stacy Kula, Stoll Keenon Ogden, an alcohol

industry attorney, said it was her understanding that for alcohol to be sold in the state of Kentucky it has to be registered in the state of Kentucky. In conversations in the past with the ABC there have been discussions of "work arounds." However, experience with clients shows that the work arounds do not really work. The law in Kentucky does not specifically permit alcohol competitions therefore they are prohibited.

In response to a question from Representative Meeks, Mr. Faulkner said in Kentucky alcohol cannot be served without cost, and out-of-state liquor not registered in Kentucky cannot be served in Kentucky. Also, the three-tier system is costly to the event. Ms. Kula added that if there was an exception for just the bottles entered in the competition to be exempt from the three-tier system it would save significantly on the costs of holding the judging. She added that ABC was only allowed to promulgate regulations, therefore a change in statute for a special license would be necessary.

In response to a question from Representative Osborne, Ms. Kula said the correct terminology is "register" with the ABC. Each manufacturer would have to register with the state of Kentucky by filing an application and paying a fee.

Representative Montell commented that he is interested in hearing from the Kentucky Distillers Association before proceeding with this issue.

There being no further business to come before the committee, the meeting was adjourned at 10:53 AM.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE Minutes of the September Meeting September 8, 2015**

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

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, 8, 2015, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Mary Lou Marzian, 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 Julie Raque Adams, Perry B. Clark, and Alice Forgy Kerr; Representatives Denver Butler, Will Coursey, and Tommy Turner.

Guests: Becky Gilpatrick, Kentucky Higher Education Assistance Authority; Noel Caldwell, Office of Secretary of State; Dinah Bevington, Personnel Cabinet; Jennifer Jones, Brian Thomas, Kentucky Retirement Systems; Stewart Hendrix, Jennifer Linton, Finance and Administration Cabinet; Steve Hart, Joel Thornbury, Board of Pharmacy; Charles Lykins, Board of Cosmetology; Nathan Goldman, Board of Nursing; Ron Brooks, David Wicker, Department for Fish and Wildlife; John Cummings, Parole Board; Amy Barker, Department of Corrections; Nancy Albright, Rebecca Goodman, Mike Hancock, Department of Transportation; Beth Brinley, Beth Kuhn, Clay Lamb, Education and Workforce Development Cabinet; Frederick Higdon, Steve Humpress, Melissa McQueen, Department of



Alcoholic Beverage Control; Shonita Bossier, Jessica Sharpe, Charles Vice, Department of Financial Institutions; Jamie Eads, Marc Guilfoil, Mary Scollay, Susan Speckert, Horse Racing Commission; Jack Coleman, Michael Davis, Gary Feck, Tina Quire, Department of Housing Buildings and Construction; David Moore, Division of Plumbing; Eric Friedlander, Diona Mullins, Office of Health Policy; Bill Nold, Chandra Venettozi, Office of Kentucky Health Benefit Exchange; Stephanie Brammer-Barnes, Maryellen Mynear, Cabinet for Health and Family Services, Office of Inspector General; Laura Begin, Justin Carey, Department for Public Health; Stuart Owen, Department of Medicaid Services; Mary Sparrow, Department of Child Support Enforcement; Virginia Carrington, Elizabeth Caywood, Kathleen Hines, Division of Family Support, Paul Bergmann, Janna Dowds, Marlene Grissom, Scenic Kentucky; Tom Fahey, Lamar Advertising; Leigh Ann Thacker, Outdoor Advertising of Kentucky; Donald Adkisson, Kentucky Chamber of Commerce; Gene Harmon, David Lyne, Bruce Wilkerson, City of Bowling Green; Martin Maline, Peter Ecabert, Rick Hiles, Kentucky Horsemen's Benevolent & Protective Association; Matt Hammond, Mechanical Contractors Association of Kentucky, Steven Milby, Milby Plumbing and Piping; Ricky Russ, Union Plumbers of Kentucky Pipe Trades Local 502; Vicki Darnell, Ephraim McDowell Health; Neal Gold, Westlake Regional Hospital; Matt Klein, St. Elizabeth Healthcare and Baptist Health; Julie Lee M.D., Chip Richardson, M.D. Kentucky Academy of Eye Physicians and Surgeons; Christopher Markus, Baptist Convalescent Center, Inc.; Kip McNally, Commonwealth Eye Center.

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

The Administrative Regulation Review Subcommittee met on Tuesday, September 8, 2015, and submits this report:

The Subcommittee determined that the following administrative regulations did not comply with statutory requirements and were deficient:

**PUBLIC PROTECTION CABINET:** Horse Racing Commission: Thoroughbred Racing

810 KAR 1:300. International medication protocol as a condition of a race. Jamie Eads, director; Marc Guilfoil, director of racing; and Susan Speckert, general counsel, represented the commission.

In response to a question by Co-Chair Harris, Ms. Speckert stated that stakeholders concerned with 810 KAR 1:300, 811 KAR 1:300, and 811 KAR 2:300 had not reached an agreement since these administrative regulations were deferred at the August ARRS meeting.

In response to a question by Co-Chair Marzian, Ms. Speckert stated that the commission did not agree to defer 810 KAR 1:300, 811 KAR 1:300, and 811 KAR 2:300 until the Attorney General issued an opinion regarding if these administrative regulations improperly delegated commission authority to the racetracks. The commission was confident that there was no improper delegation of authority.

Senator Raque Adams stated that she had expected some racetrack representatives to be present

because the Subcommittee requested their attendance during discussions at the August 11 meeting. Ms. Speckert stated that the commission had received a letter from Turfway Park stating that it did not oppose these administrative regulations.

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

Representative Butler made a motion, seconded by Representative Turner, to find 810 KAR 1:300, as amended, 811 KAR 1:300, as amended, and 811 KAR 2:300, as amended, deficient. A roll call vote was conducted, and with six (6) votes to find the administrative regulations deficient, and two (2) votes not to find them deficient, the administrative regulations, as amended, were found deficient.

*Compiler's note: Pursuant to KRS 13A.335(4)(b), a new Section 5 was added to this administrative regulation to reflect the finding of deficiency.*

**Harness Racing**

811 KAR 1:300. International medication protocol as a condition of a race.

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

*Compiler's note: Pursuant to KRS 13A.335(4)(b), a new Section 5 was added to this administrative regulation to reflect the finding of deficiency.*

**Quarter Horse, Appaloosa and Arabian Racing**

811 KAR 2:300. International medication protocol as a condition of a race.

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

*Compiler's note: Pursuant to KRS 13A.335(4)(b), a new Section 5 was added to this administrative regulation to reflect the finding of deficiency.*

**CABINET FOR HEALTH AND FAMILY SERVICES:** Office of Health Policy: State Health Plan

900 KAR 5:020. State Health Plan for facilities and services. Eric Friedlander, deputy secretary, represented the cabinet. Julie Lee, MD, president, and Chip Richardson, MD, member, represented the Kentucky Academy of Eye Physicians and Surgeons and appeared in opposition to this administrative regulation. Vicki Darnell, CEO, Ephraim McDowell Health; Neal Gold, CEO, Westlake Regional Hospital; Matt Klein, attorney, St. Elizabeth Healthcare, Baptist Health; and Kip McNally, attorney, Commonwealth Eye Clinic, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair Marzian, Mr. Friedlander stated that this administrative regulation was being amended to incorporate accessibility and quality standards. This administrative regulation increased accessibility, but quality standards was the major change. There had been a lot of stakeholder input in developing this

administrative regulation.

Co-Chair Harris proposed a subcommittee amendment to: (1) amend Section 2(1) and the material incorporated by reference to change the edition date; and (2) amend, within the State Health Plan incorporated by reference, review criteria #1 for Ambulatory Surgical Centers (ASCs) to: (a) provide that an application to establish a megavoltage radiation service is consistent with the plan if it will be majority-owned by a Kentucky Hospital and will be accredited by the American College of Surgeons Commission on Cancer; and (b) delete the requirement that the accreditation be as an Academic Comprehensive Cancer Program. Co-Chair Harris stated that, in Ohio and Pennsylvania, similar measures had harmed hospitals. ASCs had expanded greatly in those states, while hospitals were reduced. This administrative regulation expanded health care access without regard to fiscal responsibilities for the associated expanded costs. Access was expanded in one way, but if hospitals closed as a result, access would be reduced in another way, especially for those paying via private insurance. Access may also be reduced because ASCs typically had shorter business hours than hospitals.

Co-Chair Harris proposed a second subcommittee amendment to: (1) amend Section 2(1) and the material incorporated by reference to change the edition date; and (2) amend, within the State Health Plan incorporated by reference, review criteria #1, 3, 4, 5, 6, 7, and 8 for Ambulatory Surgical Centers (ASCs) to: (a) amend criteria #1 to require that an applicant have a transfer agreement for the proposed center in place with at least one (1) acute care hospital which is located within twenty (20) minutes normal driving time of the center; (b) amend criteria #3, to provide that an ASC shall be limited to a specific type of procedure, rather than be in a county with a population greater than or equal to 75,000; (c) delete criteria #4 and 5; and (d) renumber the remaining criteria and an internal cross-reference to reflect the deletion of those two (2) items.

Mr. Friedlander stated that the office did not agree with the subcommittee amendments because these changed the State Health Plan significantly. Co-Chair Harris stated that he had other subcommittee amendments that he had planned to propose, but that he would not do so because the agency seemed unwilling to accept any amendments.

On a voice vote, the Subcommittee voted to accept the subcommittee amendments; however, because the agency did not agree to accept the subcommittee amendments, the amendments were not approved.

Co-Chair Harris stated that there were additional administrative regulations, 900 KAR 6:055, 6:070, 6:075, and 6:090, which related to the State Health Plan as it pertains to the Certificate of Need process. Those administrative regulations were tentatively on the agenda for the October 13 meeting of the Subcommittee; therefore, it was prudent to defer 900 KAR 5:020 so that these related administrative regulations could be considered together as a whole package. Mr. Friedlander stated that the State Health Plan was not eliminating the need-based part of the process and the office did not agree to defer

consideration of this administrative regulation to the October 13 Subcommittee meeting.

In response to a question by Senator Raque Adams, Mr. Friedlander stated that the State Health Plan did have utilization criteria. There were exceptions to utilization criteria prior to this amendment; therefore, the State Health Plan was in full compliance with the current budget language. Senator Raque Adams stated that LRC's budget analysts had advised that this administrative regulation was in direct conflict with the current budget language.

Dr. Lee stated that the Kentucky Academy of Eye Physicians and Surgeons supported the concept of improving access for Kentucky patients; however, changes to the ophthalmology provisions were made very late and did not seem to significantly improve access. Advanced laser technology, which was a component of the plan, was unnecessary for cataract removal, was not the standard of care, and did not provide cost savings, and most Kentucky physicians did not use advanced laser technology for cataract removal. Advanced laser technology for cataract removal increased out-of-pocket costs to the patients and had not been shown to be an improvement over other methods of removal. Typically, cataract surgery was performed on older patients who would be under Medicare, not under the Health Benefits Exchange program. Another component of the State Health Plan was the ten (10) year licensure requirement for an ASC, which would reduce the number of eligible physicians at a time when there was already a shortage of ophthalmologists in general.

Dr. Richardson stated that, although he had been practicing ophthalmological cataract surgery for over eleven (11) years, he would not qualify for the ten (10) year licensure requirement to have an ASC. Dr. Richardson agreed that most Kentucky ophthalmologists did not use advanced laser technology and that there were cost concerns with its use. The State Health Plan increased barriers to entry.

Mr. McNally stated that the ophthalmology exemption in the State Health Plan violated Kentucky's Administrative Procedures Act because there was no requirement for need in accordance with KRS Chapter 216B and there was no requirement for economic feasibility. The exemption of one (1) specialty may constitute special legislation. Mr. McNally stated that he had cataract surgery with advanced laser technology, and he had experienced some benefits with that method. There was no input from many stakeholders. There were concerns that these specialty ASCs would drive down prices through competition to the point of cutting corners, which may result in poor care.

Mr. Klein stated that St. Elizabeth Healthcare, Baptist Health, supported the certificate of need modernization. There was a need for reform; however, three (3) amendments were requested. If access was an issue, radiation therapy provisions should not be limited to academic medical centers. Changes should be made to the megavoltage provisions. Mr. Klein also stated the need for an amendment such as the one made for the Kentucky Hospital Association.

Mr. Gold stated that Westlake Regional Hospital in Adair County was the number one hospital in a

dire financial state in Kentucky. Ambulatory surgery was one of the few profitable programs at Westlake Regional Hospital, and the certificate of need process was crucial to the facility's fiscal sustainability.

Ms. Darnell stated that Ephraim McDowell Health appreciated the Subcommittee's finding of deficiency for this administrative regulation. Ephraim McDowell Health's commitment was to providing patient access.

Co-Chair Marzian stated that the bottom line was providing access for Kentucky citizens.

A motion was made by Representative Butler, seconded by Representative Coursey, to find 900 KAR 5:020 deficient. A roll call vote was conducted, and with eight (8) votes to find the administrative regulation deficient, and zero votes not to find it deficient, the administrative regulation was found deficient.

*Compiler's note: Pursuant to KRS 13A.335(4)(b), a new Section 3 was added to this administrative regulation to reflect the finding of deficiency.*

Administrative Regulations Reviewed by the Subcommittee:

HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Kentucky Educational Excellence Scholarship Program

11 KAR 15:090. Kentucky Educational Excellence Scholarship (KEES) program. Becky Gilpatrick, director of student aid services, represented the authority.

In response to questions by Co-Chair Harris, Ms. Gilpatrick stated that the Cambridge Advanced International curriculum was a new program for Kentucky and the related examinations were similar to the advanced placement examinations. The addition of the Cambridge Advanced International curriculum courses was in response to a recent legislative update. Each school district determined the numerical range for each alphabetical grade, and the alphabetical grades were used in determining grade point averages (GPAs) for the KEES calculations. If a school district lowered the numerical ranges, that could result in elevated GPAs; however, based on a statistical study, the impact was not expected to seriously inflate GPAs for KEES award purposes.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend Sections 1 and 3 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

11 KAR 15:100. Comprehensive transition and postsecondary programs.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 1 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Early Childhood Development Scholarship Program

11 KAR 16:060. Early Childhood Development Scholarship Program system of monetary incentives.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 1, 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.

SECRETARY OF STATE: Occupational License Fees

30 KAR 7:010. Standard form for occupational license fee return. Noel Caldwell, executive director, Kentucky Business One-Stop, represented the Secretary of State.

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

PERSONNEL CABINET: Personnel Cabinet, Classified

101 KAR 2:034. Classified compensation administrative regulations. Dinah Bevington, general counsel, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 5 and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Retirement Systems: General Rules

105 KAR 1:200. Retirement procedures and forms. Jennifer Jones, assistant general counsel, and Brian Thomas, general counsel, represented the systems.

Office of the Secretary: Purchasing

200 KAR 5:365 & E. Alternative project delivery methods for capital construction. Doug Hendrix, deputy general counsel, and Jennifer Linton, director, Contracting and Administration, represented the office.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 7, 8, 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.

GENERAL GOVERNMENT CABINET: Board of Pharmacy: Board

201 KAR 2:370. Pharmacy services in long-term care facility (LTCF). Steve Hart, executive director, and Joel Thornbury, president, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add definitions for "immediate supervision," "pharmacist-in-charge," and "supervision;" and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Hairdressers and Cosmetologists:



Board

201 KAR 12:110 & E. School license. Charles Lykins, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) 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 (2) to amend Sections 4, 5, 7, 8, 9, 13, 14, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing: Board

201 KAR 20:056. Advanced practice registered nurse licensure and certification requirements. Nathan Goldman, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Sections 1, 2, 5, 6, and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:062. Standards for advanced practice registered nurse (APRN) programs of nursing.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add a definition of "preceptor"; and (2) to amend Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:064. Repeal of 201 KAR 20:061.

201 KAR 20:070. Licensure by examination.

In response to a question by Co-Chair Harris, Mr. Goldman stated that recent legislation removed the requirement for HIV/AIDs education as part of the licensure and continuing competency processes established in this administrative regulation and in 201 KAR 20:110 and 20:215. HIV/AIDs education was still a component of the nursing school curriculum. The treatment for HIV/AIDs had remained static for many years; therefore, the need for treatment protocol updates was no longer necessary.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct 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; (3) to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A; (4) to amend Section 4 to clarify that: (a) direct supervision shall be during work hours; and (b) privileged to practice shall be pursuant to KRS 314.470; and (5) to amend Section 5 to clarify that the provisions apply to an out-of-state applicant outside of the Nurse Licensure Compact.

201 KAR 20:110. Licensure by endorsement.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct 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; (3) to amend Section 1 to delete language relating to the HIV course required by KRS 214.615 because the statute was repealed in 2015 House Bill 248; (4) to amend Section 5 to clarify that the provisions apply to an out-of-state applicant outside of the Nurse Licensure Compact; and (5) to amend Sections 1, 2, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A.

201 KAR 20:215. Continuing competency requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Section 6 to clarify how the determination is made by the board as to if a continuing education offering shall be considered to be the same offering; and (2) to amend Sections 3, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:225. Reinstatement of license.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to add 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, 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 20:230. Renewal of licenses.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to add 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; (3) to amend Section 1 to add a deadline for electronic applicants; and (4) 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.

201 KAR 20:370. Applications for licensure.

201 KAR 20:390. Nursing Incentive Scholarship Fund.

A motion was made and seconded to approve the following amendments: (1) 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 (2) to amend Sections 3 and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 1:015. Boat and motor restrictions. Ron Brooks, fisheries director, and David Wicker, general counsel, represented the department.

In response to a question by Co-Chair Harris, Mr. Brooks stated that there was not a standard measurement for what constituted a small lake, but that a lake that was small for more than a trolling motor was determined on a case-by-case basis.

A motion was made and seconded to approve the following amendment: to amend Section 5(8) to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

301 KAR 1:201. Taking of fish by traditional fishing methods.

In response to questions by Representative Turner, Mr. Brooks stated that size limits for walleye were different based on which body of water was fished. The department was trying to reestablish the Rockcastle strain of walleye, which had been overharvested. The requirements were less stringent for water bodies that contained only the Erie strain of walleye, since that strain was difficult to distinguish from the Rockcastle strain.

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

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:241. Repeal of 501 KAR 6:240. Amy Barker, assistant general counsel, represented the department.

TRANSPORTATION CABINET: Department of Highways: Division of Maintenance: Traffic

603 KAR 5:155. Removal and pruning of vegetation. Nancy Albright, director of maintenance; Rebecca Goodman, executive director, Office of Legal Services; and Mike Hancock, secretary, represented the cabinet. Paul Bergmann, executive director, and Marlene Grissom, president, represented Scenic Kentucky and appeared in opposition to these administrative regulations. Leigh Ann Thacker appeared on behalf of Kentucky Outdoor Advertising Association.

Mr. Hancock stated that the Transportation Cabinet had been unable to regulate roadway billboards without these administrative regulations.

Ms. Goodman stated that the cabinet was mandated to enforce the Highway Beautification Act, which required control of highway signs. Kentucky had been found deficient in providing effective control related to the Highway Beautification Act. These administrative regulations established more effective enforcement capability and reduced the number of certain billboards by establishing a billboard exchange, which required that existing billboards be removed in exchange for an electronic billboard, new or converted from a traditional billboard. These administrative regulations addressed spacing and location requirements, so that local communities may determine whether to allow electronic billboards or not. The topic of vegetation removal established in 603 KAR 5:155 had been the subject of numerous failed bills in the legislature over the last fifteen (15) years. Vegetation removal was already taking place, and 603 KAR 5:155 established standards for

removal, including guidance from a certified arborist to determine what types of vegetation were subject to removal.

In response to a question by Co-Chair Marzian, Ms. Goodman stated that these administrative regulations could not stop someone intent on breaking the law from doing so; however, these administrative regulations did provide specific criteria that could be used to support action against a violator. 603 KAR 5:155 supported replanting after vegetation removal in some areas.

Co-Chair Harris stated that these administrative regulations were similar to bills he sponsored in previous legislative sessions. In response to questions by Co-Chair Harris, Ms. Goodman stated that the Highway Beautification Act defined “protected area” as interstates, parkways, scenic highways, and similar areas. There were legal, nonconforming billboards still located in some protected areas.

In response to a request by Co-Chair Marzian, Subcommittee staff stated that the proposed amendment to 603 KAR 5:155 inserted a nonseverability clause, so that if a court found any portion of 603 KAR 5:155 invalid, the entire administrative regulation would be deemed invalid. The proposed subcommittee amendment to 603 KAR 10:021 raised from four (4) to six (6), the number of traditional billboards required in exchange for one (1) electronic billboard, and raised from three (3) to five (5), the number of traditional billboards required in exchange for one (1) conversion of a traditional billboard into an electronic billboard.

In response to questions by Senator Raque Adams, Ms. Goodman stated that the principal reason it was difficult without these administrative regulations to enforce billboard standards was that courts had rejected enforcement attempts based solely on statutory requirements. These administrative regulations clarified the intent of those authorizing statutes. For example, an electronic billboard that was erected without a permit would be subject to a penalty, and the penalty would be easier to defend based on the clarifications established in 603 KAR 10:021.

Senator Raque Adams stated that the corridor of Shelbyville Road and Hurstbourne Parkway was an extremely commercial area, and electronic billboards in this corridor would be distracting to drivers and unsightly. The proposed subcommittee amendments were an improvement to these administrative regulations, but still did not go far enough. Mr. Hancock stated that the cabinet had some of those same concerns, but that these administrative regulations provided enforcement capabilities that were currently lacking. These administrative regulations were an effort to improve concerns, such as those regarding distractions to drivers and unsightly roadway corridors.

In response to a question by Co-Chair Harris, Ms. Goodman stated the proposed nonseverability clause to 603 KAR 5:155 stated that if a court found any part of this administrative regulation invalid, the administrative regulation would be deemed invalid in its entirety. The cabinet was confident in the statutory authority of 603 KAR 5:155 and did not believe that this administrative regulation was vulnerable;

therefore, the proposed subcommittee amendment was not seen as harmful by the cabinet.

Ms. Grissom stated that these administrative regulations would allow many more Kentucky billboards in more permitted locations and with closer proposed setbacks, all of which would be distracting to drivers, unsightly, and costly to enforce. Other states that provided an exchange of traditional billboards for an electronic billboard had higher ratios, such as eight (8), seven (7), or six (6) to one (1). Logo boards were sufficient for tourist needs. The cabinet would have to hire new employees to ensure compliance. The bright lights and changing messages of electronic billboards were designed to distract drivers into reading the advertising messages and were a nuisance to nearby homeowners. Billboards decreased property values and adversely affected tourism. Only the billboard industry benefited from these administrative regulations, including removal of vegetation for private gain. Electronic billboards were just as distracting and dangerous to drivers as texting while driving. These administrative regulations largely left the public out of the process compared with the representation afforded the billboard industry. The current proposal bypassed the legislative process after similar proposals failed in the legislature for at least fourteen (14) years. A pending national lawsuit would determine billboard regulations and would affect Kentucky. Scenic Kentucky requested that these administrative regulations not go forward until the release of the national lawsuit outcome, which was expected within a couple of weeks of this Subcommittee meeting.

Mr. Bergmann stated that Kentucky was a participant in the 1958 Bonus Act, which limited billboards. These administrative regulations dropped the Bonus Act. The closer setback requirements opened many new sites bypassed previously because of terrain impediments to viewing. 603 KAR 10:021, by allowing electronic billboards, conflicted with the Highway Beautification Act, which prohibited electronic billboards. That conflict was a subject of the current national lawsuit that was pending. The exchange rate for traditional billboards exchanged for an electronic billboard should be higher, should only include legal billboards, and should not include legal nonconforming or illegal billboards. Nonconforming billboards should ultimately be eliminated and should not be expanded, extended, or improved upon. The electronic lighting that is allowed may be three (3) times the brightness recommended by the Dark Sky Association. Billboards on ramps was a bad idea because those were already problem areas from a traffic safety perspective, and billboards would add another distraction. The purpose of the cabinet was to improve safety, but it was unclear how unsightly billboards improved safety. Billboards sometimes added to construction costs in cases of road improvements. For example, St. Paul, Minnesota, in the process of replacing the Lafayette Bridge, spent \$7.3 million related to one (1) electronic billboard and four (4) traditional billboards. Those taxpayer funds could have been spent for other road construction projects. Some countries prohibited electronic billboards.

Ms. Thacker stated that Kentucky Outdoor

Advertising Association represented many billboard owners, some of whom were very small businesses and did not have even four (4) existing traditional billboards to exchange for one (1) electronic billboard, much less six (6). The Kentucky Outdoor Advertising Association had worked very hard for years with the cabinet to help develop these administrative regulations.

Senator Raque Adams made a motion to find these administrative regulations deficient. Ms. Goodman stated that the cabinet would rather defer consideration of these administrative regulations to the October Subcommittee meeting before a vote was taken regarding the motion to find these administrative regulations deficient. Senator Raque Adams withdrew the motion to find these administrative regulations deficient.

Co-Chair Marzian stated that she did not agree with these administrative regulations and that her district was ninety-five (95) percent opposed to the proliferation of billboards.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to add a definition for “specimen tree”; (2) to amend Sections 2, 3, 5, 7, and 8 to comply with the drafting requirements of KRS Chapter 13A; (3) to amend Section 7 to clarify that damage to vegetation included damage related to execution of the vegetation plan; and (4) to add a new section to insert a nonseverability clause so that if a court found any portion of this administrative regulation invalid, the entire administrative regulation would be deemed invalid. Without objection, and with agreement of the agency, the amendments were approved.

*Compiler's Note: KRS 13A.300(1)(b) and (2) requires agreement by the administrative body and the subcommittee for a deferral to be made at the meeting. There were not any statements made by Subcommittee members indicating agreement to defer consideration of these administrative regulations. Therefore, they were not deferred.*

#### Billboards

603 KAR 10:002. Definitions for 603 KAR Chapter 10.

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

603 KAR 10:010. Static advertising devices.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 5 and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

603 KAR 10:021. Electronic advertising devices.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 2, 5, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 2 to: (a) raise from four (4) to six (6), the number of traditional billboards required in exchange for one (1) electronic billboard; and (b) raise from three (3) to five (5), the number of



traditional billboards required in exchange for one (1) conversion of a traditional billboard into an electronic billboard.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET:** Department of Workforce Investment: Office of Employment and Training: Employment Services

787 KAR 2:040 & E. Local workforce development area governance. Beth Brinly, deputy secretary; Beth Kuhn, commissioner; and Clay Lamb, staff attorney, represented the department. David Adkisson, president, Kentucky Chamber of Commerce, appeared in support of this administrative regulation.

**PUBLIC PROTECTION CABINET:** Department of Alcoholic Beverage Control: Licensing

804 KAR 4:390. License renewals. Frederick Higdon, commissioner; Steve Humphress, general counsel; and Melissa McQueen, staff attorney, represented the department. Gene Harmon, city attorney; David Lyne, occupational license manager; and Bruce Wilkerson, mayor, represented the City of Bowling Green and appeared in support of these administrative regulations.

Representative Turner requested to be recorded as voting in opposition to these administrative regulations.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 10 and 14 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 12 to include citations for the referenced forms. With agreement of the agency, the amendments were approved, with Representative Turner voting not to approve.

804 KAR 4:400 & E. ABC basic application and renewal form incorporated by reference.

804 KAR 4:410 & E. Special applications and registration forms incorporated by reference.

A motion was made and seconded to approve the following amendments: to amend Section 3 and the material incorporated by reference to: (1) clarify when the listed forms are to be used; and (2) correct a form title and form edition dates. With agreement of the agency, the amendments were approved, with Representative Turner voting not to approve.

**Quotas**

804 KAR 9:040. Quota retail package licenses.

In response to a question by Co-Chair Harris, Mayor Wilkerson stated that 804 KAR 9:040 and 9:050 restored some of the licenses, but not the full amount. Originally, Bowling Green had fifty-six (56) quota retail package licenses and forty-nine (49) quota retail drink licenses. After the amendments to 804 KAR 9:040 and 9:050, Bowling Green had forty-one (41) quota retail packages licenses and forty-one (41) quota retail drink licenses.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 5 to comply with the drafting requirements of KRS Chapter 13A. With agreement of the agency, the amendments were approved, with Representative Turner voting not to approve.

804 KAR 9:050. Quota retail drink licenses.

A motion was made and seconded to approve

the following amendments: (1) to amend Sections 1 and 2 to update references to city classifications; and (2) to amend Section 5 to comply with the drafting requirements of KRS Chapter 13A. With agreement of the agency, the amendments were approved, with Representative Turner voting not to approve.

**Department of Financial Institutions: Division of Securities: Securities**

808 KAR 10:500. Required forms, fees, filing procedures, and recordkeeping requirements for persons operating pursuant to KRS 292.411 and KRS 292.412, the Kentucky Intrastate Crowdfunding Exemption. Shonita Bossier, director; Jessica Sharpe, general counsel; and Charles Vice, commissioner, represented the division.

In response to a question by Co-Chair Harris, Mr. Vice stated that the Kentucky Intrastate Crowdfunding Exemption allowed companies located in Kentucky to offer small securities to residents who live in Kentucky. A company outside of Kentucky could not offer securities to a resident of Kentucky, nor could residents outside of Kentucky invest in those companies. This was a method for Kentucky companies to raise a small amount of capital from Kentucky residents.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction; and (2) to amend Section 5 to add a citation. Without objection, and with agreement of the agency, the amendments were approved.

**Horse Racing Commission: Thoroughbred Racing**

810 KAR 1:070. Kentucky thoroughbred breeders' incentive fund. Jamie Eads, director; Marc Guilfoil, director of racing; and Susan Speckert, general counsel, represented the commission.

In response to a question by Co-Chair Harris, Ms. Speckert stated that there was an appeal process for a person who was detained from participating in an event due to a charge that had not yet resulted in a conviction. After that appeal process, there was also the process established in KRS Chapter 13B. The commission was confident that appropriate due process was provided. The reason for these provisions pertained to animal cruelty situations in which animal cruelty was not an expressed component of a charge, such as an amended charge, but did occur.

A motion was made and seconded to approve the following amendments: (1) 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; (2) to amend Section 1 to clarify what types of public auction may be approved by the department; (3) to amend Section 5 to clarify the criteria used to grant a residency exception; and (4) to amend Section 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, these amendments were approved.

**Department of Housing, Buildings and Construction: Division of Plumbing: Plumbing**

815 KAR 20:060. Quality and weight of materials. Michael Davis, general counsel; Gary

Feck, commissioner; and David Moore, director, represented the division. Justin Brown, Marian Development Group, appeared in support of 815 KAR 20:060 and 20:130. Matt Hammond, executive director, Mechanical Contractors Association of Kentucky; Steven Milby, Shelby County master plumber; and Ricky Russ, business agent for Union Plumbers of Kentucky (Local 502) and representative for Kentucky Pipe Trades, appeared in opposition to 815 KAR 20:060 and 20:130.

In response to a question by Co-Chair Marzian, Mr. Feck stated that 815 KAR 20:060 and 20:130 were the result of a working group that studied PVC and ABS construction code issues. The working group met to develop these provisions over the last eight (8) to ten (10) years. The working group brought to the Plumbing Code Committee four (4) proposals to consider that would expand Kentucky's limitations on the use of PVC and ABS. The Plumbing Code Committee considered the proposals and voted to approve the code change established in 815 KAR 20:060 and 20:130. Currently, PVC and ABS were restricted to use in approximately forty-five (45) percent of the buildings constructed in Kentucky. The code change allowed up to eighty-five (85) percent of buildings constructed to use PVC and ABS. After the Plumbing Code Committee approved the code change, the matter was brought to the Board of Housing for consideration. The Board of Housing also approved the code change.

Mr. Brown stated that Marian Development Group and some other development groups were in favor of this code change. This was an economic development issue because lower construction costs would allow for more development, which would lower housing costs such as rents. This code change would especially benefit cities like Pikeville, Bowling Green, Paducah, Owensboro, Hopkinsville, Covington, and Louisville.

In response to a question by Co-Chair Harris, Mr. Brown stated that being required to use cast iron, rather than PVC or ABS, may increase some construction costs as much as 100 to 120 percent.

Mr. Russ stated that, as a thirty (30) year licensed journeyman plumber and a former member of the Plumbing Code Committee, he was opposed to PVC and ABS being allowed in buildings over forty-five (45) feet tall. The code change proposal was based on anticipated economic savings to support affordable housing; however, while PVS and ABS were initially less expensive compared with cast iron, once fire stopping construction measures were used the cost savings was insignificant. Cast iron afforded occupants more time to vacate a burning structure because burning PVC and ABS produced incapacitating and deadly fumes. Some fire departments, such as Somerset, Benton, and Oldham County, may not have ladders tall enough for these taller structures. Charlotte Pipe and Foundry Company, which was one of the largest manufacturers of PVC, ABS, and cast iron pipes, published recommendations for value engineering considerations that did not support this code change. An additional concern with PVC and ABS piping was noise. This code change would allow PVC and ABS to be used in buildings with vulnerable populations,

such as hospitals, nursing homes, and schools.

Mr. Hammond stated that the Mechanical Contractors Association of Kentucky agreed with the comments made by Mr. Russ. Introducing PVC and ABS to the elevations established in the code change was unsafe for occupants. Economic development claims were unsubstantiated.

Mr. Milby, who was a Shelby County master plumber and a former member of the Plumbing Code Committee, stated that the Plumbing Code Committee vote was very close on this issue. Thermal expansion of PVC and ABS during a fire event was a major concern that was not addressed in 815 KAR 20:060 and 20:130. PVC and ABS expanded at a greater rate than cast iron, and toxic fumes were a greater safety risk than fire itself. The plumbing code did not offer enough guidance regarding the safest installation practices for PVC and ABS. With public safety in mind, Mr. Milby requested that 815 KAR 20:060 and 20:130 be sent back to the Plumbing Code Committee for further consideration.

In response to a question by Representative Coursey, Mr. Hammond stated that there had not been input from the Kentucky Firefighters Association regarding the safety of the plumbing code change. The ground floors of buildings were to have the most minimal amounts of PVC and ABS because the fumes moved upward. The PVC and ABS was required to be installed in enclosures for safety. Mr. Davis stated that 815 KAR 20:060 and 20:130 did not mandate, but allowed, the use of PVC and ABS. Cast iron was still an option.

In response to a question by Representative Turner, Mr. Moore stated that the State Fire Marshal had been contacted and provided input in the development of the code change.

In response to questions by Representative Butler, Mr. Moore stated safety concerns were part of the discussions in the development of this code change and the requirements established in 815 KAR 20:060 and 20:130 were the best compromise possible under the circumstances. Many other states had similar plumbing codes pertaining to PVC and ABS. Co-Chair Marzian stated that approximately thirty-five (35) percent of states had similar plumbing codes pertaining to PVC and ABS.

In response to a question by Representative Butler, Mr. Feck stated that the division would agree to deferral of 815 KAR 20:060 and 20:130 until the State Fire Marshal could come testify before the Subcommittee; however, deferral was not necessary because the division had received sufficient input and met with the State Fire Marshal, the working group, the Plumbing Code Committee, and the Board of Housing. The matter had been fully considered.

A motion was made and seconded to approve the following amendment: to amend Section 9(6)(a) to make a technical correction for language consistency within this regulatory package. Without objection, and with agreement of the agency, the amendment was approved.

Representative Coursey stated that public safety was paramount and made a motion, seconded by Representative Turner, to find 815 KAR 20:060, as amended, and 20:130 deficient. A roll call vote was conducted, and with three (3) votes to find the

administrative regulations deficient, and five (5) votes not to find them deficient, the administrative regulations were not found deficient. The motion to find 815 KAR 20:060 and 20:130 deficient failed. Co-Chair Marzian explained her vote. She stated that this issue was considered over a long period of time and the plumbing code change was a benefit to economic development, in that the change made housing more affordable and created jobs for plumbers. Senator Raque Adams also explained her vote. She stated that if firefighters were concerned with public safety pertaining to the plumbing code change, they would have appeared at the Subcommittee meeting in opposition.

815 KAR 20:100. Joints and connections.

815 KAR 20:130. House sewers and storm water piping; methods of installation.

Electrical Division: Electrical

815 KAR 35:020. Electrical inspections. Michael Davis, general counsel; Gary Feck, Commissioner; and Tina Quire, assistant director, represented the division.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clarify a cross-reference citation. Without objection, and with agreement of the agency, the amendment was approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Health Benefit and Health Information Exchange: Health Benefit Exchange

900 KAR 10:010. Exchange participation requirements and certification of qualified health plans and qualified stand-alone dental plans. William Nold, policy advisor and former deputy executive director, and Chandra Venettozi, health data administrator, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 22 to reflect the agency's recent name change; and (2) to amend Sections 1, 2, 5, 13, 14, 15, 16, and 19 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 Public Health: Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:420 & E. Pain management facilities. Stephanie Brammer-Barnes, regulation coordinator, and Maryellen Mynear, inspector general, represented the department.

In response to questions by Co-Chair Harris, Ms. Mynear stated that this administrative regulation was being amended in response to recent legislative changes, which allowed currently licensed pain management clinics to operate up to two (2) satellite facilities. Enforcement of these clinics was not otherwise changing.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 7 to add citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, 7, 9, 11, 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.

Division of Public Health Protection and Safety: Food and Cosmetics

902 KAR 45:120. Inspection and permit fees: hotels, manufactured or mobile home communities, recreational vehicle communities, youth camps, and private water supplies. Laura Begin, regulation coordinator, and Justin Carrey, assistant director, represented the division.

In response to questions by Co-Chair Harris, Mr. Carrey stated that the agency proposed to increase fees and then lowered the proposed increase after public comments. This administrative regulation helped local health departments that provided funds to supplement what the fees did not cover.

A motion was made and seconded to approve the following amendment: to amend Section 2 to reduce the annual permit fee for hotels from sixty (60) to twenty-five (25) dollars to comply with KRS 219.021(2), which establishes the fee at that amount. Without objection, and with agreement of the agency, the amendment was approved.

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

907 KAR 1:055. Payments for primary care center, federally-qualified health center, federally-qualified health center look-alike, and rural health clinic services. Stuart Owen, regulation coordinator, represented the division.

In response to a question by Co-Chair Harris, Mr. Owen stated that rates were federally mandated to reflect first-year rates. Some facilities had very low initial rates. The federal program provided an alternative rate calculation, and this administrative regulation reflected that to give facilities a more accurate rate. The recalculation was optional.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 7, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Division of Administration and Financial Management: Institutional Care

908 KAR 3:050. Per diem rates. Tonya Dickenson, regulation coordinator, and Stephanie Craycraft, director of administration and financial management, represented the division.

908 KAR 3:060. "Means test" for determining patient liability.

Department for Income Support: Child Support Enforcement: Family Support

921 KAR 1:400. Establishment, review, and modification of child support and medical support orders. Mary Sparrow, policy analyst, represented the department.

Department for Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 3:060 & E. Administrative disqualification hearings and penalties. Virginia Carrington, director, and Elizabeth Caywood, internal



policy analyst, represented the division.

A motion was made and seconded to approve the following amendments: (1) 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; (2) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; and (3) to amend Section 8 to make a technical correction. Without objection, and with agreement of the agency, the amendments were approved.

921 KAR 3:070 & E. Fair Hearings.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct 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 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the October 13, 2015, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET:  
Board of Medical Licensure: Board

201 KAR 9:305. Continued licensure of athletic trainers.

201 KAR 9:310. Continuing medical education.  
Real Estate Commission: Commission

201 KAR 11:175 & E. Instructor approval procedures and guidelines.

201 KAR 11:195. Informal settlement procedures.

201 KAR 11:210. Licensing, education, and testing requirements.

201 KAR 11:460. Minimum rating requirements for instructors.

Board of Medical Imaging and Radiation Therapy: Board

201 KAR 46:010. Definitions for 201 KAR Chapter 46.

201 KAR 46:020. Fees.

201 KAR 46:030. Education for medical imaging technologists, advanced imaging professionals and radiation therapists.

201 KAR 46:040. Medical imaging technologist, advanced imaging professional and radiation therapist licenses.

201 KAR 46:045. Temporary license application for medical imaging technologists, advanced imaging professionals, and radiation therapists.

201 KAR 46:050. Provisional training license for medical imaging technologists and radiation therapists.

201 KAR 46:060. Continuing education requirements.

201 KAR 46:070. Violations and enforcement.

201 KAR 46:081. Limited x-ray machine operator.

JUSTICE AND PUBLIC SAFETY CABINET:  
Parole Board: Board

501 KAR 1:080. Parole Board policies and

procedures. John Cummings, counsel, represented the board.

Mr. Cummings requested deferral of this administrative regulation to the October 13 meeting of the Subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred to the October 13 meeting of the Subcommittee.

PUBLIC PROTECTION CABINET:  
Department of Charitable Gaming: Charitable Gaming

820 KAR 1:001. Definitions for 820 KAR Chapter 1.

820 KAR 1:032. Pulltab construction.

820 KAR 1:033. Electronic pulltab system, electronic pulltab device, and electronic pulltab construction.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:091. Facilities specifications, operation and services; community mental health center.

902 KAR 20:180. Psychiatric hospitals; operation and services.

Department for Medicaid Services: Division of Community Alternatives: Medicaid Services

907 KAR 1:045 & E. Reimbursement provisions and requirements regarding community mental health center services.

Division of Policy and Operations: Medicaid Services

907 KAR 1:046. Community mental health center primary care services.

Division of Community Alternatives: Hospital Service Coverage and Reimbursement

907 KAR 10:020. Coverage provisions and requirement regarding outpatient psychiatric hospital services.

907 KAR 10:025. Reimbursement provisions and requirements regarding outpatient psychiatric hospital services.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:006. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP).

921 KAR 2:016. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP).

921 KAR 2:017. Kentucky Works Program (KWP) supportive services.

921 KAR 2:046. Adverse action; conditions.

921 KAR 2:050. Time and manner of payments.

921 KAR 2:370. Technical requirements for Kentucky Works Program (KWP).

921 KAR 2:500. Family Alternatives Diversion (FAD).

921 KAR 2:510. Relocation Assistance Program.

921 KAR 2:520. Work Incentive or "WIN".

Supplemental Nutrition Assistance Program

921 KAR 3:035. Certification process.

921 KAR 3:042. Supplemental Nutrition Assistance Program Employment and Training

Program.

921 KAR 3:050. Claims and additional administrative provisions.

921 KAR 3:090 & E. Simplified assistance for the elderly program or "SAFE".

The Subcommittee adjourned at 3:30 p.m. until October 13, 2015.

*Compiler's Note: In setting the date for the October members, the subcommittee stated that the meeting would be scheduled to begin at 1:00 p.m.; however, the start time might be moved to 10:00 a.m. depending on the size of the agenda.*

## CAPITAL PLANNING ADVISORY BOARD

### Minutes of the 3rd Meeting of the 2015 Calendar

August 19, 2015

#### Call to Order and Roll Call

The 3rd meeting of the Capital Planning Advisory Board was held on Wednesday, August 19, 2015, at 9:00 AM, in Room 131 of the Capitol Annex. Representative Terry Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Terry Mills, Co-Chair; Senator Whitney Westerfield, Representative Tom Riner, Charles Byers, Jane Driskell, Carole Henderson, John Hicks, Sherron Jackson, Mary Lassiter, Dan Markwell, Mark Overstreet, and Katie Shepherd.

Guests: Robert L. King, President, Shaun McKiernan, Senior Associate, Finance, Doyle Friskney, Interim Vice President of eLearning and Innovation, and Enid Wohlstein, Director, Kentucky Virtual Library, Council on Postsecondary Education; Mary Vosevich, Vice President for Facilities Management, Chief Facilities Officer, University of Kentucky; Harlan M. Sands, Senior Vice President, Chief Financial/Operating Officer, and John Shipley, Associate Vice President of Finance, University of Louisville; Wayne D. Andrews, President, and Beth Patrick, Chief Financial Officer and Vice President for Administration, Morehead State University; Dr. Raymond M. Burse, President, and Joseph Gronefeld, Senior Project Manager, Kentucky State University; Michael Benson, President, Barry Poynter, Vice President of Finance and Administration, Paul Gannoe, Director, Capital Construction and Project Administration, and David McFaddin, Executive Director, Engagement and Regional Stewardship, Eastern Kentucky University; Dr. Gary Ransdell, President, and Bryan Russell, Director of Planning, Design, and Construction, Western Kentucky University; Jackie Dudley, Vice President for Finance and Administrative Services, and David Burdette, Interim Chief Facilities Officer, Murray State University; Eric Shaffer, Director of Facilities Management, and Ken Marks, Director of Capital Construction, Kentucky Community and Technical College System; and Sue Hodges Moore, Senior Vice President for Administration and Finance, and Larry Blake, Assistant Vice President for Facilities Management, Northern Kentucky University.

LRC Staff: Shawn Bowen, Katherine Halloran,

and Jennifer Luttrell.

#### **Approval of Minutes**

A motion to approve the minutes of the July 14, 2015 meeting was made by Mr. Hicks, seconded by Ms. Lassiter, and approved by voice vote.

#### **Information Items**

One information item was included in members' binders as follow-up from the board's July 14 meeting. The Energy and Environment Cabinet submitted a list of Kentucky state-owned dams. The total inventory of state-owned dams in the Commonwealth is 74. Representative Mills noted that of the state-owned dams, 60 percent were rated either high or moderate hazard and 33 percent of the dams not owned by the state were rated high or moderate hazard. No action was required.

#### **Presentation – Council on Postsecondary Education**

As part of the capital planning process, the Council on Postsecondary Education (CPE) is responsible for the review and evaluation of capital construction and information technology (IT) projects submitted by the postsecondary institutions. Mr. Robert L. King, President, CPE, discussed the review process and the corresponding results.

A model developed in 2011 was used to evaluate postsecondary capital projects for the 2016-2022 planning period. Rather than recommend funding for individual capital projects, CPE is recommending a pool of funding for each institution using a formula that takes into account factors such as an institution's deferred maintenance needs and full-time equivalent (FTE) student enrollment. In its report CPE notes "the approach was adopted to achieve a more equitable distribution of capital funds among institutions, rather than a request based on highest priority projects at each institution, and to provide institutions greater flexibility to address multiple, smaller, but potentially more critical, capital projects." This approach also places greater emphasis on asset preservation and renovation, rather than new construction.

CPE has identified separate, but nearly equal in size, pools for asset preservation and new construction, and established a specified asset preservation spending level for each institution. For 2016-18, CPE plans to request a pool of funds totaling \$600 million General Funds (GF), with \$288 million allocated for preservation and renovation projects and \$312 million allocated for new/expanded space projects. This request is part of the three-biennia (six-year) \$1.8 billion capital budget plan that would use a pooled approach for allocating capital funding among institutions.

CPE's report also specifies a pool of \$60,000,000 GF for information technology projects. If authorized by the General Assembly, funding for this request would be appropriated to the Technology Initiatives Trust Fund. Twenty-one information technology projects were submitted to CPE for review, ten were designated as high value and seven were designated as very high value.

In its report to the board, CPE recommended that the Capital Planning Advisory Board endorse higher thresholds for capital projects and leases. CPE also requested that the board again endorse its multi-biennia strategy for funding capital needs of the

postsecondary institutions. The board has endorsed this approach in the last two statewide capital improvement plans.

In response to a question from Senator Humphries, Mr. King said many of the postsecondary facilities are still usable, but the facilities should be retrofitted to meet current educational needs. Retrofitting a facility takes advantage of the existing space and, in many instances, when new HVAC and other energy efficient features are added, operating costs are reduced. If this pool of funds is authorized in the next budget, funds allocated to each university would be based on recommendations in the VFA Study, and allocated among projects that address asset preservation/renovation and new/expanded spaces.

In response to a question from Senator Humphries, Mr. King said the Kentucky Community and Technical College System (KCTCS) continues to raise funds for new facilities authorized in the last budget. The effort has been positive, however, in the smaller communities, the challenge will be to raise the required matching funds for KCTCS projects planned in that community.

In response to a question from Representative Riner, Mr. Friskney said funding to support expanded database content at public and private universities includes law schools, seminaries, and medical schools. Mr. Friskney added that there are over 65 databases available online.

In response to a question from Representative Mills, Mr. King said the multi-biennia funding approach and the corresponding pool allocations were developed with the knowledge, agreement, and the participation of the postsecondary institutions.

Representative Mills said CPE has formally recommended that the board endorse higher thresholds for capital projects and capital leases than those currently in place. He asked Mr. King to further discuss this recommendation. Mr. King said CPE plans to survey the campuses as to the types of projects that could be reasonably managed without legislative authorization. Based on the results of that survey, CPE will formulate and recommend new capital project thresholds. Representative Mills recommended that CPE work with the board's staff to develop the new threshold amounts.

Mr. Jackson said the thresholds were increased in 2006. At that time, staff from the LRC Economists Office provided the recommended thresholds based on certain price indices. He said in addition to the work CPE will do with the institutions in identifying the appropriate levels, it would be appropriate that LRC staff that conducted the last study, engage and review data related to whether an increase would be appropriate. He said other agencies within state government are impacted by those thresholds as well. To further assist in this effort, Mr. Hicks recommended that the board's staff review data from the LRC Capital Projects and Bond Oversight Committee Quarterly Report. The data should encompass previously authorized capital projects \$1 million or less in scope, and the project status.

#### **Consideration of Agency Plans**

The Capital Planning Advisory Board received testimony regarding 11 state agency capital plans: Council on Postsecondary Education, University

of Kentucky, University of Kentucky Hospital, University of Louisville, Morehead State University, Kentucky State University, Eastern Kentucky University, Western Kentucky University, Murray State University, Kentucky Community and Technical College System (KCTCS), and Northern Kentucky University. The testimony included discussion of capital construction, information technology, and equipment needs for the period 2016-2022.

#### Council on Postsecondary Education

Robert King, President, CPE, and Doyle Friskney, Interim Vice President of eLearning and Innovation, presented the capital needs for CPE. The agency's capital plan contained three capital information technology project requests: the Commonwealth College Technology System project, \$4,000,000; the Kentucky Virtual Library project, \$8,500,000; and the Kentucky Regional Optical Network Enhancement project, \$1,000,000.

In response to a question from Mr. Hicks regarding the Commonwealth College (HB 265) Technology System (formerly the Adult Learner Degree Attainment Initiative), Mr. King said a number of other states have embraced this model for the delivery of Internet-based instruction, and it is expanding across the country. Kentucky was one of the first states to develop such a program and has the advantage of experience in this area. The program, known as Learn on Demand, is administered through KCTCS and offers full 15-week courses, and modules (a portion of a full course), that lasts up to eight weeks.

Representative Mills said HB 265, 2012 Executive Budget, appropriated \$375,000 for the Commonwealth College Technology System project. The bill also directed CPE, in consultation with KCTCS, to develop a Request for Proposal (RFP) for up to two four-year public postsecondary institutions to serve as the lead institution(s) for the project. He asked what the status of the RFP process was, and if the institution(s) has been selected to lead the project. Mr. King said the original model has been modified. Initially, they thought one or two postsecondary institutions would manage the project. However, the current model includes many participants that have agreed to solicit participants and develop needed programs for employers.

In response to a question from Representative Mills, Enid Wohlstein, Director, Kentucky Virtual Library (KYVL), said KYVL does not track Internet searches by individuals, however, they do track the searches of KYVL's 300 member libraries by month, year, and location. Last year there were 85.5 million searches, 29 million unique sessions, and 5 million downloads in a 12-month period.

#### University of Kentucky

Ms. Mary Vosevich, Vice President for Facilities Management, Chief Facilities Officer, presented the capital plan for the University of Kentucky. The university's capital plan, for the six-year period, included 218 proposed projects totaling \$5,496,155,000. The University of Kentucky Hospital plan contained a total of 88 proposed projects totaling \$1,881,275,000.

For the 2016-2018 biennium, the university's plan contained one project, the Facilities Renewal



and Modernization project. This project will address many facilities on campus that require modernizing, as well as much needed maintenance that has been deferred for several years. The project establishes a pool of funds to address projects that cost \$600,000 or more. The funding sources include \$125,000,000 Agency Bonds and \$125,000,000 General Funds.

In response to a question from Senator Humphries, Ms. Vosevich said the Facilities Renewal and Modernization project will address renovations and upgrades to a particular set of buildings on campus. The university will evaluate each building to determine programmatic, technological, and/or renovation needs. The university will also evaluate whether programs functioning in separate facilities can be consolidated in one location. Spaces will be updated as needed to modern, contemporary designs. She added that the buildings under evaluation have a Facilities Condition Index (a measure used to compare the condition of a group of facilities) of about 39 percent.

In response to another question from Senator Humphries, Ms. Vosevich said none of the facilities being evaluated will be razed.

Representative Mills stated that a list of the projects, or the top ten projects, included in Facilities Renewal and Modernization project pool would be useful to the board in making its final recommendations in the six-year plan. Ms. Vosevich said based on programs in the buildings, and the university's priorities, the university is currently vetting the list to determine how to proceed. The university has identified the buildings and the scope of work in those particular facilities, but nothing has been finalized. Ms. Vosevich said the university will provide the most comprehensive list possible at this point in time.

In response to a question from Ms. Shepherd, Ms. Vosevich said the university is raising funds for the Expand/Renovate/Upgrade Law Building project. The project was authorized in the 2014-2016 Executive Budget, but has not been undertaken.

#### University of Louisville

Harlan M. Sands, Senior Vice President, Chief Financial/Operating Officer, and John Shipley, Associate Vice President of Finance, discussed the university's capital plan. The university's capital plan, for the six-year period, included 82 proposed projects totaling \$2,230,576,000.

In response to a question from Senator Humphries regarding the cost of renovating versus the cost of constructing a new facility in today's economy, Mr. Sands said the cost of renovating older facilities sometimes becomes prohibitive when trying to retrofit those facilities to modern standards. Space limitations of older buildings, compared to the cost of constructing a new structure, must be taken into consideration also. An overall assessment of the facility, including the condition of the structure, the infrastructure, and the mechanical structure, will determine whether to build new or renovate. Mr. Sands said the university strives to maintain a balance of new and renovated spaces.

In response to a question from Mr. Hicks regarding the status of the Construct Belknap Classroom/Academic Building project (\$80,560,000

bond funds, 2014-2016 Executive Budget), Mr. Sands said the project is in the design/plan and design/build phase. The university plans to issue bonds in spring 2017, and begin construction shortly thereafter. Construction should be complete by summer 2018.

#### Morehead State University

Dr. Wayne Andrews, President, and Beth Patrick, Chief Financial Officer and Vice President for Administration, presented the university's capital plan. The university's capital plan, for the six-year period, included 54 proposed projects totaling \$680,210,000.

In response to a question from Mr. Hicks regarding the need for enhanced network infrastructure on campus, Ms. Patrick said the university has undertaken a project to completely renovate its data network and campus technology infrastructure. New fiber optic cable, with redundant ring technology, is being installed. This new technology will ensure network availability at all times, and provide various security enhancements, such as video monitoring and a campus-wide emergency alert/warning system. The project will be completed within the next 18 months. At that time, the university will have the bandwidth to handle administrative, classroom, and residence hall needs.

#### Kentucky State University

Dr. Raymond M. Burse, President, and Joe Gronefeld, Capital Projects Manager, discussed the university's capital needs. The university's capital plan, for the six-year period, included 25 proposed projects totaling \$181,016,000.

Mr. Jackson asked President Burse to further discuss the need for the Betty White School of Nursing project (\$13,014,000 General Funds). This project has been the university's top priority in successive capital plans. President Burse said the expansion and renovation of the Betty White building will encompass the entirety of the nursing program, both the undergraduate and the new Bachelor of Science Doctor of Nursing Practice (BSN-DNP). With the further development of the BSN-DNP program and the current academic programs, the School of Nursing is poised to grow exponentially.

In response to another question from Mr. Jackson, President Burse said undergraduate students are accommodated in the Betty White Health Center. The first floor is primarily the healthcare center for on-campus students, and the second floor provides space for the nursing program. Classroom and training space is needed in one central location rather than in multiple facilities on campus. Mr. Gronefeld noted that the Betty White Health Center contains about 6,000-square-feet on the second floor, and 10,400-square-feet in total.

In response to a question from Representative Mills, Mr. Gronefeld said the university is still searching for off campus space for the Aquaculture program. The one potential property did not work out.

In response to another question from Representative Mills, President Burse said the university does not do beekeeping, however, the university's extension office does a great deal of research and outreach on the subject, and provides that knowledge to beekeepers statewide and nationally.

#### Eastern Kentucky University

Dr. Michael Benson, President, discussed the university's capital needs. The university's capital plan, for the six-year period, included 52 proposed projects totaling \$904,000,000. There were no questions regarding the university's plan.

#### Western Kentucky University

Dr. Gary Ransdell, President, and Bryan Russell, Chief Facilities Officer, discussed Western Kentucky University's capital plan. The university's capital plan, for the six-year period, included 63 proposed projects totaling \$637,430,000.

In response to a question from Senator Humphries regarding the Construct New Gordon Ford College of Business (\$97,200,000 GF, priority #1), President Ransdell said as far back as 1997 when he started as president, the Gordon Ford College of Business building showed signs of deterioration. The university has been able to address the facility's maintenance needs over the last eighteen years, including a roof replacement project, but a new facility is needed. President Ransdell said the university may be able to raise some private money to assist with the project and to provide an endowment for the College of Business.

In response to a question from Mr. Hicks regarding the multi-phased underground infrastructure replacement projects, Mr. Russell said the university has now completed Phase 8 of a multi-phased project to replace the university's above ground infrastructure. The Replace Underground Electric Infrastructure project is now complete, and overhead lines no longer supply power to the university. The university has also replaced sections of failing steam lines, including those in and under Gordon Wilson Hall. In addition, water lines have also been replaced. There are ten facilities left to incorporate into the new grid.

#### Murray State University

Jackie Dudley, Vice President for Finance and Administration Services, and David Burdette, Interim Chief Facilities Officer, gave a brief overview of Murray State University's capital plan. The university's capital plan, for the six-year period, included 100 proposed projects totaling \$771,000,000.

In response to a question from Mr. Hicks, Ms. Dudley said the university is continuing to update its on-campus housing facilities. Three high-rises are scheduled for renovation, including White, Regents, and Hart Hall. Clark Hall was replaced in 2007 and New Richmond was completed in 2009. New Franklin Hall is in construction.

In response to a question from Senator Humphries, Mr. Burdette said the university's top three General Fund priorities: Upgrade Campus Electrical Distribution System, \$16,494,000; Replace Campus Steam Distribution System, \$7,549,000; and Upgrade Building Systems Capital Renewal Pool, \$6,616,000, focus on upgrades to, or replacement of, outdated electrical and building systems.

#### Kentucky Community and Technical College System

Eric Shaffer, Director of Facilities Management, Ken Marks, Director of Capital Construction, and Sandy Adkins, Budget Director for Capital Projects, gave a brief overview of the KCTCS capital plan. For

the six-year period, the KCTCS capital plan included 136 proposed projects totaling \$1,373,160,000.

In response to a question from Representative Mills regarding the Expansion of Pikeville Campus Big Sandy project (priority #1, \$28,000,000 General Funds), Mr. Shaffer said this project was priority 15 in the last capital plan. The project, along with two others, were part of the Build Smart initiative created after the last session. The project is needed due to the growth of the Pikeville campus, and it is a top priority for the Big Sandy Community and Technical College. Mr. Marks added that the Big Sandy project, along with two other projects that were part of the Build Smart initiative, were authorized for design only in previous budgets. KCTCS is ready to move forward with the projects once the funding becomes available.

In response to a question from Mr. Jackson about expanding the construction on the Newtown Pike campus (Cooper Campus), Mr. Shaffer stated that KCTCS will most likely buy the Cooper Campus. The technical programs will primarily remain at the Leestown and Georgetown campuses. Other technical programs administered by KCTCS will be relocated as needed.

In response to a question from Mr. Jackson, Mr. Schaffer said the Ashland Community and Technical College has relocated from its Roberts Drive location to the EastPark Industrial Parkway location. Two programs, the diesel and automotive programs, remain at the Roberts Drive location in a separate set of buildings. These programs will be moved at some point, and the buildings will be demolished.

In response to questions from Senator Westerfield, Mr. Shaffer said local community and technical colleges are responsible for determining their capital project needs. The projects are then prioritized in the KCTCS capital plan. Mr. Shaffer said the priorities for the current planning period are different than those from the 2014-2020 period. During the last capital planning period, through the Build Smart initiative, the top priority from each college became the top sixteen priorities in the KCTCS capital plan.

#### Northern Kentucky University

Sue Hodges Moore, Senior Vice President for Administration and Finance, and Larry Blake, Assistant Vice President for Facilities Management, gave a brief presentation of Northern Kentucky University's six-year capital plan. The university's capital plan, for the six-year period, included 51 proposed projects totaling \$973,890,000.

#### **Adjournment**

The next meeting is scheduled for Tuesday, September 15, 2015, in Room 171 Annex starting at 9:00 AM. There being no further business, the meeting adjourned at 2:06 p.m.

## **CAPITAL PLANNING ADVISORY BOARD**

### **Minutes of the 4th Meeting of the 2015 Calendar**

September 15, 2015

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

The 4th meeting of the Capital Planning Advisory Board was held on Tuesday, September 15,

2015, at 9:00 AM, in Room 171 of the Capitol Annex. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair, Representative Terry Mills, Co-Chair, Senator Whitney Westerfield, Representative Tom Riner, Charles Byers, Jane Driskell, Laurie Dudgeon, Carole Henderson, John Hicks, Sherron Jackson, James Link, and Katie Shepherd.

Guests: Steve Byers, Assistant Vice President for Government Relations, and Elizabeth Baker, Planning Director, University of Kentucky; John Steffen, Executive Director, and Tom Messinger, Systems Engineer, Kentucky Registry of Election Finance; and Laurie Dudgeon, Director, Administrative Office of the Courts.

LRC Staff: Shawn Bowen, Katherine Halloran, and Jennifer Luttrell.

Senator Humphries and Representative Mills requested that the board observe a moment of silence in honor of fallen Kentucky State Trooper Joseph Ponder. Trooper Ponder was shot and killed following a traffic stop on Interstate 24 in southwestern Kentucky on September 13.

#### **Approval of Minutes**

Senator Humphries said the minutes of the August 19, 2015 meeting were not ready for approval and would be held over until the October meeting.

#### **Information Items**

At the Capital Planning Advisory Board's August 19 meeting, the University of Kentucky (UK) presented its capital plan for the 2016-2022 planning period. The university was asked to provide a list of the projects and allocations for the Facilities Renewal and Modernization project. Steve Byers, Assistant Vice President for Government Relations, provided additional information and further discussed the need for the project. A list of the projects and the allocations was not provided.

Senator Humphries and Representative Mills stated that before the board could support the project, the university would have to provide a list of the projects, and the allocations planned for this pool of funds. Representative Mills further stated that if the board were to recommend a project of this magnitude without additional information it may send a message to the other universities that sufficient details regarding project pools would not be needed. He encouraged the university to provide additional information that addressed the planned projects and the allocations.

#### **Staff Report on Kentucky's Bonded Indebtedness**

Katherine Halloran, Legislative Analyst, Capital Projects and Bond Oversight Committee, discussed an in-depth analysis of the historic, current, and projected debt position of the Commonwealth, and addressed factors that influence the cost of issuing debt.

Mr. Hicks complimented Ms. Halloran on the report, and commented on the Budget Reserve Trust Fund. The fund provides added protection to help ensure that a state is able to meet its obligations. Contributions to the fund may be made through direct appropriation, from surplus revenue receipts

in the General Fund, and from certain unexpended appropriations. Mr. Hicks noted that when the Commonwealth was not having a difficult fiscal year, deposits were made to the Budget Reserve Trust Fund.

#### **Consideration of Agency Plans**

The Capital Planning Advisory Board received testimony regarding state agency capital plans for the Kentucky Registry of Election Finance (KREF) and the Kentucky Court of Justice. The testimony included discussion of capital construction and information technology needs for the period 2016-2022.

#### **Kentucky Registry of Election Finance**

John Steffen, Executive Director, and Tom Messinger, Systems Engineer, presented the capital needs for KREF. The agency's capital plan contained one capital information technology project request for a new operating system (\$1,836,000 GF) to replace the current electronic filing system and online database.

In response to a question from Mr. Hicks regarding software for the new operating system, Mr. Steffen said software will be purchased off the shelf and the Commonwealth Office of Technology will write a portion of the new program.

Representative Mills noted that the project will cost about \$139,000 annually to maintain, and asked if additional operating funds will be needed. Mr. Steffen said additional funds would not be requested, the operating costs would be included in the agency's current budget.

In response to a question from Senator Humphries, Mr. Steffen said a modernized system would enable KREF staff to change their focus from being data entry keyers of campaign finance information to reviewers of it. No employees will be displaced by the new system.

#### **Kentucky Court of Justice**

Laurie Dudgeon, Director, Administrative Office of the Courts (AOC), presented the capital needs for the Kentucky Court of Justice. The agency's capital plan contained requests for two new court facility projects in the first biennium (\$10,415,000 and \$10,740,000). Ms. Dudgeon said the names of the counties have not been released since the Memorandums of Understanding have not been executed and the details of the projects have not been finalized.

The Court of Justice' capital plan also included the Kentucky Human Resources Information System (KHRIS) project (\$600,000 GF), and two court facility repair projects for Mason county (\$830,000 long-term bonds) and Simpson county (\$2,298,000 long-term bonds).

In response to questions from Representative Mills, Ms. Dudgeon said the new courthouses/judicial centers are designed to last 100 years. The Mason County Judicial Center, completed in 2000, is experiencing roof leaks along with moisture penetration around the foundation of the entire building. The front facade is crumbling and the columns are rotten due to the moisture penetration. On the interior of the building, most ceiling tiles are water stained, drywall buckled and the ballistic



glazing on every window on the back of the Judicial Center has failed. The Simpson County Judicial Center, completed in 2004, is experiencing roof leak issues and water infiltration. It has been determined that a combination of issues (materials used and poor design) have contributed to the leaks and the failure of fiber reinforced plastic, caulking, and flashing used as materials for the roof and gutter system. Ms. Dudgeon said the agency is discussing the issues with the contractors and architects of these projects. Insurance would be available for the roof repair projects only if there are problems with the materials.

In response to a question from Representative Mills, Ms. Dudgeon said that the Court of Justice will utilize the KHRIS system to handle payroll for 403 elected officials and about 3,500 employees.

Senator Humphries asked how the construction of new court facilities is managed for smaller counties that have historic courthouses. Ms. Dudgeon said the new Administrative Procedures of the Court of Justice would allow the architect to do a feasibility study and determine if the facility could be renovated, rather than building a new facility.

In response to a question from Senator Humphries, Ms. Dudgeon said maintenance, janitorial, and lease payments to the county are based upon the square footage occupied. In recent years, AOC has worked to standardize these payments to the counties.

In response to another question from Senator Humphries, Ms. Dudgeon said the bonds issued to fund court facility construction projects are 20-year bonds. Ms. Henderson added that prior to 2000, some of the bonds issued for court facility projects were 30-year bonds.

#### **Statewide Plan Policy and Project Recommendations**

Senator Humphries said it is the practice of the board to include both policy and project recommendations in the statewide capital plan. Relative to the recommendation to support the COT Enterprise Document Management project, Mr. Hicks suggested that the recommendation be revised to support the enterprise-wide approach COT has undertaken to meet the information technology needs of executive branch agencies. A motion to approve the revised recommendation was made by Mr. Hicks, seconded by Representative Mills, and approved by roll call vote.

Relative to the recommendation that the board support legislation to increase capital project and lease thresholds in next legislative session, Mr. Jackson said the research information provided by staff indicated that an increase to the capital project and lease thresholds was not warranted at this time. He said the regular review of capital project and lease thresholds should be done on a regular basis. Agencies, including postsecondary education agencies, should have the opportunity to implement capital projects in a reasonable manner. Mr. Hicks agreed that capital project thresholds should be reviewed again in the future. He noted that only six states have higher capital project thresholds than Kentucky. The recommendation was withdrawn, and no further action was required.

Relative to the recommendation to endorse of the

Council on Postsecondary's multi-biennia approach for financing capital needs of the postsecondary institutions, a motion to approve the recommendation was made by Mr. Jackson, seconded by Mr. Hicks, and approved by roll call vote. Representative Mills explained his vote of yes. He said he agreed with recommendation, and suggested that universities, when submitting request for pool projects, provide details of the potential projects.

Relative to the recommendation that the Governor and the General Assembly place a high priority on fully funding the Budget Reserve Trust Fund at a level that represents five percent of General Fund revenues, a motion was made by Mr. Hicks, seconded by Ms. Driskell, and approved by roll call vote.

Relative to the recommendation that adequate funding be appropriated for state agency miscellaneous maintenance pools, a motion was made by Mr. Hicks, seconded by Mr. Jackson, and approved by roll call vote.

As part of the capital planning process, board members recommend individual projects they think should be funded by the General Assembly in the upcoming biennial budget. Senator Humphries said three spreadsheets, containing projects in the categories of new construction, construction to protect investment in plant (maintenance and renovation), and information technology, will be e-mailed to members after the meeting. Members are to identify up to 15 projects in each category, and return to the board's staff no later than September 29.

#### **Adjournment**

The next meeting is scheduled for Tuesday, October 20, 2015, in Room 171 Capitol Annex at 10:00 AM. There being no further business, the meeting adjourned at 10:32 AM.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE Minutes**

September 21, 2015

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

The Program Review and Investigations Committee met on Monday, September 21, 2015, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Martha Jane King, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Martha Jane King, Co-Chair; Senators Tom Buford, Perry B. Clark, Dorsey Ridley, Dan "Malano" Seum, and Stephen West; Representatives Leslie Combs, Tim Couch, David Meade, Terry Mills, Ruth Ann Palumbo, and Rick Rand.

Legislative Guests: Representatives Kenny Imes and Susan Westrom.

Guests: Wendell Lawrence, Executive Director, Lincoln Trail Area Development District; Steve Tribble, Judge Executive, Christian County; John Wilson, Judge Executive, Garrard County; Jason Vincent, Executive Director, Pennyryle Area Development District; and David Duttlinger, Executive Director, Bluegrass Area Development

District.

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

#### **Minutes for August 13, 2015**

Upon motion by Representative Combs and second by Representative Mills, the minutes for the August 13, 2015, meeting were approved by voice vote, without objection.

Representative King summarized the Program Review and Investigations Committee statute and mission. There have been concerns about area development districts (ADDs), but the committee is not performing a study at this point.

#### **Area Development Districts**

Mr. Vincent said that ADDs were created pursuant to the federal Public Works and Economic Development Act of 1965 and a governor's executive order in 1969. Several ADD directors have resigned in recent years, so the ADDs set up a cooperative review of each other, a manual of ADD training materials, a code of ethics, bylaws, staff and organizational charts, and other ADD materials. Board members attend a formal orientation and are encouraged to attend the National Association of Development Organizations annual training conference. Pennyryle ADD meetings are open to the public and announced through newspapers, email, and online. Meeting packets are available online for those not able to attend. The three most recent annual audit reports and budgets are also available on the website.

Judge Tribble said that the Pennyryle ADD has a 39-member board of directors. It has a \$4 million budget and serves 9 counties and 33 cities. There are over 300 advisory committee members who advise on subjects such as transportation, military, aging, and water management. Funding comes from federal, state, and local governments. Local governments contribute 30 cents per capita for a total of \$66,000 annually. The Pennyryle ADD bylaws provide for an executive committee, which meets quarterly, to oversee the budget and financial affairs of the district. It is made up of board members from each county along with the four officers of the board. Management staff administer grants from different sources with many different requirements. After Auditor Edelen's Special Examination of the Bluegrass ADD in 2014, the Pennyryle executive committee presented further recommendations to the board of directors.

Mr. Lawrence said the Kentucky Council of Area Development Districts (KCADD) is the statewide governing organization of ADDs. The council is made up of 30 representatives of all ADD boards in the state. It provides policy guidance and represents public and private sector interests. Local ADD boards are required by law to have a majority of local elected officials. ADDs welcome any review of operations. ADDs offered to undergo additional reviews by the Auditor of Public Accounts (APA) when the Bluegrass ADD was being examined.

Judge Wilson said the Bluegrass ADD has been very beneficial to the region. In the APA report, there were allegations of inappropriate activity related to

the use of property that was purchased for an approved prison re-entry program. There was concern regarding the previous director. The Bluegrass ADD board itself contacted APA with its concerns. Immediate action was taken by the board including forcing the resignation of the previous director, eliminating the prison re-entry program, and emphasizing the board's role as the owners, conveners, and beneficiaries of the ADD.

The APA report released in March 2014 included findings related to government practices, activities beyond statutory authority/conflicts of interest, reporting of criminal violations, violations of procurement policies, prevention of excessive and unnecessary travel expenditures, non-compliance with federal grants, bonuses paid to ADD employees, and use of an outdated accounting system. All findings were corrected to the APA's satisfaction within 3 months of the report being issued. If legislation for further reform is needed, the Bluegrass ADD is ready to be part of that process.

In response to a question from Representative Meade, Mr. Lawrence said there is a regular ongoing relationship between ADDs and the Education and Workforce Development Cabinet (EWDC). He was unaware of any formal review of workforce development funds.

Judge Wilson said that there has been an independent review of workforce development in the Bluegrass region, but there is no report available. Another auditor sent a letter about questionable costs, which is being reviewed currently.

In response to questions from Representative Westrom, Judge Wilson said that an assessment of funds, including workforce development funds, would be paid by the ADD. However, board members are protected from individual liability. The Bluegrass ADD welcomes any review.

Representative Westrom said that ADDs are vital to every county and invaluable to the small counties that have limited resources.

Judge Wilson invited Westrom to attend the next Bluegrass ADD board meeting.

In response to questions from Senator Seum, Mr. Lawrence said that the Kentuckiana Regional Planning & Development Agency (KIPDA) is an urban planning agency that includes nine Kentucky counties and two Indiana counties; otherwise, it is the same as the other ADDs. KIPDA is federally funded according to a specific formula and direct grants. Judge Wilson said the Community Development Block Grant (CDBG) is a direct grant that Garrard County requests.

Mr. Lawrence said state funds match federal funds. Regulations determine what is allowed to be funded for each ADD program. Board membership is determined by law and regulation. Previously, ADD bylaws specified board members, but now law and regulation includes county judge-executives, mayors, and citizen members. Federal programs have caps on administrative costs. Overhead is spread over all programs. The ratio of administrative to program costs is low. The board of directors and funding agencies monitor all programs.

In response to questions from Representative Couch, Mr. Duttlinger said that Bluegrass ADD

funding is 60 to 65 percent federal (largely for aging programs), 30 percent state match (much of that from the Transportation Cabinet), and 10 percent from local government. The Bluegrass ADD's current asset value is \$2.6 million for the office building and \$1.1 million in retained earnings.

Mr. Lawrence said the Lincoln Trail ADD's current asset value is \$800,000.

Representative Couch said the ADDs should consider moving their offices to different counties on a rotation every four to five years to discourage favoritism if feasible.

In response to a question from Representative Westrom, Judge Wilson said there is a cosmetic dentist that rents some space in the Bluegrass ADD office building.

In response to questions from Representative Mills, Mr. Lawrence said that the Lincoln Trail ADD personnel committee sets salaries. There is a new pay scale. Senior staff and the executive director recommend increases, taking into consideration salaries for similar jobs in the community. The executive director is under contract, and the committee negotiates compensation with the executive director. Salaries are open to the public. Board members are not paid. The ADD does the best it can through the personnel process to keep up with increases in cost of living. The budget committee must approve all personnel committee decisions.

Mr. Vincent said that in the Pennyryle ADD, the executive committee reviews all salaries and makes recommendations to the full board of directors.

Judge Wilson said the Bluegrass ADD executive committee is not paid.

In response to a question from Representative King, Mr. Vincent described the Career Path Institute project in Todd County that is scheduled for completion in December. Hopkinsville Community College, Todd County schools, two counties, and cities developed the facility that Todd County schools will use in the day and the college will use at night. \$2.5 million of CDBG funds were used along with \$500,000 contributed by Todd County.

In response to a question from Representative King, Mr. Vincent said the Pennyryle ADD and Purchase ADD are working together to serve the 17 westernmost counties. The Todd County career path project is an example of combined workforce development and community development.

Judge Tribble said Christian, Todd, and Trigg Counties are working together through their ADD. Christian County gave half of its CDBG funds to Todd County for the career path project.

Senator Ridley welcomed Magistrate Elbert Bennett from the Caldwell Fiscal Court and chair of the Kentucky Magistrates Association as a guest.

The meeting adjourned at 2:10 pm.

## **EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE**

### **Minutes**

September 15, 2015

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

The meeting of the Education Assessment and

Accountability Review Subcommittee (EAARS) was held on Tuesday, September 15, 2015, at 10:00 AM, in Room 129 of the Capitol Annex. Representative James Kay, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative James Kay, Co-Chair; Senators Gerald A. Neal, and Max Wise; Representative Mary Lou Marzian.

Legislative Guest: Representative Derrick Graham.

Guests: Clyde Caudill, Kentucky Association of School Administrators.

LRC Staff: Joshua Collins, Janet Stevens, and Daniel Clark.

### **Primer on Kentucky Independent School Districts**

Brenda Landy, Education Accountability Analyst, Office of Education Accountability (OEA), spoke about the data analyzed for the primer on independent school districts (ISDs) and said the legal framework included in the study was based on the Kentucky Constitution, statutes, regulations, case law, and attorney general opinions. Also, since students can attend schools outside of district boundaries, OEA staff asked ISDs for reciprocal agreements, policies and procedures, and any ISD superintendent's comments. Financial, student, and boundary data were also analyzed for the study. Ms. Landy said there are 53 ISDs located in Kentucky and, aside from size, ISDs resemble county districts in most ways on average. However, ISDs vary more widely in terms of student achievement, student diversity, and boundaries.

Cassie Blausey, Education Accountability Analyst, OEA, spoke about the key findings from the legal framework discussed in the primer on ISDs and said the law is generally the same for both county and ISDs, but some statutes refer specifically to ISDs. Also, nonresident student contract disputes and reciprocal agreements were within the key issues of legal context in the report.

Ms. Blausey spoke about ISDs expanding their boundaries and said ISDs are no longer permitted to grow along with cities. However, there are annexation statutes that permit expansion under certain circumstances. The two methods for ISDs to expand territory are either a transfer of adjacent territory or a transfer of adjacent territory containing a school. Eight ISDs under KRS 160.045 attempted to transfer to adjacent territory, with 6 actually annexing. Bowling Green Independent was the only ISD to have a transfer of territory containing a school.

Ms. Blausey spoke about nonresident student enrollment and said most students attend school within the district that they live. The movement of students between school district boundaries has more of an impact on ISDs because of their smaller size. Also, nonresident student enrollment is a privilege, not a right, and each school district can set their own policies. In order for a school district to receive state SEEK funds for a nonresident student, the student must be either covered by a reciprocal agreement or is a child of a school district employee. Also, school districts may charge tuition to all nonresident



students. This allows school districts to make up for local taxes or SEEK funds that is not received.

Ms. Blausey spoke about how school districts merge and said KRS 160.041, governing the merger of independent districts with county districts, is directly applicable to ISDs. Also, KRS 160.040, governing the merger of districts, is directly applicable to county districts and ISDs and provides an important backdrop for KRS 160.041.

Deborah I. Nelson, Education Accountability Analyst, OEA, spoke about nonresident students and said those students are a large percent of enrollment in ISDs. Local policies and procedures for nonresident students vary widely and are unclear in many school districts. In 2014, there were 27,000 nonresident students in Kentucky, and those students are a greater percentage of total enrollment in ISDs than in county districts.

Dr. Nelson said a reciprocal agreement is a contract between two school districts that allows students residing in one district to attend school in another district. The agreement covers issues such as tuition, enrollment conditions, transportation, and total number of students. Reciprocal agreements allow school districts in which nonresident students are enrolled to receive state SEEK funds for students covered by the agreement. Also, the agreement is not required for districts to receive SEEK funds for nonresident students who are children of district employees.

Dr. Nelson said most ISDs did not report charging nonresident students with tuition who were covered by reciprocal agreements. The school districts are already receiving SEEK funds for those students. It is more common for school districts to charge nonresident students who are not covered by a reciprocal agreement. The majority of school districts have policies that charge tuition based on SEEK funds. Local policies for school districts are often unclear on tuition policies and are often scattered among several documents.

Dr. Nelson said local boards of education should ensure that district policies and procedures related to admission of and tuition for nonresident students are clear, transparent, and reflect best practices. District policies and procedures should address, at a minimum, the criteria that the district uses in making admissions decisions for nonresident students and the tuition that applies to students covered by reciprocal agreements and children of district employees.

Dr. Nelson said the Kentucky Department of Education (KDE) should work with all school districts to ensure that data in Infinite Campus reflects accurate resident and nonresident student numbers. Also, data used for determining transportation SEEK credit may have some inaccuracies according to the report. Of the 53 ISDs that coded nonresident students for transportation in KDE data, sixteen reported to OEA that they do not transport students. KDE has reported that it is not consistently adjusting transportation areas.

Dr. Nelson said KDE, as it reviews student transportation, should also include a review of reciprocal agreements to identify which districts are authorized to receive SEEK transportation credits to be calculated in accordance with KRS 157.370,

as well as ensuring that district areas are adjusted accordingly pursuant to KRS 157.370 (4).

Gerald Hoppmann, Education Accountability Division Director, OEA, spoke about revenue and expenditures and said ISDs range from the lowest to the highest districts in per-pupil revenue. ISDs average per-pupil local revenue is about \$700 greater than county districts average. ISDs have less taxable property than counties but levy higher tax rates. Also, some ISDs have not levied the highest rates and missed the potential to generate additional local revenue. The average per-pupil revenue for ISDs was \$12,358 compared to \$11,727 for county school districts. Also, ISDs per-pupil local revenue is \$3,595, which on average calculates to \$705 more dollars per student than county districts.

Mr. Hoppmann spoke about local tax base and said the real estate tax rate generates 70 percent of local revenue. Since ISDs have less taxable property than county school districts, ISDs have to tax real estate property at higher rates. ISDs on average have about \$42,000 less in per-pupil property assessment than county school districts.

Mr. Hoppmann said ISDs can generate additional revenue thorough local grants and donations. Local grants come from WHAS Crusade for Children, The United Way, Toyota, and Wal-Mart. Local donations typically come from PTA and PTO groups, booster clubs, and families that leave donations to specific schools. Seventeen percent of ISDs received \$130 more per-pupil revenue from donations than county school districts did in fiscal year 2014. In fiscal year 2014, ISDs received an additional \$27,738,878 from state SEEK funds along with another \$3,343,713 in tuition payments from nonresident students.

#### **Approval of May 20, 2015, Meeting Minutes**

Upon motion from Representative Mary Lou Marzian and a second by Senator Mike Wilson, the minutes were approved by voice vote.

In response to Representative Derrick Graham's questions regarding ISDs school taxes and ISDs in a multi-county area, Ms. Landy said generally the Property Valuation Administrator (PVA) of the county, along with the Department of Revenue, decides where the taxes go and how they are determined. Also, there are three ISDs in Kentucky located in multi-county areas.

In response to Representative Graham's questions regarding SEEK funding for students and ISDs that do not provide transportation, Dr. Nelson said if there is no reciprocal agreement for a nonresident student, and that student is charged tuition, then the SEEK funding generally does not go to the school district. Also, there are some ISDs that do not provide transportation for students because the students' residences are not far from the school. Also, ISDs are not required to provide transportation for students who live outside the school district.

In response to Senator Mike Wilson's questions regarding SEEK funding and provisions made for the end of the school year, Tracy Herman, Associate Commissioner, KDE, said SEEK funds typically follow students who are covered by reciprocal agreement. If a nonresident student has to pay tuition, then the SEEK funds return to the state. There is then an adjustment to the entire SEEK formula that goes

to the school districts.

In response to Senator Mike Wilson's question regarding funding for homeless students and how many Kentucky students are considered homeless, Dr. Nelson said the report treated homeless and special needs students the same in regards to nonresident and resident students of a school district. Ms. Herman said residency has to be approved for enrollment in a school district and Kentucky has close to 30,000 homeless students with federal law dictating their residency.

In response to Senator Max Wise's questions regarding oversight on ISDs merging with county school districts and the reason for Harrodsburg, Monticello, and Providence school districts merging, Ms. Blausey said the oversight and merging is initiated by local school boards with the state giving guidance to those local boards. Ms. Nelson said residents of merging school districts are generally very loyal to their schools, and the tax rates for merging school districts are authorized by voters. Ms. Blausey said finances were the reason for those three school districts to merge.

#### **Acceptance of the Primer on Independent School Districts**

Upon motion from Senator Mike Wilson, seconded by Senator Max Wise, the Primer on Independent School Districts was accepted by voice vote.

#### **Bi-annual Compendium of State Education Rankings for 2015 and The Kentucky District Data Profiles School Year 2014**

Ms. Landy said the purpose of district profiles and a state compendium is to provide a quick reference and easy access to commonly used education data. Also, the reports allow legislators to compare each district to similar districts and to compare Kentucky to other states. The District Data Profiles are a compilation of data from KDE as recorded by districts in two main systems; Infinite Campus and Munis. The State Rankings Compendium uses a broad array of data reported by states to the US Department of Education, income and poverty data by the US Census Bureau, and teacher salaries from the National Education Association.

Ms. Landy said the data reported by the US Department of Education for states does not always exactly match the data that states report internally. Reporting methods may differ and each state uses their own calculations and adjustments. Also, the US Department of Education might make their own adjustments to the data reported to them. In most cases discrepancies are small.

Ms. Landy said Kentucky ranks fourteenth nationally in the student-to-teacher ratio. Kentucky's student-to-instructional aide ratio reflects a higher rate of disability and pre-school enrollment, as well as instructional aide requirements for kindergarten. In recent years, Kentucky has moved closer to the national average on this measure. Also, Kentucky is moving closer to the national average in the ratios of students to district administrators and students to school administrators.

Ms. Landy spoke about student performance and said kindergarten readiness is a new measure to the Kentucky District Data Profiles. Kindergarten

readiness is reported for each type of setting that the students were in for the previous year. In Kentucky, 49 percent of all students were considered ready for kindergarten.

Ms. Landy said the financial section of the compendium ranks states on per pupil revenue, expenditures, sources of revenue, and the percent spent on instruction. Also, there are 10 years of financial trends located in the appendix of the compendium.

In response to Representative Derrick Graham's question regarding student performance in state rankings, Ms. Landy said the information and rankings provided in the compendium is from advanced placement courses only and the Cambridge Program for Fairdale High School is not included in the state rankings.

Senator Mike Wilson commended OEA on their work with the Primer on Kentucky Independent School Districts, Bi-annual Compendium of State Education Rankings for 2015, and The Kentucky District Data Profiles School Year 2014. Also, he would like a memo to be provided to all Legislators informing them that all reports are available online for their review.

#### **Acceptance of Bi-annual Compendium of State Education Rankings for 2015**

Upon motion from Senator Mike Wilson, seconded by Senator Max Wise, the Bi-annual Compendium of State Education Rankings for 2015 was accepted by voice vote.

#### **Acceptance of the Kentucky District Data Profiles School Year 2014**

Upon motion from Senator Mike Wilson, seconded by Senator Max Wise, the Kentucky District Data Profiles School Year 2014 was accepted by voice vote.

With no further business before the committee, the meeting adjourned at 11:36 a.m.

## **MEDICAID OVERSIGHT AND ADVISORY COMMITTEE Minutes**

September 16, 2015

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

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, September 16, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Representative David Watkins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative David Watkins, Co-Chair; Senator Dan "Malano" Seum; Representatives Robert Benvenuti III and Joni L. Jenkins.

Guests: David Brewer, American College of Emergency Physicians; Creasa Reed Riggsby, citizen; Garrett Gillam, citizen; and Sarah Nicholson, Kentucky Hospital Association.

LRC Staff: Jonathan Scott, Cindy Smith, and Miranda Deaton.

### **Medicaid Managed Care Contract Update**

Lisa Lee, Deputy Commissioner, Department for Medicaid Services, Cabinet for

Health and Family Services, and Tina Heavrin, General Counsel, Cabinet for Health and Family Services, testified about the Medicaid Managed Care contracts.

The managed care implementation was November 1, 2011. All managed care organizations must provide the same medically necessary services outlined in the Medicaid regulations. They must have flexibility regarding prior authorizations and payments and flexibility to create value-added services. Managed Care Organizations (MCOs) do not serve Medicaid members in long-term care facilities or 1915(c) waivers. Currently, 90 percent of the population is served by MCOs, and 10 percent of the population is enrolled in fee-for-service programs. As it relates to the budget, the individuals who are enrolled in managed care organizations account for about 69 percent of the Medicaid budget. Those being served through fee-for-service account for 31 percent of the Medicaid budget. Early in 2015, the MCO contracts were up for renewal or rebid. The department decided to rebid through a competitive bidding process in 2015, and the new contracts were signed in July, 2015. There are five managed care organizations currently serving the managed care population: Anthem, Coventry/Aetna, Humana, Passport, and Wellcare. There are many contract changes. These include: same capitation payments; one contract rather than negotiating individual requests for each MCO; state-wide coverage for all MCOs; imposing a medical loss ratio requirement; CMS mandated "risk corridor" for the ACA expanded Medicaid; HEDIS Measures Incentive Program; using specifically named national standards to determine "medical necessity"; Department for Medicaid Services will provide one form for a Member or a Provider to file an appeal with the MCO; Department for Medicaid Services will provide one form for request for Prior Authorization by the MCO; MCO credentialing of providers must follow National Committee for Quality Assurance standards (NCQA); increased access standards for behavioral health services; in order to be counted when determining whether an MCO's network meets access standards, the provider must accept Medicaid patients; MCOs must update their on-line provider networks within 10 days of a change; mandates more aggressive involvement of MCOs when persons with severe mental illness are being discharged from mental health hospitals; penalties section was tightened up; fraud recovery requirements were improved; retro eligibility and prior authorizations were included; and there was increased oversight of services denied for medical necessity.

In regard to the Medicaid population, Commissioner Lee said that the total current Medicaid members are 1,264,275. Traditional Medicaid members total 866,491, while expansion members total 397,784.

In response to a question by Senator Alvarado, Commissioner Lee said the cabinet has met with the MCOs. When the contracts go into place, the contract with Coventry will cover Aetna and the same provisions will be in place. The merger will not affect the contract.

In response to a question by Senator

Alvarado, Commissioner Lee said, regarding the HEDIS measures, there are some measures like the Children's Health Insurance Reauthorization Act that have certain quality measures. The way the HEDIS measures will work is that the department and the MCO will work together to identify specific measures that they want to improve over the course of the year. Once the MCOs improve those measures, they can earn funds one of two ways: by improving their own measurements, or by improving measurements set at a national level.

In response to a question by Senator Alvarado, Commissioner Lee said each region must have at least half of the behavioral health providers who are enrolled with the department in that region in network.

In response to a question by Senator Alvarado, Commissioner Lee said changes in the Medicaid program are very difficult. The department is always open to changes that are going to improve the program. When looking at a change in the program, there are usually five questions that have to be asked: how will it impact the member; how will it impact the provider; how does it fit in the managed care organization contract; how does it impact the system; and how will it impact the budget. Any changes that would improve the program must be sure the needs of the population are met while being fiscally responsible should be looked at.

In response to a question by Representative Jenkins, Commissioner Lee said the Department for Medicaid Services collaborates with the Department for Behavioral Health to make sure that the members are being served as we address the needs of the population suffering from substance abuse in this state. Expanding Medicaid allows the department to cover entire families who may have substance use issues or need treatment. The Department for Behavioral Health continually meets with the department to be sure they are analyzing services and addressing where needs and gaps are. The Department for Behavioral Health also meets with the MCOs on a routine basis to look at their delivery systems, the provider networks, and how services are delivered.

In response to a question by Senator Seum, Commissioner Lee said the Department for Medicaid Services requires the Managed Care Organizations to submit on a monthly basis all of the providers in the network, and that information is reviewed to be sure the members assigned to the MCO's have adequate access to providers. There is adequate network access, but there are gaps throughout the state that need to be worked on.

In response to a question by Representative Watkins, Commissioner Lee said sometimes it is hard to quantify savings. When implementing managed care the Cabinet was tasked with saving \$1.3 billion in both federal and state funds and that was accomplished. They were also faced with cutting provider reimbursement across the board at about 30 percent. The managed care organizations have been able to do several things that the Department has not. For example, the case management services are quite valuable. They are able to provide case managers to individuals who have complex needs and help them manage their care to be sure they are utilizing services



appropriately.

In response to a question by Senator Alvarado, Commissioner Lee said medical necessity reviews are being implemented when services or claims are denied. In the contract there is specific emphasis on ER services. Those are things that are going to be looked at when denials are made.

In response to a question by Representative Benvenuti, Commissioner Lee said as far as the MCOs charging or not charging co-payments, it may not be to entice members to join their organization. It is more about the providers. The federal government mandates how much can be charged to Medicaid members for co-payments and how much out-of-pocket can be paid. They are limited to five percent of their income per year out-of-pocket. When a co-pay is charged, the amount of co-pay has to be deducted from the claim when it comes in from the providers. If a member does not pay that co-pay, then the provider loses that money. To reduce some of the administrative burdens on the providers, some of the co-payments are not being applied because it does penalize the provider a bit.

In response to a question by Representative Benvenuti, Commissioner Lee said the Medicaid members do not have tax credits. It is for the qualified health plans on the Exchange.

In response to a question by Representative Benvenuti, Commissioner Lee said the Medicaid program is vital to the state and the 1.2 million members relying on it. As a group, the state needs to come together and figure out how to make it sustainable going forward and put every option on the table to see what can be done. She noted that everything the department does has to be medically necessary and federal guidelines must be followed. When it is determined that medical necessity is not met in retro reviews, the provider should have an opportunity to submit any supporting document to show why he believed that the service rendered met medical necessity.

In response to a question by Representative Jenkins, Commissioner Lee said that 138 percent of the poverty level is about \$18,000 per year for one person, depending on the family size. Representative Jenkins said the state needs to be careful when talking about co-pays for this vulnerable population that are probably also dealing with mental health or behavioral health issues. Representative Benvenuti said that co-pays should be considered, even a model with a vanishing deductible.

In response to a question by Representative Watkins, Commissioner Lee said that Medicaid does cover smoking cessation products and counseling services, but Medicaid does not reimburse for exercise programs. Some of the managed care organizations work with members to provide education, and they can provide incentives for gym memberships.

#### **Long-Term Care Presentation**

Will Saunders, CEO, AllyAlign Health and Alicia Heazlitt, Director of Corporate Development & Innovation, Signature HealthCare presented information on long-term care. Mr. Saunders said Signature HealthCare owns 26 nursing facilities in Kentucky, and is the largest nursing facility provider in the state. Signature takes its role as the skilled nursing

facility for many Kentuckians very seriously, and has basically been discussed as a large provider that wants to invest more in its patient's care for the most vulnerable folks in the state. Signature has launched a Medicare Advantage Plan, a special needs plan for institutional residents who are institutionalized for more than 90 days in a nursing facility. The plan will go to market October 1, 2015. They are contracted with CMS. Most of the population are dually eligible so Medicaid covers their per diem for the nursing facility. Medicare covers hospitalization, drugs, physicians and the total cost of care that surrounds that patient. The coordination model and the way the company will be successful is very simple. Much of the discussion around managing the care of patients as a provider sponsored plan will be successful if care is coordinated better than it is today, investing in the physicians, nursing facility staff and taking care of the patients in the facility. At this point, they are a Medicare only plan. They are insuring folks for their Medicare benefit and that plan can be leveraged with a patient's Medicaid benefit as well at the right time. They are launching in the Louisville and Lexington markets on January 1, 2016 and should expand further into Kentucky once the success is proven.

In response to a question by Senator Alvarado, Mr. Saunders said once admitted and a local level of care assessment has been passed, then Medicaid pays the daily cost of the facility. It covers nursing, meals, and if dually eligible, Medicaid covers everything. There is typically a spend down process. That per diem is viewed as a fixed cost once someone is in the institution.

In response to a question by Senator Alvarado, Mr. Saunders said under a Medicaid special needs plan, additional benefits are allowed to be offered that Medicare does not cover. There are a specific set of enhanced services for these institutionalized vulnerable patients. Also, when you have the premium for Medicare and Medicaid together, there is also a Dual Eligible Special Needs Plan, a plan endorsed by both the State and Federal Government. There is more availability to invest in the care team and other services, and potentially offer premium reduction over time.

In response to a question by Senator Alvarado, Mr. Saunders said that by contract with CMS they are only allowed to market their program to institutionalized folks in their facility. By definition, they are not marketing themselves, or offering individual insurance or small group insurance.

Representative Watkins noted that at a future meeting he would like to have representatives from the MCOs to answer questions from the committee.

The meeting was adjourned at 11:20 a.m.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

### **Minutes**

August 18, 2015

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

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, August 18, 2015, at 1:05 p.m., in Room 129 of the Capitol

Annex. Senator Girdler, Chair, called the meeting to order, and the secretary called the roll.

**Members:** Senator Chris Girdler, Co-Chair; Senators Julian M. Carroll, Stan Humphries, and Christian McDaniel; Representatives Linda Belcher, Will Coursey, and Steven Rudy.

**Guests:** 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; Mr. Ryan Barrow, Executive Director, Office of Financial Management; Ms. Kristi Culpepper, Executive Director, School Facilities Construction Commission.

**LRC Staff:** Josh Nacey, Katherine Halloran, and Rhonda Hall.

#### **Election of House Co-Chair**

Josh Nacey, Committee Staff Administrator, said that, pursuant to KRS 45.790, a Co-Chair election was needed for the position of House Co-Chair. Representative Coursey nominated Representative Belcher for the position of House Co-Chair. The motion was seconded by Representative Rudy. Representative Rudy moved that nominations cease and that Representative Belcher be elected House Co-Chair by acclamation. The motion was seconded by Representative Coursey and approved by voice vote.

#### **Approval of Minutes**

Senator Carroll moved to approve the minutes of the May 19, 2015 meeting. The motion was seconded by Senator McDaniel and approved by voice vote.

#### **Correspondence Items**

Mr. Nacey presented a series of letters between the committee and the Finance and Administration Cabinet, the University of Kentucky, and Kentucky Community and Technical College System regarding the lack of quorum at the committee's June meeting and cancellation of the committee's July meeting. Mr. Nacey additionally noted that the item from Chris Brumett, Director of Asset Management for Kentucky Community and Technical College System referenced a project that should have been presented to the committee last year. Senator Carroll asked how a project proceeded without approval commenting that he did not think that was legal. Chairman Girdler asked that staff look into that project.

#### **Information Items**

Mr. Nacey said there were four information items for the committee members to review. First was an advertisement for lease space for the Cabinet for Health & Family Services in Fayette County. Senator McDaniel expressed concern about the lease advertisement stating that he had been approached by the current landlord to investigate the current leasing rate. It was also his understanding that this was for a consolidation that was unwarranted as the current space used by CHFS in Fayette County is sufficient. Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet, explained that this was a consolidation resulting from a lack of space. He also stated that after the advertisement period closed, they may find a more cost effective solution than consolidation or relocation. Chairman Girdler said that a concern about the burdensome cost of a consolidation had been brought to him as well. He joined Senator McDaniel in asking the staff to keep the committee abreast of the situation.

The second item was the quarterly status reports on capital projects for the Administrative Office of the Courts; the Commonwealth Office of Technology; the Finance and Administration Cabinet and the universities that manage their own capital construction programs. Senator McDaniel asked if a representative of the Commonwealth Office of Technology was present to address the Business One Stop Portal Phase II project. There being no one, he asked staff to look into that project. He also expressed a concern about the length of time that some projects remained listed on the reports. Mr. John Hicks, Deputy State Budget Director, responded saying that he would look into the reasoning for that and report back to the committee. Mr. Hicks clarified that projects will remain on the status reports as open even after construction if there are still purchases outstanding.

Senator McDaniel inquired into the Equine Isolation Facility at University of Kentucky which was reported as completed in 2008 but its current status is reported as in litigation as of 2009. Mr. Hicks yielded to Elizabeth Baker, Director of Planning at the University of Kentucky, who responded that it was her understanding that the project is still the subject of litigation regarding settlement negotiations. She said she would look into the specific status of the litigation and report back to the committee, but that the project will remain open until the litigation is settled.

The third item was a status report on the Louisville Southern Indiana Ohio River Bridges (LSIORB) Project from Kentucky Public Transportation Infrastructure Authority (KPTIA) and the fourth was Moody's 2015 State Debt Medians Report. Senator McDaniel ask if there was anyone present representing the LSIORB Project who could report on the toll and fee rates. There being no one present, he asked if committee staff would look into that issue on behalf of the committee. Senator McDaniel then directed members' attention to the total debt of the Commonwealth going into the next Regular Session of the General Assembly and consideration of the bi-annual budget. Chairman Girdler echoed this sentiment regarding focusing on state debt burden going forward.

Mr. Nacey also presented a follow-up to a question asked previously by the committee as to whether agency representatives should be present even if the items being reported are non-action items. Senator Girdler stated that he felt it was important as sometimes questions arise in meeting that cannot be anticipated in advance, even in regards to non-action items. Senator Carroll added that he agreed, but that the committee should also take into consideration the effect of taking an individual away from normal work duties to attend meetings in which they may not be called on to speak. He suggested that in the future the committee should be more proactive in reviewing material and notifying staff if individuals need to be present to answer questions about non-action reports.

#### **Project Reports from the Universities**

Elizabeth Baker, Planning Director of the University of Kentucky, reported on three items. The first was the \$323,484 purchase of a Philips Digital X-ray System from restricted funds. The system provides for high quality x-ray images and will be

located at the university's Turfand Clinic. No action was required.

Ms. Baker next reported a funding source change authorization for the construction of Alpha Gamma Rho housing project. The UK chapter of Alpha Gamma Rho will pay \$3.06 million from private funds and \$2.94 million will be provided as a loan from the university which will be repaid by the fraternity over the course of ten years. Senator Carroll moved to approve the project and Representative Rudy seconded. The motion was passed by a roll call vote of 7 yeas, 0 nays.

The final item presented by Ms. Baker was the intent of the University of Kentucky to use the Construction Manager-at-Risk delivery method to construct Research Building 2, authorized by the General Assembly in House Bill 235 of the 2014 Regular Session. She stated that the project is still in the design phase. No action was required on this issue.

Senator Girdler directed member's attention to the report from the University of Louisville of the purchase of a liquid chromatography mass spectrometry system. No action was required.

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

Mr. John Hicks, Deputy State Budget Director, reported on three information items. The first was emergency repair to the Kentucky Fair and Exposition Center's Freedom Hall roof. The roof was damaged by hail on April 28, 2012 and will be repaired using \$1,277,600 from the Fire and Tornado Insurance fund. The second report was of an appropriation of \$1,830,267 for a floor replacement project at the L&N Building located in downtown Louisville, Kentucky. No action was required on these items.

Mr. Hicks then presented a report of a \$5,026,400 appropriation increase for the Eligibility Systems Integration Services project for the Cabinet for Health and Family Services. The increase will be funded with 100 percent federal funds and will bring the total project amount to \$85,026,400. Senator McDaniel asked if this project tied into the state's efforts to track fraud and waste in the Cabinet for Health and Family Services system. Mr. Hicks said that having a more uniform system would help the Cabinet track data and perform better data review and analytics. Ms. Beth Jurek, Executive Director, Office of Policy and Budget for the Cabinet for Health and Family Services, came forward and explained that yes, this system would allow for data integration and easier identification of sources of fraud as well as allowing more efficient assistance of clients. Senator Carroll made a motion to approve the project, seconded by Representative Coursey. The motion passed by a roll call vote of 7 yeas, 0 nays.

Senator Carroll asked about hiring of qualified personnel to manage systems such as this and if the state budget needed to take into consideration providing increased salaries as incentives for better quality applicants. Mr. Hicks explained that the Personnel Cabinet runs metrics on all state agencies to evaluate attrition as well as mean salaries for specific job categories. Senator Carroll commented that with the changes to the retirement system it seems to be more difficult to attract good candidates to replace

retirees. Mr. Hicks said that he was not aware of any comprehensive studies that reflected that as a trend in the state. A study of correctional officers is underway to evaluate effects on recruitment caused by changes to hiring packages. Senator Carroll suggested that it might be beneficial to have the Personnel Cabinet report to the committee about current hiring practices to compensate for retirement of employees in state agencies.

#### **Kentucky Infrastructure Authority (KIA)**

Before presentation of the projects by Kentucky Infrastructure Authority, Senator Carroll made a motion to consider all the projects in one vote. Senator McDaniel requested to amend the motion to exclude Agenda Items 9.A.3. and 9.A.5. before seconding. The motion was approved by voice vote.

Mr. Adam Scott, Staff Assistant for Kentucky Infrastructure Authority and Ms. Jamie Johnson, Financial Analyst for Kentucky Infrastructure Authority presented twelve items. Agenda Item 9.A.1. was a Fund A loan for the Augusta Regional Sewer Authority in Bracken County. The request was for a \$600,000 Fund A1 loan for the Augusta/Brooksville Regional Wastewater Treatment Plant Planning and Design project. The loan will have a 5 year term, an interest rate of 2.75 percent and an annual estimated debt service payment of \$130,461.

Agenda Item 9.A.2. was a Fund A loan for the City of Brodhead in Rockcastle County. The request was for a \$1,275,000 for the Sewer Rehabilitation project. The loan will have a 30 year term and an interest rate of 0.75 percent based on the District MHI of \$19,591. Estimated annual debt service payments will be \$25,045.

Agenda Item 9.A.4. was a Fund A loan for the City of Hardinsburg in Breckinridge County. The request was for a \$1,279,500 loan for the Hardinsburg Wastewater Treatment Plant Phosphorus Removal and Effluent Monitoring project. The loan will have a 20 year term and an interest rate of 0.75 percent based on the District MHI of \$31,465. Estimated annual debt service payments will be \$71,572.

Agenda Item 9.A.6. was a Fund A loan for the City of West Point in Hardin County. The request was for \$250,000 for the West Point Sewer Rehabilitation Phase III project. The loan will have a 20 year term and an interest rate of 0.75 percent. Estimated annual debt service payments will be \$13,984.

Agenda Item 9.A.7. was a Fund B loan for the U.S. 60 Water District in Shelby County. The request was for \$2,300,000 for the Transmission Main project. The loan will have a 20 year term and an interest rate of 1.75 percent. Estimated annual debt service payments will be \$141,394.

Agenda Item 9.A.8. was a Fund B loan for the City of Jeffersonville in Montgomery County. The request was for \$309,000 for the Radio Read Meter Installation project. The loan will have a 20 year term and an interest rate of 0.75 percent. Estimated annual debt service payments will be \$17,285.

Agenda Item 9.A.9. was a Fund B loan for the City of Pineville in Bell County. The request was for \$323,313 for the Wastewater Treatment Plant Lagoon Failure project. The loan will have a 20 year term and an interest rate of 0.75 percent. Estimated annual debt service payments will be \$18,085.



Agenda Item 9.A.10. was a Fund F loan for the Whitley County Water District in Whitley County. The request was for \$932,500 for the Water System Improvement project. It will replace 36,400 linear feet of deteriorated water lines across areas of Whitley County. The loan will have a 20 year term and an interest rate of 0.75 percent. Estimated annual debt service payments will be \$52,628.

Agenda Item 9.A.11. was a Fund F loan for the City of Crab Orchard in Lincoln County. The request was for \$265,000 for the Radio Read Conversion Project. This project involves the installation of 550 new radio read meters with half of the existing meters receiving a new setter and meter box. The loan will have a 20 year term and an interest rate of 0.75 percent. Estimated annual debt service payments will be \$14,956.

Agenda Item 9.A.12. was a Fund F loan for the City of Nicholasville in Jessamine County. The request was for \$416,120 for the Fund F1 Planning and Design loan for the 24-inch Parallel Transmission Main, Water System Improvements project. The loan will have a 5 year term and an interest rate of 2.75 percent. Estimated annual debt service payments will be \$90,687.

Senator Carroll made a motion to approve these ten items. The motion was seconded by Senator McDaniel. There being no questions, the motion was approved by a roll call vote of 7 yeas, 0 nays.

Agenda Item 9.A.3. was a Fund A loan for the City of Liberty in Casey County. The request was for \$4,156,000 for the Wastewater Treatment Plant Upgrade and Improvements project. The focus of this project is addressing a wet weather flow equalization basin and a duplex submersible wet weather pump station. The loan will have a 30 year term and an interest rate of 0.75 percent. Estimated annual debt service payments will be \$146,945. Senator McDaniel said there were conflicting statements concerning whether or not the rate would increase to cover the increased debt in light of negative cash flow. Ms. Johnson said they are paying off a debt in 2017 and taking on more debt, which is why an ordinance was passed for an increase. Senator Carroll made a motion to approve the loan. The motion was seconded by Representative Coursey and approved by a roll vote of 6 yeas, 1 nay.

Agenda Item 9.A.5. was for a Fund A loan for the City of Owensboro in Daviess County. The request was for a \$397,500 increase to an existing \$3,975,000 Fund A loan. The increase will allow pavement reconstruction in disturbed areas. The loan will have a 20 year term with an interest rate of 1.75 percent and an annual debt service payment of \$268,802. Senator McDaniel expressed concern about the calculation of engineering fees. The original note reported a cost of \$360,000 but the current report listed a cost of \$144,000. He asked for clarification regarding the discrepancy. Mr. Scott asked if anyone was present from Daviess County who could speak to this issue. There being no one, he said he would have to look into it and report back to the committee on it.

Chairman Girdler thanked Senator McDaniel for bringing up a great point on the engineering fees. Senator Carroll made a motion to approve the loan. The motion was seconded by Senator Humphries and

approved by roll vote of 7 yeas, 0 nays.

#### **Office of Financial Management**

Ms. Sandy Williams, Deputy Executive Director, Office of Financial Management reported on four items. The first was a new bond issue for the State Property and Buildings Commission (SPBC) Judicial Branch Agency Fund Revenue Bonds, Project No. 109. This bond issue will provide permanent, tax-exempt, Agency Fund for Phase I of the Administrative Office of the Courts' E-Case and Docket management system. Representative Belcher moved to approve the issue, seconded by Senator Carroll. The motion passed 7 yeas, 0 nays.

The second item was a new bond issue for the Kentucky Economic Development Finance Authority (KEDFA) Hospital Revenue Refunding Bonds, Series 2015A. Proceeds from this bond issue will refund the City of Madisonville's Variable Rate Demand Hospital Revenue Bonds, Series 2010 (The Trover Clinic Foundation, Inc.), which funded the Baptist Health Madisonville Project. Senator Carroll moved to approve the issue. Senator McDaniel seconded the motion, which passed by a roll call vote of 7 yeas, 0 nays.

The third item was a follow-up report for the Turnpike Authority of Kentucky (TAK) Economic Development Road Revenue 2015 Series A and Revenue Refunding Bonds (Revitalization Projects) 2015 Series B. Proceeds from this bond issue provided permanent, tax-exempt, Road Fund supported financing for approximately \$75 million of the projects authorized by the 2010 Extraordinary Session of the General Assembly in House Bill 3; advance refunding of approximately \$134.43 million of the TAK's Economic Development Road Revenue Bonds (Revitalization Projects), 2006 Series A and Series B Bonds for a net present value savings of 9.25percent (\$12.4 million); and paid associated costs of issuance. No action was required on this item.

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

Ms. Kristi Culpepper, Executive Director, School Facilities Construction Commission, reported on one school bond issue with SFCC debt service participation with a total par amount of \$1,050,000. The state annual debt service participation will be \$8,020 and the local contribution will be \$65,896. The bond issue will be used to finance improvements at Washington County High School. The bond issue did not involve tax increases. Senator McDaniel made a motion to approve the school bond. The motion was seconded by Senator Carroll and approved by roll call vote of 7 yeas, 0 nays.

Representative Belcher brought the attention of the committee to the earlier discussion of agency attendance at meetings for non-action items and inquired if a resolution had been reached. Chairman Girdler asked to postpone formally voting on the measure until the next meeting to allow members adequate time to consider their decision. Mr. Nacey directed members' attention to the updated monthly and weekly debt issuance calendar included in their folders.

With there being no further business, the meeting was adjourned.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

### **Minutes**

October 7, 2015

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

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, October 7, 2015, 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 C.B. Embry Jr., Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson and Robin L. Webb; Representatives Mike Denham, Tom McKee, Terry Mills, Ryan Quarles, and Jonathan Shell.

**Guests:** Mr. Roger Thomas, Mr. Joel Neaveill, Mr. Bill McCloskey, Ms. Angela Blank, and Dr. Luther Hughes, Governor's Office of Agricultural Policy; Ms. Kimberly Richardson and Ms. Johnna McHugh, Division of Conservation; and Ms. Sandy Gruzsky, Division of Natural Resources.

**LRC Staff:** Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The September 2, 2015 minutes were approved, without objection, by voice vote, upon a motion by Senator Embry and second by Representative Mills.

#### **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 (GOAP), testified about project funding decisions made by the Agricultural Development Board (ABD) during its September meeting.

GOAP officials summarized funding allocations for the previous month under the County Agricultural Improvement (CAIP), Deceased Farm Animal Disposal Assistance, and On-Farm Energy programs.

Before beginning, Mr. Thomas brought to the attention of members, GOAP's annual report for the 2015 fiscal year.

Mr. Neaveill reviewed the \$1.64 million in CAIP approvals from the September meeting, and the single shared-use approval for Monroe County. Responding to Co-Chair Stone, Mr. Neaveill indicated that some counties trade in their old farm equipment at times for newer implements. The representative pointed out that the shared use program, whereby counties hold pieces of farm equipment and rent to farmers, is an example of another area where the agricultural development funds are beneficial.

The on-farm energy allocations totaling \$180,197 were committed to 21 farm operations. According to Mr. McCloskey, the cost-share program provides an incentive for farmers--many of them dairy and poultry operations--to invest in technology that will save energy over a period of years.

Responding to Senator Gibson, Mr. Thomas described a conversation he had with the State Veterinarian regarding preparedness to deal with the avian flu that has struck poultry flocks throughout

the Midwest. While the senator had mentioned egg producers, Mr. McCloskey indicated there are more broiler producers in Kentucky than egg producers.

GOAP officials reviewed two projects approved for funding during the previous Agricultural Development Board meeting: The Boys and Girls Club of Franklin-Simpson, \$2,650 for a gardening project, and Woodford County High School, \$5,000 for shop equipment and tools the high school's agriculture department. Representative Stone noted the importance of the Franklin-Simpson Boys and Girls Club in creating learning opportunities for young people.

Representative Denham thanked the GOAP representatives for the Kentucky Agricultural Finance Corporation loan that formed part of the financial commitment for a new welding institute in Fleming County.

Responding to Senator Gibson, Mr. Thomas reviewed the status of Master Settlement Agreement funding coming to the state as a result of a settlement between the state and tobacco companies in June 2014. At that time, Kentucky received \$57.2 million more than budgeted for fiscal years 2015 and 2016. During the past legislative session, the General Assembly passed House Bill 510 that amended the previous budget and restored tobacco settlement funding to agencies that were facing shortfalls. According to Mr. Thomas, the legislation appropriated an additional \$5 million to the Kentucky Agricultural Finance Corporation for agriculture-related loans and budgeted \$6 million for the Division of Conservation's soil erosion and water quality cost share program.

Approximately \$7 million of remaining tobacco settlement funds have not been spent and are to be held in reserve as per the budget bill. Mr. Thomas indicated the state is anticipating \$16 million in additional unbudgeted funds by virtue of the 2016 Master Settlement Agreement (MSA) payment. He expressed a hope that the formula for allocating the MSA funds in the state will continue to be observed.

#### **Division of Conservation**

Ms. Kimberly Richardson, Director of the Division of Conservation, reviewed the soil erosion and water quality cost share program which receives tobacco settlement budgetary appropriations.

Ms. Richardson reviewed the history of the program, its purpose, and implementation. She highlighted the funding, pointing out the program received \$11 million in FY 2015-2016. The speaker discussed program implementation in 2015 and 2016, starting with technical review of applications at the conservation district level and culminating with the potential implementation of practices by farmers starting in February 2016.

Ms. Richardson reported on two programs, the Green River Conservation Reserve Enhancement Program, which began in 2001 and consists of 100,000 acres in the Green River area of the state, and the Regional Conservation Partnership Program, a newer program involving several commodity groups, agencies, and universities that will focus on nutrient management for livestock producers. She described three projects that benefit, in part, from the

federal Nonpoint Source Management Program (the 319 program).

Ms. Richardson said that best management practices are routinely evaluated and updated, as is the application process for landowners seeking soil erosion and land stewardship cost share funds.

In answer to Senator Webb, Ms. Richardson described how her agency works with the Natural Resource Conservation Service in dealing with nutrient management issues involving livestock. She discussed the aspect of not punishing farmers but instead working to institute good land stewardship practices. The Agriculture Water Quality Authority has input in the process as well.

According to Ms. Richardson, in response to Representative McKee, some counties have their own cost share erosion and land stewardship programs. Responding to Co-Chair Stone, she explained that, apart from tobacco settlement funds, some conservation districts receive local tax revenues and are then able to undertake local programs.

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

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE Minutes**

October 8, 2015

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

The Program Review and Investigations Committee met on Thursday, October 8, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Martha Jane King, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Martha Jane King, Co-Chair; Senators Perry B. Clark, Christian McDaniel, Dan "Malano" Seum, Stephen West, and Whitney Westerfield; Representatives Leslie Combs, David Meade, Terry Mills, Ruth Ann Palumbo, Rick Rand, and Arnold Simpson.

Guests: Joan Graham, Deputy Executive Director, Office of Procurement Services, and Jennifer Linton, Director, Finance Facilities, Finance and Administration Cabinet; Crystal Staley, Executive Director, Center of Strategic Innovation, and Larry Gillis, Assistant Director, Division of Employee Management, Personnel Cabinet.

LRC Staff: Greg Hager, Committee Staff Administrator; Mike Clark, Chief Staff Economist; Colleen Kennedy; Van Knowles; Jean Ann Myatt; Chris Riley; Meredith Shores; William Spears; Shane Stevens; Joel Thomas; Ashleigh Hayes, Graduate Fellow; and Kate Talley, Committee Assistant.

### **Minutes for September 21, 2015**

Upon motion by Representative Simpson and second by Senator McDaniel, the minutes for the September 21, 2015, meeting were approved by voice vote, without objection.

### **Staff Report: State Procurement: Requests For Proposals, Competitive Exemptions And Leaseback Agreements**

Joel Thomas said that RFPs can result in either

personal service contracts or master agreements. When an agency other than the Finance and Administration Cabinet (FAC) solicits via an RFP, it is for a personal service contract. Under certain circumstances FAC may establish a procurement through an RFP. The document used to communicate the intent to contract is called an EO1. At present the EO1 is being replaced by the strategic procurement request, or SPR1.

If an agency requires professional services that cannot be performed in house or by another state agency, nonprofit, or university, then an RFP is constructed. The RFP contains mostly template information specified by FAC. The initial action to establish an RFP is made by program staff at agencies. Often, this initial action is the scope of work.

Depending on an agency's size, an internal policy analyst may be responsible for compiling the scope of work and the RFP template. The approval process goes through agency budget and legal staff, then to agency heads. The Office of Procurement Services (OPS) reviews the final RFP before it is posted to the Vendor Self Service. Each RFP contains technical and cost proposal sections that are evaluated separately and then combined for a total score. The relative importance of each section is not clear.

Recommendation 1.1 is the RFP template should more clearly emphasize that technical and cost components are both important and will be considered together when awarding a contract.

Agencies do not have a standard evaluation form for proposals. While discretion is a hallmark of the competitive process, documentation and tracking of scores and determinations is critical. eMARS, which is the statewide accounting system, is currently not a reliable source for proposal evaluation information. Furthermore, the 2013 study on personal service contracts revealed that some evaluations were being conducted by a single person and not by committee.

A summary of Recommendation 1.2, which is repeated here from the 2013 personal service contract study, is the Finance and Administration Cabinet should ensure that agencies use evaluation committees; that each evaluator provide written justification for scores; that the scores are recorded in the eMARS evaluation document along with a detailed scoring explanation; and that a determination and findings document also be attached to the eMARS evaluation document.

Expenditures are calculated for the first award made from an RFP, not the entire life of the contract. In each fiscal year analyzed, one award accounted for a large portion of expenditures. The majority of contracts awarded from RFPs were small, with 57 percent costing less than \$20,000. RFPs are linked to their respective awards in the eMARS statewide accounting system. This link is vital in showing the full lifecycle of the procurement, including potential renewals. In some cases an RFP may fail to solicit responsive vendors, forcing the agency to cancel and resolicit another RFP. When this happens, it is possible that the original RFP is left in the system as an orphan; that is, it isn't connected to an award or a procurement folder. This lack of documentation could be problematic when compiling a complete record of a procurement.



Recommendation 1.3 states the Finance and Administration Cabinet's Office of Procurement Services should implement standards to link resolicited RFPs with the original RFPs.

Recommendation 1.4 states the Finance and Administration Cabinet's Office of Procurement Services should implement standards that clearly link contract awards to requests for proposals when a contract is awarded in a different procurement folder.

Staff reviewed a sample of competitive exemptions for goods and nonprofessional services from fiscal year 2013 to May 2015. Over 3,000 competitive exemptions were submitted to OPS during that time. Personal service contracts can also be awarded through the noncompetitive process. From fiscal year 2013 to May 2015, 289 competitive exemption requests for personal service contracts were submitted to OPS.

William Spears sat that for three types of RFPs, Program Review staff analyzed random samples to determine if the RFPs possessed information required by statute. 74 personal service contracts were selected from FY 2013 to March of FY 2015. Staff reviewed both EO1 and RFP text. EO1s typically contained more detailed descriptions and justifications for contracting than RFPs. When reviewing the need for a service, any reason beyond stating "the service was needed" was accepted. The need for the service was not appropriately indicated on 7 of the 74 RFPs. When RFPs did not indicate a need, the justifications were absent or stated the service was needed with no explanation.

As a result, Recommendation 2.1 is the Finance and Administration Cabinet and other contracting agencies should ensure that the need for a contract is stated fully and clearly on RFP documents.

When reviewing contracts' justifications for outside staff, Program Review staff accepted any explanation that went beyond stating extra staff was needed. Justifications for outside staff were insufficient in 28 RFPs. These justifications provided no explanation, stated only that external staff were needed, or stated internal staff could not provide the service.

Recommendation 2.2 is the Finance and Administration Cabinet and other contracting agencies should ensure that the justification for why services cannot be provided in house or by another state agency is stated fully and clearly on RFP documents.

Performance requirements were considered to be any required task or documents that may be used to evaluate progress after a vendor has been selected. Performance requirements in the sample included reports, audits, and financial statements. These requirements were not found in 24 RFPs. These contracts did not indicate how progress would be evaluated.

Every PSC reviewed met 5 requirements: they were issued for at least 7 days; they provided a time and location for responses, they indicated they were competitive procurements for personal services, they provided descriptions of the service, and they provided weights indicating the relative value of evaluation criteria.

Evaluation criteria are a list of characteristics

used to evaluate responses and guide vendors in crafting proposals. Criteria typically include technical and cost proposals. Technical criteria will vary based on the service procured. This variance allows for flexibility in procurements but it causes similar services to be evaluated differently. For example, two legal service contracts in the sample had different technical criteria and scoring weights. Standardizing criteria and weights could make procurement clearer and more consistent for vendors.

The terms describing evaluation criteria varied between the Model Procurement Code, administrative regulations, and FAC policies. The Code and Administrative regulations use "evaluation factors." FAC policy uses "technical provisions," "evaluation criteria," and "technical evaluation criteria" interchangeably. Defining evaluation criteria was problematic due to a lack of uniform terminology.

Recommendation 2.3 is the Finance and Administration Cabinet's Manual of Policies and Procedures should conform with statutory and other administrative regulation language terms describing competitive and non-competitive negotiations.

The sampled RFPs resulted in 127 contracts. Approximately 70 percent were awarded within 60 days, with 20 percent being awarded within 30 days. Program Review staff intended to update the data to cover all RFPs for PSCs but updates to eMARS prevented the system from being available before the presentation.

When a vendor is selected, they receive a notification indicating they have won the award. Unsuccessful vendors must check the procurement website for updates. These vendors have 2 weeks to protest any award. The time limit starts on the day the award is posted to the website. Vendors must regularly check the website to determine when a contract is awarded. If the website is not regularly checked, vendors may become aware of the award after part or all of the 2 week protest period has passed.

Recommendation 2.4 is the Finance and Administration Cabinet should implement a method to directly inform all applicants when a vendor has been awarded a contract.

Program Review staff randomly sampled 15 master agreements from FY 2013 to March 2015. The criteria from the PSC review was also used on the master agreement sample. No agreements indicated why external staff were needed. 4 agreements didn't provide a need for procurement. Master Agreements don't use the EO1 document, so the contract text had to indicate a need for services and external staff. A third of the masters agreements did not provide performance requirements. The sampled master agreements were generally compliant in all other areas reviewed.

Program Review staff reviewed 15 contracts overseen by the Division of Engineering and Contract Administration (DECA). The need for external staff appeared in 2 RFPs and performance requirements did not appear in the sample. The entire sample of DECA RFPs was compliant in all other categories.

Mr. Thomas said noncompetitive negotiation is the term covering contracts established without the competitive process. Competitive exemption

also describes this process. Agencies seeking a competitive exemption must provide a proper cited authority to justify why the procurement cannot be solicited competitively. OPS reviews competitive exemptions and either approves or rejects the request. The laws governing each cited authority are spelled out in statute and regulation. The three cited authorities for competitive exemption are competitive bidding exceptions specified by law or regulation; competitive bidding exceptions of standing determination of not practicable or feasible; and competitive bidding exceptions that are sole source. A review of procurement files showed that, while cited authorities were provided on all requests, supporting documentation was lacking.

Staff reviewed samples of EO1 documents and associated awards and found that 60 percent did not include adequate justification for needing the procurement. Implied reasoning may account for the lack of detailed justifications on some of the requests. That is, an agency may consider the reason for why a competitive exemption is necessary to be implicit in the cited authority.

Recommendation 3.1 states the Finance and Administration Cabinet and other contracting agencies should ensure that competitive exemption requests for nonprofessional services or goods clearly and fully state why the contract is needed, why the services cannot be performed in house or by another state agency, and why competitive exemption is necessary.

A review of expenditures for nonprofessional services and goods procured through a competitive exemption shows that, in each year, one or two contracts accounted for the majority of expenses. Most contracts within the sample had small expenditures with 62 percent falling under \$1,000. A review of a sample of EO1s for personal service contract competitive exemptions revealed that nearly 36% had some kind of deficiency. Staff identified specific deficiencies as not justifying the use of a specific vendor, why competitive exemption was required, and not adequately indicating why the service was needed.

Recommendation 3.2 states the Finance and Administration Cabinet and other contracting agencies should ensure that competitive exemption requests for professional services clearly and fully state why the contract is needed, why the services cannot be performed in house or by another state agency, and why competitive exemption is required.

Single personal service contracts accounted for the majority of expenses in fiscal years 2013 and 2015. Most contract expenditures were concentrated under \$40,000.

Leasebacks are transactions in which assets are sold to a third party and leased immediately to the original party. For example, the state could sell a building and then rent the building for 15 to 20 years from the new owner. Any asset can be sold in a leaseback but facilities seemed to be the most common assets used. The primary benefit of a leaseback is a single infusion of funds that can be used for any state need. Some research indicates that assets may sell for a higher price if a lease is part of the agreement. However, lease payments will be

a long term mandatory expense like debt payments. If the state needs to own the facility in the future, the price of the facility may be greater than what it was sold for.

While the federal government and other states have used leasebacks, they are not used in Kentucky. DECA uses a similar practice called built-to-suit leases. In this contract, a vendor is selected for a construction project. If the project is on state land, ownership is transferred to the vendor, the vendor constructs a project on the land, leases the project back to the state, and transfers ownership of the land and the project back to the state at the end of the lease. If ownership of land is transferred, the contract must allow the state to extend the lease for 2 year terms. The lease ends when payments would amortize the cost of the project. The state must also be allowed to purchase the project at an earlier date by paying the difference between the cost of the project and the current total lease payments.

In recent years, four built-to-suit leases were used by the Department of Military Affairs. Vendors were required to finance, design, and construct the facilities. Lease payments were predetermined based on the square footage of the new facility. Vendors competed on the number of monthly payments needed before ownership transferred to the state.

Mr. Spears said built-to-suit leases and leasebacks will both result in long term mandatory costs, with monthly payments to continue using a facility. Compared to leasebacks, built-to-suit leases tend to introduce less risk. Built-to-suit establishes rates and time lengths while guaranteeing that the project will be owned by the state. Unless a leaseback establishes long-term rates, future payments on leasebacks are less certain. The new owner may also decide not to sell the asset. However, built-to-suit leases are less flexible because they are intended to fund capital projects. The initial funds from a leaseback agreement can be used to fund anything. Leaseback agreements can also be ended early if needed, ending monthly payments. If a built-to-suit lease is ended early, the state must pay the remaining costs or risk losing the original land.

In response to a question from Representative King, Mr. Thomas said the RFP template is standardized though agencies can plug in additional pieces. The biggest issues with the eMARS system is with the evaluation process. Evaluations are being done, but not easily accessible in eMARS. Proficiency with eMARS is highly variable.

In response to questions from Senator McDaniel, Mr. Spears said the amortization period of the Built to Suit leases is variable. DECA would have more information regarding if the state is responsible for the full cost after the lease agreement and if it includes overhead. The entity using the facility during the terms of the lease is responsible for upkeep of the facility.

In response to a question from Representative Simpson, Mr. Spears said that many of the contracts in built-to-suit leases are standardized.

Joan Graham appeared before the committee to respond to the recommendations made in the staff report. FAC agreed with all of the recommendations. In regards to Recommendation 1.1, OPS will

continue to monitor that both technical and cost components are considered when awarding contracts. For Recommendation 1.2, they will strive to collect 3 to 5 scores from evaluation committees on future proposals. As part of the next generation of Smart Government, they are implementing the "Kentucky Procurement Manual." They are also currently developing a training program based primarily on the contents of the manual which they hope to implement starting next year.

Both recommendations 1.3 and 1.4 are capable of being done in eMARS but need revisiting in training. There are tools and templates to available to address Recommendation 2.1. Recommendation 2.2 will need to be reviewed further. In regards to Recommendation 2.3, FAC has reviewed policy and procedures and will ensure terminology is consistent with statute.

Recommendation 2.4 would need to be a manual process. There is currently not a process available through eMARS. FAC will continue to emphasize Recommendation 3.1 to agencies. This recommendation will also be reviewed within the manual. Recommendation 3.2 will also be emphasized by FAC.

In response to questions from Representative King, Ms. Graham said FAC currently does not send out notification to vendors. Vendors are notified of a date that decisions will be made and they must check the agency website.

In response to a question from Representative Simpson, Jennifer Linton said the new state building be constructed on Sower Boulevard in Frankfort is a 35 year built to suit lease. It will almost certainly become state-owned at the end of the lease.

In response to a question from Representative Simpson, Ms. Linton said that she would need to review the contract to see who is responsible for improvements if the facility is in dire need of maintenance at the end of the lease agreement.

Upon motion by Representative Simpson and second by Senator McDaniel, the *State Procurement: Requests For Proposals, Competitive Exemptions And Leaseback Agreements* report was adopted by a roll call vote.

**Staff Report: Comparisons Of Salaries Paid To State Executive Branch Supervisory And Nonsupervisory Employees And To School Administrators And Teachers**

Ms. Shores said the Classification and Compensation plan for executive branch employees covers merit and non-merit positions. The classification plan groups similar positions into the same job classification. Each job classification is then assigned to 1 of 18 pay grades. Pay increases approximately 10 percent for each grade. Each pay grade has a defined minimum and midpoint. New employees are generally paid the minimum of a grade. Once an employee is hired, ways that salaries may be adjusted include annual increments, promotion, demotion, and reclassification of a position.

Benefits vary based on full- or part-time employment and not on whether an employee is in a managerial position. Part time positions require the

employee work no more than 100 hours per month. All full time employees receive health insurance, life insurance, sick and annual leave, and retirement benefits. Some benefits are partially contingent on length of service and salary.

The Personnel Cabinet provided data on more than 33,000 executive branch employees as of December 2014. Some employees had to be excluded from the analysis, including those for whom there was insufficient information to make an accurate comparison between their wages and the wages of their immediate supervisor. Once exclusions were made, 30,549 individuals remained.

LRC staff calculated ratios of the pay of supervisors and those they directly supervised. Employees were separated into two groups for the analysis based on whether they received an hourly wage or monthly salary. Ms. Shores worked through an example of how ratios were calculated before presenting the results.

For salaried employees, supervisors earned 1.48 times more than their employees, which means the supervisors earned 48 percent more. Among cabinets, the highest ratio was for Economic Development (2.09), but the cabinet had only 67 employees. The lowest ratio was for Energy and Environment (1.36). For 9 of 12 cabinets, the ratios ranged from 1.44 to 1.59. Box and whiskers plots were used to summarize the distribution of ratios within each cabinet. The highest ratios appear to be for employees in clerical positions who report to high level officials.

About one-third of employees who receive an hourly wage are supervised by salaried employees. LRC staff converted the salaries of supervisors of hourly employees into an hourly wage so that comparisons could be made. Three cabinets were excluded from the analysis because they contained 2 or fewer hourly workers. For the nine remaining cabinets, the supervisors earned 71 percent more than their hourly employees, on average. Supervisors earned approximately twice as much as their hourly employees in the Energy and Environment, General Government, Justice and Public Safety, and Public Protection Cabinets. Smaller gap in pay between different managerial levels versus supervisors and non-supervisors.

Mr. Clark said that the Department of Education provided details on salaries paid to each school district's certified employees for the 2013-2014 school year. Average total salary was \$119,854 for superintendents, \$85,801 for principals, \$76,590 for vice principals, and \$50,882 for teachers. One component of salaries for principals, vice principals, and teachers is base pay. Each district board of education adopts a salary schedule, which specifies the base pay for certified employees in the district. Base pay is based on experience and education, not position. Therefore, a principal and teacher with the same experience and education working in a district receive the same base pay. Across the state, average base pay is more than \$58,000 for principals and vice principals and nearly \$50,000 for teachers. Differences in base pay are due to principals and vice principals having more experience and education than teachers. Base pay compensates employees for working the 185 days. However, some employees are



paid to work additional days. This pay is referred to as extended days pay. Principals who received extended days pay earned \$15,000 on average, vice principals earned \$10,000, and teachers earned \$2,000. Almost all principals and vice principals were coded in the data as working extended days. Principals worked 49 additional days on average; vice principals worked 32. Less than 17 percent of teachers were paid for extended days—7 days on average.

Extra Duty Pay is pay for the additional responsibilities associated with the positions of principal and vice principal. Principals who received extra duty pay for their positions earned \$12,500 on average; vice principals earned more than \$8,000.

School districts may pay employees for taking on additional duties within the school. Principals who received pay for other extra duties earned over \$5,000, vice principals earned \$4,000, and teachers earned about \$2,800. Only 13 percent of principals, 19 percent of vice principals, and 23 percent of teachers received this type of pay.

Of the \$34,920 difference in the average salaries of principals and teachers, nearly 24 percent of the difference is due to principals having higher base pays, more than 42 percent is due to their higher pay for extended days, and extra pay principals received for their positions accounts for 34 percent of the difference. Of the \$25,708 difference in the average salaries of vice principals and teachers, 33 percent is from the difference in base pay, 37 percent is from the difference in pay for extended days, and 30 percent is from the extra pay vice principals receive for the position. Pay for other extra duties such as coaching accounted for less than 1 percent of the total differences between principals and teachers and vice principals and teachers.

In response to a question from Representative Palumbo, Ms. Shores will research and provide the number of how many executive branch part-time workers, work fewer than 100 hours.

In response to a question from Senator Seum, Crystal Staley said that there is a single salary schedule that is variable by school district. As far as she knows, there is nothing in statute concerning a differentiation in pay based upon what one teaches or if they are employed by a troubled school.

Upon motion by Representative Palumbo and second by Representative Mills, the *Comparison Of Salaries Paid To State Executive Branch Supervisory And Nonsupervisory Employees And To School Administrators And Teachers* report was adopted by roll call vote.

The meeting was adjourned at 11:16 AM.

## GOVERNMENT CONTRACT REVIEW COMMITTEE

### Committee Minutes

October 13, 2015

#### Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, October 13, 2015, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julie Raque Adams, Julian M. Carroll; Representatives Jim Gooch Jr., Brad Montell, and Brent Yonts.

Guests: Walt Gaffield, Charlie Harman, Sammie Lambert, and Stacy Woodrum.

LRC Staff: Kim Eisner, Daniel Carter, and Jarrod Schmidt

A motion was made by Senator Carroll to approve Minutes of the September 2015, meeting of the committee. Representative Yonts seconded the motion, which passed without objection.

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

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

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

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

#### SEPTEMBER 2015 DEFERRED ITEM:

##### MURRAY STATE UNIVERSITY:

Helen Grant Consulting, LLC, 105-16. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

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

##### AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

Teddy Michael Prater, CPA, PLLC, 1600000568; Dean Dorton Allen Ford, PLLC, 1600000569.

##### DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

George Freeman Gilbert, 1600000566.

##### EASTERN KENTUCKY UNIVERSITY:

Alden & Associates, Inc., 16-154.

##### EDUCATION, DEPARTMENT OF:

Megan Samples, 1600000496.

##### LIBRARIES & ARCHIVES, DEPARTMENT

##### FOR:

Saroj Ghoting, 1600000294.

##### MOREHEAD STATE UNIVERSITY:

Harris Search Associates, 16-044.

##### NORTHERN KENTUCKY UNIVERSITY:

Merchant Preservation Services, 2016-701; Securance, LLC, 2016-705; Huron Consulting

Group, LLC, 710-2016.

##### OFFICE OF HOMELAND SECURITY:

Goldberg Simpson, LLC, 1600000215.

##### PHARMACY, BOARD OF:

Brian Fingerson, 1600000472.

##### TRANSPORTATION CABINET:

URS Corporation, 1600000572; RHA, LLC, 1600000574; Burgess and Niple, Inc., 1600000575; DLZ Kentucky, Inc., 1600000576; Stantec Consulting Services, Inc., 1600000577; CDP Engineers, Inc., 1600000584; Garver, LLC, 1600000593; HDR Engineering, Inc., 1600000594; Hanson Professional Services, Inc., 1600000599; Palmer Engineering, 1600000637; URS Corporation, 1600000641; Strand Associates, Inc., 1600000642.

##### UNIVERSITY OF KENTUCKY:

Stengel-Hill Architecture, A161090; Champlin Architecture, A161100; Marshall Medical Management, K16-149; Jorge Enrigue Rueda-Sarmiento, K16-150; AON Risk Services Central, Inc., K16-151; Early Morning Software, Inc., K16-152; Worley Parsons Group, Inc., K16-153; Koch Modular Process Systems, K16-154.

##### UNIVERSITY OF LOUISVILLE:

McCarthy Strategic Solutions, LLC, 16-019.

##### WESTERN KENTUCKY UNIVERSITY:

Sodexo Education Services, Inc., 151613; Row27 Studios, 151619

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

##### CORRECTIONS, DEPARTMENT OF:

Secon, Inc., 1400002380; Correct Care Solutions, LLC, 1400002555.

##### EASTERN KENTUCKY UNIVERSITY:

Hanna Resource Group, 16-092.

##### EDUCATION, DEPARTMENT OF:

Lee Puckett, 1400002410; Robert L. Falk, 1400002415.

##### FINANCE AND ADMINISTRATION

##### CABINET - DIVISION OF ENGINEERING:

Wells Engineering, PSC, 1200001198; Biagi Chance Cummins London Titzer, Inc., 1300001446; Paladin, Inc., 1400001412; CMTA, Inc., 1500000925; Ross Tarrant Architects, Inc., 1500001017; H. A. Spalding, Inc., 1500002882.

##### MARRIAGE AND FAMILY THERAPISTS,

##### BOARD OF LICENSURE FOR:

John Nicholas Kravic, 1400003827.

##### NORTHERN KENTUCKY UNIVERSITY:

Multi, 2016-666-1.

##### TRANSPORTATION CABINET:

HMB Professional Engineers, Inc., 1000003205; HMB Professional Engineers, Inc., 1300000186; HMB Professional Engineers, Inc., 1300000190; HMB Professional Engineers, Inc., 1300000199; HMB Professional Engineers, Inc., 1300000207; HMB Professional Engineers, Inc., 1300002496; Palmer Engineering, 1400000073; Stantec Consulting Services, Inc., 1500000902; Palmer Engineering, C-00049871-7; Palmer Engineering County, C-01080271-3.

##### UNIVERSITY OF KENTUCKY:

Sasaki Associates, Inc., A131070; GBBN, A151070.

##### VETERANS AFFAIRS, DEPARTMENT OF:

Hargis & Associates, LLC, 1400001278; Baptist Health Madisonville, Inc., 1400002023.

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

**DEPARTMENT FOR AGING & INDEPENDENT LIVING:**

Multi, 1600000226; Multi, 1600000228.

**DEPARTMENT FOR COMMUNITY BASED SERVICES:**

Jobs for the Future, 1500002000.

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION:**

Trigg County, 1600000194; UK Research Foundation, 1600000459.

**DEPARTMENT OF WORKPLACE STANDARDS:**

Kentucky Department for Libraries and Archives, 1600000596.

**EARLY CHILDHOOD ADVISORY COUNCIL:**

Ohio Valley Education Cooperative, 1600000373; Kenton County Public Library, 1600000376.

**EDUCATION, DEPARTMENT OF:**

University of Louisville Research Foundation, 1500002861; Eastern Kentucky University, 1600000188; Southern Regional Education Board, 1600000307; University of Kentucky Research Foundation, 1600000332; University of Kentucky Research Foundation, 1600000356; University of Kentucky Research Foundation, 1600000482; Muhlenberg County Board of Education, 1600000484.

**OFFICE OF INSPECTOR GENERAL:**

Office of Employment and Training, 1500002447.

**OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:**

City of Elkhorn City, 1600000498; Hopkins County Fiscal Court, 1600000585; Knott County Fiscal Court, 1600000586; Knott County Fiscal Court, 1600000601; City of Campbellsville, 1600000614; Christian County Fiscal Court, 1600000625; Henderson County Fiscal Court, 1600000628.

**POST SECONDARY EDUCATION, COUNCIL ON:**

ACT, 1600000392.

**TRANSPORTATION CABINET:**

Kentucky Heritage Council, 1600000562.

**UNIVERSITY OF KENTUCKY:**

Jessamine County Board of Education, MOA-003-16.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE COURTS:**

Morehead State University, 1300001425; Mountain Comp Care Center, 1400000822; Morehead State University, 1400000892; Kentucky River Community Care, Inc., 1400000975; Morehead State University, 1400001527.

**AGRICULTURE, DEPARTMENT OF:**

Multi, 1500001216; Multi, 1500001218.

**DEPARTMENT FOR AGING &**

**INDEPENDENT LIVING:**

Multi, 1400001074; United Way of the Bluegrass, 1500002272.

**DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:**

NAMI Kentucky, 1400001275.

**DEPARTMENT FOR COMMUNITY BASED SERVICES:**

Kentucky Housing Corporation, 1400001494.

**DEPARTMENT FOR MEDICAID SERVICES:**

University of Kentucky Research Foundation, 1400001179.

**DEPARTMENT FOR PUBLIC HEALTH:**

Bluegrass.org, 1400001594; Comprehend, Inc., 1400001595.

**EARLY CHILDHOOD ADVISORY COUNCIL:**

Hancock County Board of Education, 1600000061.

**EDUCATION, DEPARTMENT OF:**

University of Kentucky Research Foundation, 1500000409; Todd County Board of Education, 1500002251; Henderson County Board of Education, 1500002299; Kentucky Educational Development Corporation, 1500002495.

**JUVENILE JUSTICE, DEPARTMENT OF:**

University of Kentucky Medical Center, 1400002370; Knox County Board of Education, 1400002870.

**LIBRARIES & ARCHIVES, DEPARTMENT FOR:**

University of Kentucky, 1600000298.

**OFFICE OF THE GOVERNOR,**

**DEPARTMENT FOR LOCAL GOVERNMENT:**

Hopkins County Fiscal Court, 1500000613; City of Dawson Springs, 1500000996; Clay County Fiscal Court, 1500001582; Floyd County Fiscal Court, 1600000260.

**TRANSPORTATION CABINET:**

Kentucky Waterways Alliance, 1400001685.

**WORKFORCE INVESTMENT, OFFICE OF:**

Spalding University Entech, 1400002514; Barren River Area Development District, 1400002814; Bluegrass Area Development District, 1400002818.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

**PERSONNEL-OFFICE OF THE SECRETARY:**

Cannon Cochran Management Services, Inc., 1600000604. Walt Gaffield discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

**UNIVERSITY OF KENTUCKY:**

Deloitte Consulting, K15-174. A motion was made by Representative Montell to defer the contract to the November meeting of the committee. Representative Yonts seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF**

**AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:**

**EDUCATION, DEPARTMENT OF:**

University of Louisville Research Foundation, 1600000488. Charlie Harman and Sammie Lambert discussed the contracts with the committee. A motion was made by Representative Yonts to consider the contracts as reviewed. Representative Montell seconded the motion, which passed.

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

**DEPARTMENT FOR AGING & INDEPENDENT LIVING:**

Multi, 1400002654. Stacy Woodrum discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed.

**EXEMPTION REQUESTS:**

**KENTUCKY DEPARTMENT OF AGRICULTURE:**

The Kentucky Department of Agriculture requested an exemption from two year contracting restrictions for five grant recipients for the purpose of researching and promoting specialty crop farming techniques in Kentucky. A motion was made by Representative Yonts to grant the requests to September 30, 2018. Representative Montell seconded the motion, which passed without objection.

**CABINET FOR HEALTH AND FAMILY SERVICES**

The Cabinet for Health and Family Services requested an exemption for Department of Aging and Independent Living to extend contracts beyond the current biennium to provide Medicare benefits to eligible individuals through Medicare and Medicaid programs. A motion was made by Representative Yonts to grant the request to September 30, 2016. Representative Montell seconded the motion, which passed without objection.

**CABINET FOR HEALTH AND FAMILY SERVICES**

The Cabinet for Health and Family Services requested an exemption for Department of Aging and Independent Living to extend contracts beyond the current biennium to provide older individuals one nutritionally balance meal per day either through a dining setting or through the provision of a home delivered meal for the Nutrition Services Incentive program. A motion was made by Representative Yonts to grant the request to September 30, 2016. Representative Montell seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 10:38 a.m.



# 2016 Prefiled Bills

## **BR 1 - Representative Jody Richards (09/04/15)**

AN ACT relating to powdered or crystalline alcoholic beverage products.

Create a new section of KRS Chapter 244 to prohibit powdered or crystalline alcoholic beverage products; amend KRS 241.010 to include powdered or crystalline alcohol in the definition of an alcoholic beverage.

(Prefiled by the sponsor(s).)

## **BR 5 - Senator John Schickel (06/25/15)**

A RESOLUTION adjourning the Senate in honor of Nell Fookes upon the occasion of her retirement as the head coach of the Boone County High School girls' basketball team.

Honor Nell Fookes upon the occasion of her retirement as the head coach of the Boone County High School girls' basketball team.

(Prefiled by the sponsor(s).)

**BR 7 - Representative Brad Montell, Representative Kevin D. Bratcher, Representative John Carney, Representative Jim DeCesare, Representative Myron Dossett, Representative Joseph M. Fischer, Representative David Hale, Representative Mike Harmon, Representative Jeff Hoover, Representative Kenny Imes, Representative Thomas Kerr, Representative Adam Koenig, Representative Stan Lee, Representative David Meade, Representative Michael Meredith, Representative Suzanne Miles, Representative David Osborne, Representative Ryan Quarles, Representative Bart Rowland, Representative Sal Santoro, Representative Jonathan Shell, Representative Tommy Turner, Representative Ken Upchurch (08/28/15)**

AN ACT relating to the Health Insurance Trust Fund and making an appropriation therefor.

Amend KRS 18A.2254 to specify how surplus funds from a prior plan year of the Public Employee Health Insurance Program shall be allocated.

(Prefiled by the sponsor(s).)

## **BR 8 - Representative Chris Harris (10/07/15)**

AN ACT relating to the registration of trailers.

Amend KRS 186.655, regarding the licensing of trailers, to shift the annual registration renewal date from April 1 to April 30.

(Prefiled by the sponsor(s).)

## **BR 11 - Representative Joni L. Jenkins (09/03/15)**

AN ACT relating to tenancies in real property.

Create a new section of KRS Chapter 383 to provide that, after the effective date of this Act, residential tenants who hold a domestic violence order, a pretrial release no contact order, or an interpersonal protective order may terminate a lease with at least 30 days notice to landlords, while the lease continues for co-tenants; establish civil action for a landlord's economic losses due to termination against persons restrained by protective orders; for those tenants or applicants for tenancy who hold an emergency protective order, a domestic violence order, a pretrial release no contact order, an interpersonal protective order, or a temporary interpersonal protective order, those orders cannot serve as a basis for denying a lease and new locks may be requested at the tenant's expense; create a new section of KRS Chapter 383 to provide that, after the effective date of this Act, rental agreements shall not penalize tenants for requesting assistance from emergency services.

(Prefiled by the sponsor(s).)

## **BR 15 - Representative Diane St. Onge (05/07/15)**

AN ACT relating to service animals.

Amend KRS 525.200 to remove from the elements of the offense of assault on a service animal the requirement that service animal be unable to return to work; amend KRS 525.210 and 525.215 to conform; repeal KRS 525.205.

(Prefiled by the sponsor(s).)

## **BR 16 - Senator John Schickel (06/25/15)**

A RESOLUTION adjourning the Senate in honor and loving memory of Audrey Henke Metzger.

Adjourn the Senate in honor and loving memory of Audrey Henke Metzger.

(Prefiled by the sponsor(s).)

## **BR 17 - Representative Darryl T. Owens (05/19/15)**

AN ACT relating to criminal records.

Amend KRS 431.076 to expand the scope of an expungement motion under that statute to include felonies referred to a grand jury where no indictment ensues; amend KRS 431.078 to expand that statute's expungement process to include Class D felonies; amend KRS 527.040 to expressly provide that an expunged felony does not trigger the application of that statute; create a new section of KRS Chapter 413 to prohibit the introduction of information pertaining to an expunged conviction as evidence in a civil suit or administrative proceeding alleging negligent hiring or licensing.

(Prefiled by the sponsor(s).)

## **BR 18 - Representative Darryl T. Owens (05/19/15)**

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 20 - Senator Reginald Thomas (06/02/15)**

AN ACT relating to oaths.

Amend KRS 6.072 to require witnesses appearing before a committee, subcommittee, or task force of the General Assembly to take an oath prior to giving testimony.

(Prefiled by the sponsor(s).)

## **BR 21 - Senator Reginald Thomas (07/13/15)**

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; repeal KRS 503.120.

(Prefiled by the sponsor(s).)

## **BR 26 - Senator Reginald Thomas (10/09/15)**

AN ACT relating to arrest-related deaths.

Amend KRS 72.025 to add deaths which occur during arrest to cases which are investigated by coroner; create a new section of Chapter 72 to require coroners to notify Medical Examiners Office of arrest-related deaths and require an annual public report.

(Prefiled by the sponsor(s).)

## **BR 31 - Representative Derrick Graham (07/07/15)**

AN ACT relating to governance of postsecondary education institutions.

Amend KRS 164.011 to require new appointees to the council to complete orientation and education program to be eligible for a second term;

amend KRS 164.020 to direct the Council on Post-secondary Education (CPE) to develop an orientation and education program for new governing board members of the council, public universities, and Kentucky Community and Technical College System (KCTCS); require that the program include six hours of instruction time with specific information and be delivered within one year of a new member's appointment; require an annual report listing new board members not completing the program; invite board members of private colleges and universities to participate; authorize the CPE to develop continuing education programs for all governing board members of public institutions and to review and approve orientation programs for governing boards of each public university and KCTCS; amend KRS 164.131 to require appointed and elected governing board members of the University of Kentucky to complete an orientation and education program to be eligible for a second term; amend KRS 164.321 to require appointed and elected governing board members of the comprehensive public universities and KCTCS to complete an orientation and education program to be eligible for a second term; amend KRS 164.821 to require appointed and elected governing board members of the University of Louisville to complete an orientation and education program to be eligible for a second term.

(Prefiled by the sponsor(s).)

**BR 37 - Representative Terry Mills (06/02/15)**

AN ACT relating to problem, compulsive, or pathological gambling and making an appropriation therefor.

Amend KRS 222.005 to define "pathological gambling" and "problem gambling"; create new sections of KRS Chapter 222 to establish the Problem and Pathological Gamblers Awareness and Treatment Program; direct the use of funds and limit annual administrative costs to \$200,000; establish the Gamblers Awareness and Treatment Program Advisory Council; establish the council's membership and responsibilities; require the Cabinet for Health and Family Services to promulgate administrative regulations in collaboration with the council; establish a funding and application process, certify disbursement of funds, and require reports annually; assign responsibilities to the director of the Division of Behavioral Health; amend KRS 222.001 and 222.003 to conform; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR 38 - Representative Terry Mills (08/05/15)**

AN ACT relating to sales and use tax.

Amend KRS 139.480 to exempt bees used in a commercial enterprise for the production of honey or wax for sale and certain items used in that pursuit; EFFECTIVE August 1, 2016.

(Prefiled by the sponsor(s).)

**BR 40 - Senator John Schickel (06/25/15)**

A RESOLUTION honoring Wilbur M. Zevely upon his recognition by the Northern Kentucky

Bar Foundation with its Lifetime Achievement Award.

Honor Wilbur M. Zevely upon his recognition by the Northern Kentucky Bar Foundation with its Lifetime Achievement Award.

(Prefiled by the sponsor(s).)

**BR 42 - Senator Max Wise (07/14/15)**

AN ACT relating to alternative certification programs.

Amend KRS 161.048 to allow a veteran with a bachelor's degree in any area to be issued a provisional teaching certificate if other criteria are met.

(Prefiled by the sponsor(s).)

**BR 45 - Representative Rick G. Nelson (09/10/15)**

AN ACT relating to welding safety.

Create new sections of KRS Chapter 198B to establish requirements for projects requiring structural steel welding such as certification of welders and certified inspectors; provide definitions.

(Prefiled by the sponsor(s).)

**BR 54 - Senator Dennis Parrett (06/10/15)**

AN ACT relating to driving under the influence and declaring an emergency.

Amend various sections in KRS Chapter 189A, relating to driving under the influence, to expand the look-back window for prior offenses from five years to 10 years; amend KRS 189A.330 to expand the window for quarterly reporting of pending DUI cases; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 58 - Representative Arnold Simpson (07/15/15)**

AN ACT relating to county clerks.

Repeal 1860 Kentucky Acts Chapter 351, approved February 18, 1860, entitled "AN ACT to establish an office for the recording of deeds and mortgages at Covington." which required individuals recording deeds and mortgages relating to properties in certain areas of the county to file those in Covington rather than Independence.

(Prefiled by the sponsor(s).)

**BR 61 - Senator Joe Bowen (10/16/15)**

AN ACT relating to motor vehicle registration fees.

Create a new section of KRS Chapter 186 to establish an additional initial and renewal registration fee of \$100 for plug-in electric vehicles; amend KRS 186.010 to define "plug-in electric vehicle"; EFFECTIVE 1/1/2017.

(Prefiled by the sponsor(s).)

**BR 63 - Representative Denver Butler (10/13/15)**

AN ACT relating to reemployment of retired police officers.

Create a new section of KRS Chapter 95 to define "police officer" and "city"; permit cities to employ retired police officers if the officer: participated in the Law Enforcement Foundation Program or retired as a commissioned State Police officer, retired with at least 20 years of service credit with no administrative charges pending, and met the separation of employment requirements so that retirement benefits from Kentucky Retirement Systems were not voided; specify that retired police officers employed by a city shall continue to receive the benefits they were eligible to receive upon retirement but shall not accrue any additional retirement or health benefits during reemployment; preclude retirement and any health contributions from being paid by the city to Kentucky Retirement Systems or the Kentucky Employees Health Plan on a retired officer who is reemployed under the provisions of this section; permit individuals employed under this section to be employed for a term not to exceed one year which may be renewed at the discretion and need of the city; amend KRS 61.637 to conform.

(Prefiled by the sponsor(s).)

**BR 65 - Senator Danny Carroll (09/11/15)**

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 reasonable, 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).)

**BR 67 - Representative Kelly Flood (06/11/15)**

AN ACT relating to driving under the influence and declaring an emergency.

Amend various sections in KRS Chapter 189A, relating to driving under the influence, to expand the look-back window for prior offenses from five years to 10 years; amend KRS 189A.330 to expand the window for quarterly reporting of pending DUI cases; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 72 - Representative Brad Montell (08/11/15)**

AN ACT relating to licensing fees and making an appropriation therefor.

Amend KRS 198B.6674, 227.050, and 318.136 to determine excess funds within the Division of Heating, Ventilation, and Air Conditioning, the Division of Plumbing, and the Electrical Division of the Department of Housing, Buildings and Construction; direct excess funds to be used to credit licensing fees; limit any transfer of funds to only excess funds in the account.

(Prefiled by the sponsor(s).)

**BR 75 - Representative Jim DuPlessis (07/29/15)**

AN ACT relating to patient notification of



mammogram results showing dense tissue. Amend KRS 304.17-316 to require the provider of mammography services to provide information to a patient on breast density when appropriate; permit the Department for Public Health to provide update the definition of "dense breast tissue" if appropriate. (Prefiled by the sponsor(s).)

**BR 77 - Representative Jeffery Donohue (08/31/15)**

AN ACT relating to ziplines. Amend KRS 247.232 to define "zipline"; create a new section of KRS Chapter 247 to direct the Department of Agriculture to promulgate administrative regulations related to ziplines; require the department to establish administrative penalties and civil penalties. (Prefiled by the sponsor(s).)

**BR 91 - Representative Dean Schamore (09/29/15)**

AN ACT relating to emergency medical services. Amend KRS 61.315 and 164.2841 to make the survivors of emergency medical services providers and rescue squad members who are killed in the line of duty eligible for the state lump-sum death benefit and exemption of matriculation or tuition fees; amend KRS 164.2842 to include the spouse or child of a permanently and totally disabled emergency medical services provider in the exemption of matriculation or tuition fees. (Prefiled by the sponsor(s).)

**BR 101 - Representative Stan Lee, Representative David Meade, Representative Lynn Bechler, Representative Richard Heath, Representative Tim Moore (07/16/15)**

AN ACT relating to marriage. Amend KRS 344.130, 402.050, and 446.350 to exempt persons, officials, and institutions with religious objections to same-sex marriage from any requirement to solemnize, or to issue or record licenses for, such marriages. (Prefiled by the sponsor(s).)

**BR 102 - Representative Addia Wuchner, Representative Joseph M. Fischer, Representative David Floyd, Representative David Hale, Representative Richard Heath, Representative Kenny Imes, Representative Kim King, Representative Stan Lee, Representative Brian Linder, Representative Brad Montell, Representative Marie Rader, Representative Sal Santoro (07/02/15)**

AN ACT relating to the exercise of religious freedom in the solemnization of marriage. Amend KRS 344.130, 402.050, and 446.350 to exempt persons, officials, and institutions with religious objections to same-sex marriage from any requirement to solemnize such marriages. (Prefiled by the sponsor(s).)

**BR 113 - Representative Joni L. Jenkins (07/23/15)**

AN ACT relating to civil rights. Amend KRS 344.030 to include within the definition of reasonable accommodations, accommodations made for pregnancy, childbirth, and related medical conditions; amend KRS 344.040 to make an unlawful practice for employers who fail to accommodate an employee affected by pregnancy, childbirth, or related medical condition; require employers to provide notice to all employees regarding discrimination for pregnancy, childbirth, and related medical conditions. (Prefiled by the sponsor(s).)

**BR 116 - Representative Kevin D. Bratcher (07/31/15)**

AN ACT relating to the posting of historical documents. Amend KRS 158.195 to require the postings of the preambles of the US Constitution and the Kentucky Constitution in all public school classrooms; allow a classroom teacher to choose placement within the classroom. (Prefiled by the sponsor(s).)

**BR 122 - Representative Mike Denham (09/24/15)**

AN ACT relating to the impact of refunds of natural resources severance and processing tax upon distributions from the local government economic assistance fund and declaring an emergency. Amend KRS 42.470 to provide that effective July 1, 2016, quarterly distributions of local government economic assistance fund moneys to a mineral producing county and its cities shall be reduced by no more than 50% as a result of any refund of natural resources severance and processing tax, and that if the local share of a refund exceeds this limit the remainder shall carry forward to be offset in successive quarters as necessary until it is satisfied in full; EMERGENCY.

**BR 125 - Senator Ralph Alvarado (09/16/15)**

AN ACT relating to physicians. Create a new section of KRS 311.530 to 311.620 to prohibit the Board of Medical Licensure from requiring any maintenance of certification and related continuing education requirements for licensure as a physician. (Prefiled by the sponsor(s).)

**BR 126 - Senator Ralph Alvarado (09/16/15)**

AN ACT relating to medical coverage. Amend KRS 304.17A-254 to establish a policy governing the procedures for an insurer changing an existing agreement with a provider; amend KRS 304.17A-545 to require an insurer offering a health benefit plan to establish a policy governing the procedures for a Managed Care Organization changing an existing agreement with a provider. (Prefiled by the sponsor(s).)

**BR 127 - Senator Ralph Alvarado (09/16/15)**

AN ACT relating to the Board of Medical Licensure. Amend KRS 311.530 to stipulate that appointees shall be appointed from a list of names submitted by the Kentucky Medical Association and delete language requiring the Governor to ensure that specialties are represented. (Prefiled by the sponsor(s).)

**BR 131 - Senator Ralph Alvarado (10/14/15)**

AN ACT relating to Medicaid provider appeals and declaring an emergency. Create new sections of KRS Chapter 205 to define terms, and permit a provider that has exhausted an internal appeals process of a Medicaid managed care organization (MCO) to be entitled to an administrative appeals hearing; require an MCO to send a final determination letter; establish proceedings for an administrative appeals hearing; establish a mechanism for attorneys' fees; establish a fee for the party that does not prevail to cover costs of the proceeding; clarify that this bill applies to all MCO contracts enacted on or after July 1, 2016; amend KRS 13B.020 to include the provider appeals process as a type of administrative hearings to be conducted by the CHFS. (Prefiled by the sponsor(s).)

**BR 134 - Representative Wilson Stone (09/02/15)**

AN ACT relating to tuition waivers for children. Amend KRS 164.2847 to provide a tuition waiver to a student at a Kentucky public postsecondary institution if the student's biological parents are deceased or have had their parental rights terminated due to neglect or abuse, if the student was adopted by a blood relative or assigned a legal guardian at least 12 months prior to the student's 18th birthday, and if documentation and information requested to confirm eligibility status is provided. (Prefiled by the sponsor(s).)

**BR 135 - Representative Myron Dossett (08/06/15)**

AN ACT relating to the solemnization of marriage. Amend KRS 402.050 and 446.350 to exempt persons, officials, and institutions with religious objections to any marriage from any requirement to solemnize such a marriage. (Prefiled by the sponsor(s).)

**BR 141 - Representative Jeffery Donohue (08/07/15)**

A JOINT RESOLUTION designating the new downtown bridge on Interstate 65 in Jefferson County in honor of former Governor and United States Senator Wendell H. Ford. Direct the Transportation Cabinet to

designate the downtown bridge on Interstate 65 in Jefferson County as the "Wendell H. Ford Memorial Bridge," and to erect the appropriate signage.

(Prefiled by the sponsor(s).)

**BR 147 - Representative Ron Crimm (07/23/15)**

AN ACT relating to the promotion of organ and bone marrow 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 of 2016.

(Prefiled by the sponsor(s).)

**BR 154 - Representative David Hale, Representative James Tipton (08/13/15)**

AN ACT related to marriage and making an appropriation therefor.

Create a new section of KRS Chapter 213 to move marriage licensing and recording duties from county clerks to the state registrar of vital statistics, to allow a fee of \$35.50 for licenses, and to provide for the transfer of existing marriage records; amend KRS 344.130, 402.050, and 446.350 to exempt persons, officials, and institutions with religious objections to same-sex marriage from any requirement to solemnize such marriages; amend KRS 47.110, 64.012, 142.010, 209.160, 213.116, 402.080, 402.100, 402.110, 402.210, 402.220, 402.230, and 402.990 to conform; repeal KRS 402.240 which allows county judges/executive to issue marriage licenses in the absence of a county clerk; repeal KRS 402.170 which requires county clerks to distribute marriage manuals; EFFECTIVE JANUARY 1, 2017.

(Prefiled by the sponsor(s).)

**BR 156 - Representative Jim Wayne (10/02/15)**

AN ACT relating to planning and zoning in consolidated local governments.

Amend KRS 100.137 to delete language relating to certain cities and their requirements to adopt planning and zoning requirements; amend KRS 100.201, 100.202, and 100.205 to conform.

(Prefiled by the sponsor(s).)

**BR 158 - Representative Dennis Keene (09/04/15)**

AN ACT relating to involuntary treatment for substance abuse.

Amend KRS 202A.011 to include substance use in the definition of "mentally ill person"; amend KRS 218A.133 to ensure that a petition may be filed pursuant to KRS Chapter 202A.

(Prefiled by the sponsor(s).)

**BR 167 - Representative Kelly Flood (08/11/15)**

AN ACT relating to superintendent screening committee membership.

Amend KRS 160.352 to require a school

equity council member be appointed to the superintendent screening committee, if an equity council exists.

(Prefiled by the sponsor(s).)

**BR 174 - Representative Kenny Imes (08/26/15)**

AN ACT relating to travel required for certain state employees prior to appointment.

Amend KRS 18A.115 to require certain nonmerit employees to travel to Fulton or Hickman County and to Pike, Martin, or Letcher County prior to being appointed and every six years thereafter.

(Prefiled by the sponsor(s).)

**BR 176 - Representative Kenny Imes (09/24/15)**

AN ACT relating to elections.

Amend KRS 242.020 to require petitions for local option elections to contain legibly printed name and year of birth; amend KRS 242.030 to require local option elections to be held on the same day as a primary or regular election and to establish filing deadlines for petitions; amend KRS 242.060 to specify who will bear the cost of the local option election; amend KRS 242.022, 242.040, 242.1242, 242.1244, 242.125, and 242.1292 to conform.

(Prefiled by the sponsor(s).)

**BR 178 - Representative Kenny Imes (08/14/15)**

AN ACT proposing to amend Section 95 of the Constitution of Kentucky relating to the election of state officers.

Propose to amend Section 95 of the Constitution of Kentucky to hold the elections of statewide constitutional officers in even-numbered years, every four years, beginning in 2024; provide transitional schedule; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR 180 - Representative Kenny Imes (08/14/15)**

AN ACT relating to the commissioner of education.

Amend KRS 156.148 to require Senate confirmation of the commissioner of education.

(Prefiled by the sponsor(s).)

**BR 197 - Representative Diane St. Onge (08/04/15)**

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).)

**BR 199 - Representative Fitz Steele (08/04/15)**

AN ACT relating to the property tax on

unmined coal.

Amend KRS 132.820 to exempt unmined coal reserves from state and local property taxation if on January 1 of any tax year the owner or lessee of the reserve does not hold a valid permit from both the state and federal governments to mine coal from the reserve, and does not anticipate that coal will be mined from the reserve at any point during the tax year; amend KRS 131.190 to conform; make technical corrections; EFFECTIVE for property assessed on and after January 1, 2017.

(Prefiled by the sponsor(s).)

**BR 200 - Representative Fitz Steele (08/04/15)**

AN ACT relating to coal severance revenues.

Amend various sections in KRS Chapter 42 to distribute 100 percent 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, 164.7890, and 164.7891 to make conforming changes; repeal KRS 42.490.

(Prefiled by the sponsor(s).)

**BR 201 - Representative Fitz Steele (08/04/15)**

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 during 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 206 - Senator Ralph Alvarado (10/07/15)**

AN ACT relating to credit freezes for protected consumers.

Create a new section of KRS 367.363 to 367.365 to define "protected person," "representative," and "sufficient proof of authority"; require a consumer reporting agency to place a security freeze on a protected person's record or report upon proper request by a representative; require the freeze to be placed within ten days of receiving the request; set forth when the credit reporting agency is required to remove the freeze; allow the credit reporting agency to charge a fee under certain circumstances; establish penalties for violations.

(Prefiled by the sponsor(s).)

**BR 214 - Representative Diane St. Onge (08/25/15)**

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 Kentuckians' 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).)

**BR 217 - Representative Larry Clark (08/14/15)**

AN ACT relating to student assistants.

Create a new section of KRS Chapter 117 to allow minors 16 years of age or older to be appointed as student election assistants; amend KRS 117.045 to conform.

(Prefiled by the sponsor(s).)

**BR 222 - Senator Tom Buford (09/21/15)**

AN ACT relating to donated clothing, household items, or other items.

Create a new section of KRS 367.650 to 367.670 to require proper labeling on donation boxes and donation drop-off sites when the donations do not qualify as charitable contributions for federal tax purposes; amend KRS 367.668 to require lettering to be not less than 2 inches in height; amend KRS 367.665 to grant the county attorney concurrent jurisdiction and powers with the Attorney General and allow the county attorney to impose penalties which shall be paid to the county.

(Prefiled by the sponsor(s).)

**BR 225 - Representative Kelly Flood (09/15/15)**

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).)

**BR 236 - Representative Brad Montell (09/08/15)**

A CONCURRENT RESOLUTION directing the staff of the Legislative Research Commission to study municipal bankruptcy.

Direct the staff of the Legislative Research Commission to study municipal bankruptcy.

(Prefiled by the sponsor(s).)

**BR 241 - Senator Danny Carroll (09/11/15)**

AN ACT relating to the safety of animals. 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 reasonable, good faith belief that a dog or cat is in immediate danger of death if not removed from the vehicle.

(Prefiled by the sponsor(s).)

**BR 254 - Representative Kim King (09/09/15)**

AN ACT relating to sex offender registrants.

Amend KRS 17.545 to prohibit sex offender registrants from being present on the grounds of a publicly owned playground without advance written permission.

(Prefiled by the sponsor(s).)

**BR 255 - Representative Kim King (09/09/15)**

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any state fiscal measure, including an appropriation or revenue-raising measure, voted upon in the Senate or House or a committee thereof; require identification of any state fiscal measure by the director of the Legislative Research Commission, or upon a determination by the Senate or House or a committee of either; require separate votes for any state fiscal measure.

(Prefiled by the sponsor(s).)

**BR 256 - Representative Kim King (09/09/15)**

AN ACT relating to foreign law.

Create a new section 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 257 - Representative Kim King (09/09/15)**

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 258 - Representative Kim King (09/09/15)**

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 260 - Representative Tom Burch (10/08/15)**

AN ACT relating to the address protection program and declaring an emergency.

Amend KRS 14.260 to require the Secretary of State or designee to operate the address protection program; clarify that a sworn statement may be used to prove abuse or neglect; require the program to issue a document to a participant to prove the individual's county of residence; amend KRS 14.304 to allow an individual participating in the expanded address program to vote; amend KRS 23A.208 and 24A.178 to allow an administrative fee for a crime found to have an underlying factual basis of domestic violence or abuse; amend KRS 186.412 to require a circuit clerk to accept a participant's verified substitute address for driver's license applications, amend KRS 209.030 and 209A.030 to define an application assistant and exempt that individual from certain reporting requirements, EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 288 - Representative Myron Dossett (10/02/15)**

AN ACT relating to exemptions from workers' compensation coverage.

Amend KRS 342.650 concerning exemptions from workers' compensation to include lawn services as well as maintenance, repair, remodeling, or similar work on a private home for not more than 20 days.

(Prefiled by the sponsor(s).)

**BR 289 - Representative Brad Montell (10/16/15)**

AN ACT relating to an income tax deduction for qualified tuition programs.

Amend KRS 141.010 to allow a tax deduction for contributions to a qualified tuition program for higher education.

(Prefiled by the sponsor(s).)

**BR 292 - Representative Lynn Bechler, Representative Tim Couch, Representative Jim DeCesare, Representative Jim DuPlessis, Representative David Floyd, Representative Kim King, Representative Stan Lee, Representative Brian Linder, Representative Tim Moore, Representative Bart Rowland, Representative James Tipton, Representative Ken Upchurch (10/09/15)**

AN ACT prohibiting the use of public resources for abortion services.

Amend KRS 311.720 to define "abortion services"; amend KRS 311.715 to define "affiliate", to provide that public funds shall not be paid to any entity or affiliate of an entity that provides abortion services, and to establish exceptions.

(Prefiled by the sponsor(s).)

**BR 301 - Representative Rick G. Nelson (10/14/15)**

AN ACT relating to Kentucky jobs.

Create new sections of KRS Chapter 336 establish definitions and to require contractors in public works projects over \$250,000 to have 51% of its employees be Kentucky residents and 15% of its employees be apprentices in an approved apprenticeship program for the entirety of the project; require, for public works projects under \$250,000, contractors to have at least one apprentice in an approved apprenticeship program; require a public authority to include the employment requirements in the bid and contract for the public works project and provide written notice of the requirements; grant the Department of Workplace Standards enforcement authority over violations by public authorities or contractors; amend KRS 336.990 to provide civil penalties for violation; designate the Act as the "Kentucky Jobs Act."

(Prefiled by the sponsor(s).)

**BR 310 - Senator Ralph Alvarado (10/02/15)**

AN ACT relating to utilization reviews.

Amend KRS 304.17A-600 to include the Accreditation Association for Ambulatory Health Care (AAAHC) in the definition of nationally recognized accreditation organizations.

(Prefiled by the sponsor(s).)

**BR 319 - Senator Julian M. Carroll (10/07/15)**

AN ACT relating to school safety and declaring an emergency.

Create a new section of KRS Chapter 158 to require school resource officers to have basic and advanced training provided by the Department of Criminal Justice Training; amend KRS 158.441 to conform; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR 332 - Representative Tom Burch (10/14/15)**

A JOINT RESOLUTION relating to a per diem increase for the care of children placed in state foster homes.

Direct the Cabinet for Health and Family Services to expend appropriated funds to provide the Department for Community Based Services foster homes with a per diem increase of six percent beginning July 1, 2016; urge the General Assembly to appropriate \$1.5 million for each fiscal year to provide for the six percent increase.

(Prefiled by the sponsor(s).)

**BR 334 - Representative Kenny Imes (10/09/15)**

AN ACT proposing to amend Sections 91, 93, and 95 of the Constitution of Kentucky relating to the Commissioner of Education.

Propose to amend Sections 91, 93, and 95 of the Constitution of Kentucky to allow for state-wide election for the Commissioner of Education, to be held during regular elections.

(Prefiled by the sponsor(s).)

**BR 337 - Representative Dennis Keene (10/06/15)**

AN ACT relating to tax increment financing.

Amend KRS 154.30-060 to expand the definition of "mixed-use" project, and to delete the upper investment limit on a project that can qualify as a mixed-use development project; provide that the provisions of the act are effective for applications received after the effective date.

(Prefiled by the sponsor(s).)

**BR 341 - Senator Ray S. Jones II, Senator Johnny Ray Turner (10/01/15)**

AN ACT relating to coal severance revenues.

Amend various sections of KRS Chapter 42 to distribute 100 percent 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, 164.7890, and 164.7891 to make conforming changes; repeal KRS 42.490.

(Prefiled by the sponsor(s).)

**BR 378 - Representative Jonathan Shell (10/19/15)**

AN ACT relating to eligibility for public assistance.

Amend KRS 205.200 to require the Cabinet for Health and Family Services to implement a substance abuse screening program for applicants and recipients of public assistance who have a felony or misdemeanor history of substance abuse; permit the cabinet to design the program and utilize testing of blood or urine or other reliable methods of substance abuse detection; state conditions under which an adult person is ineligible for public assistance; require testing as a requirement before the receipt of public assistance and once each subsequent year; require the cabinet to promulgate administrative regulations governing the program and testing, including requirements that applicants pay for all substance abuse screening costs and receive a reimbursement if the test is passed; grant the right to additional screenings for applicants who fail a test; require both parents in two-parent families to comply with screening requirements if both parents have a felony or misdemeanor history of substance abuse; require that an individual who fails a test receive a list of licensed substance abuse treatment providers in his or her area; require passage of a drug test before receiving benefits; permit parents or guardians who fail a test to designate another individual to receive benefits for the parent's minor children; require designated individuals to pass substance abuse screenings; create a 60-day grace period to enter a treatment program after the initial positive test; require individuals to pay for a test at the end of the 60-day grace period; provide that if they pass that test, they must pass two additional randomized testings during the next 24 months, or if an individual tests positive after the 60-day grace period, he or she must show evidence of having entered a substance abuse treatment program within 14 days, during which time, benefits may be suspended and only be payable for

the benefit of any children in that recipient's home.  
(Prefiled by the sponsor(s).)

**BR 380 - Representative Jonathan Shell (10/19/15)**

AN ACT relating to welfare to work.

Amend KRS 205.200 to establish a graduated earnings disregard program to incentivize public assistance recipients to seek employment.

(Prefiled by the sponsor(s).)

**BRs by Sponsor**

\* - denotes primary sponsorship of BRs

**Senate**

Alvarado, Ralph  
BR125\*, 126\*, 127\*, 131\*, 206\*, 310\*  
Bowen, Joe  
BR61\*  
Buford, Tom  
BR222\*  
Carroll, Danny  
BR65\*, 241\*  
Carroll, Julian M.  
BR319\*  
Jones II, Ray S.  
BR341\*  
Parrett, Dennis  
BR54\*  
Schickel, John  
BR5\*, 16\*, 40\*  
Thomas, Reginald  
BR20\*, 21\*, 26\*  
Turner, Johnny Ray  
BR341\*  
Wise, Max  
BR42\*

**House**

Bechler, Lynn  
BR101, 292\*  
Bratcher, Kevin D.  
BR7, 116\*  
Burch, Tom  
BR260\*  
BR332\*  
Butler, Denver  
BR63\*  
Carney, John  
BR7  
Clark, Larry  
BR217\*  
Couch, Tim  
BR292  
Crimm, Ron  
BR147\*  
DeCesare, Jim  
BR7, 292  
Denham, Mike  
BR122\*  
Donohue, Jeffery  
BR77\*  
BR141\*



Dossett, Myron  
 BR7, 135\*, 288\*  
 DuPlessis, Jim  
 BR75\*, 292  
 Fischer, Joseph M.  
 BR7, 102\*  
 Flood, Kelly  
 BR67\*, 167\*, 225\*  
 Floyd, David  
 BR102, 292  
 Graham, Derrick  
 BR31\*  
 Hale, David  
 BR7, 102, 154\*  
 Harmon, Mike  
 BR7  
 Harris, Chris  
 BR8\*  
 Heath, Richard  
 BR101, 102  
 Hoover, Jeff  
 BR7  
 Imes, Kenny  
 BR7, 102, 174\*, 176\*, 178\*, 180\*, 334\*  
 Jenkins, Joni L.  
 BR11\*, 113\*  
 Keene, Dennis  
 BR158\*, 337\*  
 Kerr, Thomas  
 BR7  
 King, Kim  
 BR102, 254\*, 255\*, 256\*, 257\*, 258\*, 292  
 Koenig, Adam  
 BR7  
 Lee, Stan  
 BR7, 101\*, 102, 292  
 Linder, Brian  
 BR102, 292  
 Meade, David  
 BR7, 101\*  
 Meredith, Michael  
 BR7  
 Miles, Suzanne  
 BR7  
 Mills, Terry  
 BR37\*, 38\*  
 Montell, Brad  
 BR7\*, 72\*, 102  
 BR236\*  
 BR289\*  
 Moore, Tim  
 BR101, 292  
 Nelson, Rick G.  
 BR45\*, 301\*  
 Osborne, David  
 BR7  
 Owens, Darryl T.  
 BR17\*, 18\*  
 Quarles, Ryan  
 BR7  
 Rader, Marie  
 BR102  
 Richards, Jody  
 BR1\*  
 Rowland, Bart  
 BR7, 292

Santoro, Sal  
 BR7, 102  
 Schamore, Dean  
 BR91\*  
 Shell, Jonathan  
 BR7, 378\*, 380\*  
 Simpson, Arnold  
 BR58\*  
 St. Onge, Diane  
 BR15\*, 197\*, 214\*  
 Steele, Fitz  
 BR199\*, 200\*, 201\*  
 Stone, Wilson  
 BR134\*  
 Tipton, James  
 BR154, 292  
 Turner, Tommy  
 BR7  
 Upchurch, Ken  
 BR7, 292  
 Wayne, Jim  
 BR156\*  
 Wuchner, Addia  
 BR102\*

## Index Headings

Administrative Regulations and Proceedings  
 Aeronautics and Aviation  
 Agriculture  
 Alcoholic Beverages  
 Amusements and Recreation  
 Animals, Livestock, and Poultry  
 Appropriations  
 Arbitration  
 Archives and Records  
 Attorney General  
 Attorney, County  
 Attorneys  
 Auditor of Public Accounts  
 Bankruptcy  
 Boards and Commissions  
 Boats and Boating  
 Budget and Financial Administration  
 Charitable Organizations and Institutions  
 Children and Minors  
 Circuit Clerks  
 Cities  
 Civil Actions  
 Civil Procedure  
 Civil Rights  
 Clergy  
 Coal  
 Commendations and Recognitions  
 Committees  
 Confirmation of Appointments  
 Consolidated Local Governments  
 Constitution, Ky.  
 Constitution, U.S.  
 Consumer Affairs  
 Contracts  
 Coroners  
 Corporations  
 Corrections and Correctional Facilities, State  
 Counties  
 County Clerks

County Judges/Executive  
 Courts  
 Courts, Circuit  
 Courts, District  
 Crime Victims  
 Crimes and Punishments  
 Criminal Procedure  
 Data Processing  
 Deaths  
 Disabilities and the Disabled  
 Diseases  
 Distilled Spirits  
 Dogs  
 Domestic Relations  
 Drugs and Medicines  
 Economic Development  
 Education, Elementary and Secondary  
 Education, Finance  
 Education, Higher  
 Effective Dates, Delayed  
 Effective Dates, Emergency  
 Elections and Voting  
 Electricians  
 Emergency Medical Services  
 Federal Laws and Regulations  
 Fees  
 Firearms and Weapons  
 Gambling  
 General Assembly  
 Governor  
 Guardians  
 Health and Medical Services  
 Highways, Streets, and Bridges  
 Hospitals and Nursing Homes  
 Housing, Building, and Construction  
 Information Technology  
 Insurance  
 Insurance, Health  
 Jails and Jailers  
 Labor and Industry  
 Land Use  
 Landlord and Tenant  
 Legislative Research Commission  
 Libraries  
 Licensing  
 Lieutenant Governor  
 Loans and Credit  
 Local Government  
 Malt Beverages  
 Medicaid  
 Memorials  
 Mental Disability  
 Mental Health  
 Military Affairs and Civil Defense  
 Minerals and Mining  
 Motor Carriers  
 Motor Vehicles  
 Occupations and Professions  
 Parental Rights  
 Parks and Shrines  
 Peace Officers and Law Enforcement  
 Personnel and Employment  
 Physicians and Practitioners  
 Planning and Zoning  
 Plumbers and Plumbing  
 Police, City and County

Police, State  
Popular Names and Short Titles  
Poverty  
Public Assistance  
Public Authorities  
Public Buildings and Grounds  
Public Health  
Public Medical Assistance  
Public Officers and Employees  
Public Records and Reports  
Public Safety  
Real Estate  
Religion  
Reproductive Issues  
Retirement and Pensions  
Safety  
Secretary of State  
State Agencies  
State Employees  
Studies Directed  
Substance Abuse  
Taxation  
Taxation, Income--Corporate  
Taxation, Income--Individual  
Taxation, Property  
Taxation, Sales and Use  
Taxation, Severance  
Teachers  
Traffic Safety  
Transportation  
Treasurer  
United States  
Universities and Colleges  
Veterans' Affairs  
Wines and Wineries  
Witnesses  
Women  
Workers' Compensation

BR Index

Administrative Regulations and Proceedings

Cabinet for Health and Family Services, state registrar of vital statistics, marriage licenses - BR154  
Commercial recreational ziplines, state regulation of - BR77  
Dense breast tissue, information to be provided - BR75  
Foreign law, application of, protection of rights - BR256  
Medicaid Services, Medicaid managed care organization appeals - BR131  
State Board of Elections, student election assistants - BR217

Aeronautics and Aviation

Drone surveillance or use of armed drones by certain entities, prohibition - BR197

Agriculture

Commercial recreational ziplines, state regulation of - BR77

Alcoholic Beverages

Local option elections, day of election, primary or regular election - BR176  
Powder or crystal alcoholic beverage products, prohibition against possession, sale, or use of - BR1

Amusements and Recreation

Commercial recreational ziplines, state regulation of - BR77

Animals, Livestock, and Poultry

Danger of death, dog or cat, removal from vehicle, civil immunity - BR241  
Service animal, lower requirement for assault on - BR15

Appropriations

Constitutional amendment, General Assembly, compensation suspended - BR258  
Foster homes, per diem increase - BR332  
Marriage licenses - BR154  
Problem and Pathological Gamblers Awareness and Treatment Program, establishment of - BR37  
Public employee health insurance trust fund, allocation of prior plan year surplus - BR7  
Roll call vote, requirement for - BR255

Arbitration

Foreign law, application of, protection of rights - BR256

Archives and Records

County clerks, marriage records, transfer to vital statistics office - BR154

Attorney General

County attorney, concurrent jurisdiction - BR222

Attorney, County

Concurrent jurisdiction, Attorney General - BR222

Attorneys

Address confidentiality protection program, expansion of - BR260

Auditor of Public Accounts

Time of election, move to even-numbered year - BR178

Bankruptcy

Municipal, study - BR236

Boards and Commissions

Address confidentiality protection program - BR260

Physicians, Board of Medical Licensure composition - BR127  
Regents and trustees, public postsecondary institutions, required orientation and education program - BR31

Boats and Boating

Boat trailers, annual registration renewal date, April 30 - BR8

Budget and Financial Administration

Abortion services, payments from government to entity providing, prohibition of - BR292  
Coal severance tax revenues, distribution of all revenues to counties - BR341  
Constitutional amendment, General Assembly, compensation suspended - BR258  
Housing, Buildings and Construction, transfer of certain fees to general fund, prohibit - BR72  
Local government economic assistance fund, local distribution adjustments - BR122  
Natural resources severance and processing tax, refunds - BR122  
Public employee health insurance trust fund, allocation of prior plan year surplus - BR7  
Roll call vote, requirement for - BR255

Charitable Organizations and Institutions

Donation boxes, proper labeling, requirement for - BR222

Children and Minors

Abused or neglected, custody of, notice to schools - BR257  
Credit security freeze for minors under 16 years - BR206  
Foster homes, per diem increase - BR332  
Imminent harm, removal from vehicle, civil immunity - BR65  
Postsecondary education tuition waiver, eligibility of student for - BR134  
Protective orders, tenant protections relating to - BR11  
Sex offenders, presence on publically owned playground, prohibition of - BR254

Circuit Clerks

Address protection program participant, acceptance of substitute address - BR260

Cities

Abortion services, payments from government to entity providing, prohibition of - BR292  
CERS, reemployment of retired police officers - BR63  
Coal severance tax revenues, distribution of all revenues to counties - BR341  
Local government economic assistance fund, distribution adjustments - BR122  
Planning & zoning requirements for certain cities



within a consolidated local government - BR156  
Sex offenders, presence on publically owned play-ground, prohibition of - BR254

Civil Actions

Expunged records, prevent introduction of - BR17  
Foreign law, application of, protection of rights - BR256  
Immunity,  
vehicle damage, removal of dog or cat in danger of death - BR241  
vehicle damage, removal of minor in danger - BR65  
Landlords, lease termination, economic losses from - BR11

Civil Procedure

Abused or neglected child, custody of, notice to schools - BR257  
Expunged records, prevent introduction of - BR17  
Foreign law, application of, protection of rights - BR256  
Immunity,  
vehicle damage, removal of dog or cat in danger of death - BR241  
vehicle damage, removal of minor in danger - BR65  
Justifications, use of force - BR21  
Protective orders, tenant protections relating to - BR11  
Substance abuse, involuntary treatment for, allow under KRS Chapter 202A - BR158

Civil Rights

Foreign law, application of, protection of rights - BR256  
Marriage  
licenses, issuing and recording of - BR154  
solemnization, performance of - BR101, 102, 135, 154  
Public assistance, substance abuse screening - BR378

Clergy

Marriage solemnization, performance of - BR101, 102, 135, 154

Coal

Property tax on unmined coal reserves, exempt certain reserves from state and local tax - BR199  
Severance revenues, distribution - BR200; BR341

Commendations and Recognitions

Fookes, Nell, honoring - BR5  
Zevely, Wilbur M., honoring - BR40

Committees

Oaths, taking of - BR20  
Recordings and transcripts, requirement for - BR20

Confirmation of Appointments

Commissioner of education, Senate confirmation of - BR180

Consolidated Local Governments

Planning & zoning requirements for certain cities within a consolidated local government - BR156

Constitution, Ky.

Commissioner of Education, nonpartisan election of, amendment proposed for - BR334  
Drone surveillance or use of armed drones by certain entities, prohibition - BR197  
Election of statewide constitutional officers, change to even-numbered year - BR178  
Firearms, federal laws and rules, invalidate - BR214  
General Assembly, compensation for services, suspension of - BR258  
Voting rights, prohibitions relating to - BR18

Constitution, U.S.

Firearms, federal laws and rules, invalidate - BR214

Consumer Affairs

Donation boxes, proper labeling, requirement for - BR222  
Protected persons, credit security freeze on record or report - BR206

Contracts

Foreign law, application of, protection of rights - BR256  
Leases, protective orders, tenant protections relating to - BR11  
Rental agreements, protective orders, tenant protections relating to - BR11  
Safety requirements for projects using structural steel welding - BR45

Coroners

Arrest-related deaths, investigation and annual reporting - BR26

Corporations

Public benefit corporations, establish - BR225

Corrections and Correctional Facilities, State

Arrest-related deaths, coroner investigation - BR26

Counties

Abortion services, payments from government to entity providing, prohibition of - BR292  
Clerks,  
marriage licenses, issuing and recording of - BR154  
real property filing requirements in Kenton County, repeal of 1860 Act - BR58  
Coal severance revenues, distribution - BR200; BR341

County boards of elections, student election assistants - BR217  
Local government economic assistance fund, county distribution adjustments - BR122  
Revenue, marriage license tax, end return of - BR154  
Sex offenders, presence on publically owned play-ground, prohibition of - BR254

County Clerks

Nonmerit employees, appointment of, travel required prior to - BR174  
Address protection program participant, acceptance of substitute address - BR260  
Commissioner of Education, nonpartisan of - BR334  
DUI, cases pending, reporting of - BR54; BR67  
Election of statewide constitutional officers, change to even-numbered year - BR178  
Elections, student election assistants - BR217  
Local option elections, day of election, primary or regular election - BR176  
Marriage licenses, issuing and recording of - BR154  
Real property filing requirements in Kenton County, repeal of 1860 Act - BR58  
Tax, marriage licenses, duty to collect - BR154  
Trailers, annual registration renewal date, April 30 - BR8

County Judges/Executive

Local option elections, day of election, primary or regular election - BR176

Courts

DUI,  
cases pending, reporting of - BR54; BR67  
penalties imposed - BR54  
penalties imposed, consideration of prior offenses - BR67  
Eviction, defense to, protective orders - BR11  
Justifications, use of force - BR21  
Marriage solemnization, performance of - BR101, 102, 135, 154

Courts, Circuit

Address protection program, administrative fee - BR260  
Tuition waiver, determine eligibility for - BR134

Courts, District

Address protection program, administrative fee - BR260

Crime Victims

Address confidentiality protection program, expansion of - BR260  
Protective orders, tenant protections relating to - BR11  
Sex offenders, presence on publically owned play-ground, prohibition of - BR254

Crimes and Punishments
Address protection program, administrative fee - BR260 Assault on a service animal, lower requirement for - BR15 Criminal records, expungement of - BR17 DUI, penalties imposed - BR54 penalties imposed, consideration of prior offenses - BR67 Firearms, federal prohibitions, invalidate - BR214 unlawful possession of, illegal aliens - BR214 Justifications, use of force - BR21 Sex offenders, presence on publically owned playground, prohibition of - BR254 Voting rights, prohibitions relating to - BR18
Criminal Procedure
Criminal records, expungement of - BR17 DUI, penalties imposed - BR54 penalties imposed, consideration of prior offenses - BR67 Firearms, federal prohibitions, invalidate - BR214 unlawful possession of, illegal aliens - BR214 Justifications, use of force - BR21 Sex offenders, presence on publically owned playground, prohibition of - BR254
Data Processing
Marriage licenses, vital statistics - BR154
Deaths
Arrest-related, report to medical examiner - BR26 Benefits for death in the line of duty, inclusion of emergency medical services providers - BR91
Disabilities and the Disabled
Protected persons, credit security freeze on record or report - BR206
Diseases
Dense breast tissue, information to be provided - BR75
Distilled Spirits
Powder or crystal alcoholic beverage products, prohibition against possession, sale, or use of - BR1
Dogs
Danger of death, removal from vehicle, civil immunity - BR241 Service animal, lower requirement for assault onl - BR15
Domestic Relations

Address confidentiality protection program, expansion of - BR260  
Foreign law, application of, protection of rights - BR256  
Foster homes, per diem increase - BR332  
Marriage licenses, issuing and recording of - BR154  
solemnization, performance of - BR101, 102, 135, 154  
Protective orders, named individual, civil liability for terminated lease - BR11  
orders, tenant protections relating to - BR11

Drugs and Medicines
Substance abuse screening, public assistance - BR378
Economic Development
Tax increment financing, definition of qualifying mixed use development, expansions of - BR337 increment financing, mixed use development, upper limit on investment, removal of - BR337
Education, Elementary and Secondary
Abused or neglected child, custody of, notice to schools - BR257 Commissioner of education, Senate confirmation of - BR180 Commissioner, nonpartisan election of - BR334 Local board of education, requirements of - BR116 Preambles to US and Kentucky Constitutions, required postings of - BR116 School resource officers, required training of - BR319 Superintendent screening council, add equity council member to - BR167 Veteran, certification as teacher - BR42
Education, Finance
Postsecondary education tuition waiver, eligibility of student for - BR134 Savings plan trust, income tax deduction for - BR289
Education, Higher
Benefits, inclusion of surviving family of emergency medical services providers - BR91 Public postsecondary institutions, governing boards, required orientation and education program - BR31 Savings plan trust, income tax deduction for - BR289 Tuition waiver, eligibility of student for - BR134 Veteran, certification as teacher - BR42
Effective Dates, Delayed
Bees and beekeeping supplies, sales and use tax exemption, August 1, 2016 - BR38

BR 154, January 1, 2017 - BR154 61, plug-in electric vehicles, annual registration fee, 1/1/17 - BR61
Effective Dates, Emergency
Address confidentiality protection program, expansion of - BR260 BR 131, Medicaid provider appeals - BR131 Civil immunity, vehicle damage, minor in danger - BR65 DUI, penalties imposed - BR54 penalties imposed, consideration of prior offenses - BR67 Local government economic assistance fund, local distributions - BR122 Natural resources severance and processing tax, refunds - BR122 Sales and use tax, holiday - BR201 School resource officers, required training of - BR319
Elections and Voting
Commissioner of Education, nonpartisan election of - BR334 Constitutional amendment, change election year of statewide constitutional offices - BR178 amendment, General Assembly, compensation suspended - BR258 Local option elections, day of election, primary or regular election - BR176 Poll workers, student election assistants - BR217 Voting rights, prohibitions relating to - BR18
Electricians
Licensing, credit toward licensing fees - BR72
Emergency Medical Services
Providers, in-the-line-of-duty death and educational benefits, eligibility for - BR91
Federal Laws and Regulations
Firearms, federal laws and rules, invalidate - BR214
Fees
Plug-in electric vehicles, annual registration fee - BR61 Registrar of vital statistics, marriage license, collection by - BR154
Firearms and Weapons
Drone surveillance or use of armed drones by certain entities, prohibition - BR197 Federal laws and rules, invalidate - BR214 Unlawful possession of, illegal aliens - BR214
Gambling



Problem and Pathological Gamblers Awareness and Treatment Program, establishment of - BR37

**General Assembly**

Committee meetings - BR20  
Constitutional amendment, compensation suspended - BR258  
Roll call vote for appropriation or revenue measure, requirement for - BR255

**Governor**

Physicians, Board of Medical Licensure composition - BR127  
Time of election, move to even-numbered year - BR178

**Guardians**

Ward, credit security freeze on record or report - BR206

**Health and Medical Services**

Abortion services, payments from government to entity providing, prohibition of - BR292  
Accreditation organizations, Accreditation Association for Ambulatory Health Care (AAAHC), inclusion - BR310  
Dense breast tissue, information to be provided - BR75  
Living organ donation, promotion of - BR147  
MCO provider appeals process - BR131  
Physician, licensure, specialty certification and maintenance testing prohibited - BR125  
Problem and Pathological Gamblers Awareness and Treatment Program, establishment of - BR37

**Highways, Streets, and Bridges**

Ford, Wendell H., designate Jefferson County bridge in honor of - BR141

**Hospitals and Nursing Homes**

Dense breast tissue, information to be provided - BR75

**Housing, Building, and Construction**

Protective orders, tenant protections relating to - BR11  
Safety requirements for projects using structural steel welding - BR45

**Information Technology**

Registrar of vital statistics, marriage licensing and recording - BR154

**Insurance**

Workers' compensation, exclusion of private home lawn services - BR288

**Insurance, Health**

Accreditation organizations, Accreditation Association for Ambulatory Health Care (AAAHC), inclusion - BR310  
Dense breast tissue, information to be provided - BR75  
Insurance policy changes, procedures for, adoption requirement - BR126  
Public employee health insurance trust fund, allocation of prior plan year surplus - BR7

**Jails and Jailers**

Arrest-related deaths, coroner investigation - BR26

**Labor and Industry**

Employers, pregnancy and related conditions, discrimination prohibited - BR113  
Lawn services for private home for less than twenty days, exemption from workers' compensation - BR288  
Public works projects, Kentucky residents and apprentices, employment of - BR301  
Safety requirements for projects using structural steel welding - BR45

**Land Use**

Requirements for certain cities within a consolidated local government - BR156

**Landlord and Tenant**

Protective orders, tenant protections relating to - BR11

**Legislative Research Commission**

Designation of appropriation or revenue measure, requirement for - BR255  
Municipal bankruptcy, study - BR236  
State rate for reasonable and necessary attorneys' fees - BR131

**Libraries**

Tax funds, marriage licenses - BR154

**Licensing**

Electricians, credit toward licensing fees - BR72  
HVAC, credit toward licensing fees - BR72  
Physician, licensure, specialty certification and maintenance testing prohibited - BR125  
Plumbers, credit toward licensing fees - BR72

**Lieutenant Governor**

Time of election, move to even-numbered year - BR178

**Loans and Credit**

Protected persons, credit security freeze on record or report - BR206

**Local Government**

Coal severance tax revenues, distribution of all revenues to counties - BR341  
Local government economic assistance fund, distribution adjustments - BR122  
Marriage solemnization, performance of - BR101, 102, 135, 154  
Officers, County clerks, real property filing requirements in Kenton County, repeal of 1860 Act - BR58  
Sex offenders, presence on publically owned playground, prohibition of - BR254  
Tax increment financing, definition of qualifying mixed use development, expansions of - BR337

**Malt Beverages**

Powder or crystal alcoholic beverage products, prohibition against possession, sale, or use of - BR1

**Medicaid**

Eligibility for benefits, substance abuse screening - BR378  
MCO provider appeals process - BR131

**Memorials**

Ford, Wendell H., designate Jefferson County bridge in honor of - BR141  
Metzger, Audrey Henke, memorializing - BR16

**Mental Disability**

Incapacitated persons, credit security on record or report - BR206  
Voting rights, prohibitions relating to - BR18

**Mental Health**

Problem and Pathological Gamblers Awareness and Treatment Program, establishment of - BR37  
Voting rights, prohibitions relating to - BR18

**Military Affairs and Civil Defense**

Drone surveillance by certain entities, exempt military training from - BR197

**Minerals and Mining**

Natural resources severance and processing tax, refunds - BR122  
Property tax on unmined coal reserves, exempt certain reserves from state and local tax - BR199

**Motor Carriers**

Plug-in electric vehicles, annual registration fee - BR61

**Motor Vehicles**

Damage, civil immunity, removal of dog or cat - BR241  
DUI, penalties imposed - BR54  
penalties imposed, consideration of prior offenses - BR67  
Plug-in electric vehicles, annual registration fee - BR61  
Trailers, annual registration renewal date, April 30 - BR8

**Occupations and Professions**

Heating, ventilation and air conditioning, credit toward licensing fees - BR72  
Physician, licensure, specialty certification and maintenance testing prohibited - BR125  
Physicians, Board of Medical Licensure composition - BR127  
Pregnancy and related conditions, prohibited discrimination, required accommodations - BR113  
Welders, safety requirements for structural steel welding - BR45

**Parental Rights**

Foreign law, application of, protection of rights - BR256

**Parks and Shrines**

Sex offenders, presence on publically owned playground, prohibition of - BR254

**Peace Officers and Law Enforcement**

Arrest-related deaths, coroner investigation - BR26  
School resource officers, required training of - BR319  
Warrantless drone surveillance or use of armed drones by certain entities, prohibition - BR197

**Personnel and Employment**

Pregnancy and related conditions, prohibited discrimination, required accommodations - BR113  
Public works projects, Kentucky residents and apprentices, employment of - BR301

**Physicians and Practitioners**

Board of Medical Licensure, appointments to - BR127  
Dense breast tissue, information to be provided - BR75  
Insurance policy changes, procedures for, adoption requirement - BR126  
MCO provider appeals process - BR131  
Physician licensure, specialty certification and maintenance testing prohibited - BR125

**Planning and Zoning**

Planning & zoning requirements for certain cities within a consolidated local government - BR156

**Plumbers and Plumbing**

Licensing, credit toward licensing fees - BR72

**Police, City and County**

CERS, reemployment of retired police officers by cities - BR63  
Warrantless drone surveillance or use of armed drones by certain entities, prohibition - BR197

**Police, State**

Warrantless drone surveillance or use of armed drones by certain entities, prohibition - BR197

**Popular Names and Short Titles**

BR  
197, Citizens' Freedom from Unwarranted Surveillance Act - BR197  
301, Kentucky Jobs Act - BR301  
67, Protecting Kentuckians from Impaired Driving Act - BR67  
Living Organ and Bone Marrow Donor Assistance Act of 2016 - BR147  
Look Before You Lock Act - BR65

**Poverty**

Public assistance, substance abuse screening - BR378

**Public Assistance**

Eligibility for benefits, substance abuse screening - BR378  
Foster homes, per diem increase - BR332  
Welfare to work, 12 month income disregard - BR380

**Public Authorities**

Public works projects, Kentucky residents and apprentices, employment of - BR301

**Public Buildings and Grounds**

Public works projects, Kentucky residents and apprentices, employment of - BR301

**Public Health**

Dense breast tissue, information to be provided - BR75  
Foster homes, per diem increase - BR332  
Living organ donation, promotion of - BR147

**Public Medical Assistance**

Eligibility for benefits, substance abuse screening - BR378

**Public Officers and Employees**

Commissioner of education, Senate confirmation

of - BR180  
Election of statewide constitutional officers, change to even-numbered year - BR178  
Secretary, Finance and Administration Cabinet, health insurance trust fund, allocation of surplus - BR7

**Public Records and Reports**

Arrest-related deaths, investigation and annual reporting - BR26  
Marriage licenses, refusal to issue or record, protection of - BR101  
solemnization, performance of - BR101, 102, 135, 154  
Marriage, vital statistics, indexing and recording - BR154

**Public Safety**

Address confidentiality protection program, expansion of - BR260  
Benefits for death in the line of duty, inclusion of emergency medical services providers - BR91  
Foster homes, per diem increase - BR332  
Warrantless drone surveillance or use of armed drones by certain entities, prohibition - BR197

**Real Estate**

Property tax on unmined coal reserves, exempt certain reserves from state and local tax - BR199  
Protective orders, tenant protections relating to - BR11  
Real property filing requirements in Kenton County, repeal of 1860 Act - BR58

**Religion**

Foreign law, application of, protection of rights - BR256

**Reproductive Issues**

Abortion services, payments from government to entity providing, prohibition of - BR292

**Retirement and Pensions**

Kentucky Retirement Systems, contributions paid on reemployed officers at cities - BR63  
Pension contributions, public employee health insurance trust fund, prior plan year surplus - BR7

**Safety**

Dog or cat in vehicle, removal, civil immunity - BR241  
Minor in vehicle, removal, civil immunity - BR65

**Secretary of State**

Commissioner of Education, election of, constitutional amendment proposed for - BR334  
Constitutional amendment, General Assembly, com-



pensation suspended - BR258  
Elections, student election assistants - BR217  
Public benefit corporations, establish - BR225  
Time of election, move to even-numbered year - BR178

State Agencies

Council on Postsecondary Education, education programs for governing boards, development of - BR31  
Department for Community Based Services, foster homes, per diem increase - BR332  
of Criminal Justice Training, school resource officers training by - BR319  
Education Professional Standards Board , certification of veteran as teacher - BR42  
Finance and Administration Cabinet, health insurance trust fund, allocation of plan year surplus - BR7  
Health and Family Services, custody of abused or neglected child, notice to schools - BR257  
and Family Services, postsecondary student eligibility for tuition waiver, determination of - BR134  
Medicaid Services, Medicaid managed care organization appeals - BR131  
Personnel, certain nonmerit state employees, travel required, certificate for - BR174  
Registrar of vital statistics, marriage licenses, issuing and recording of - BR154  
State Board of Elections, student election assistants - BR217

State Employees

Nonmerit employees, appointment of, prior travel required - BR174  
Commissioner of education, Senate confirmation of - BR180

Studies Directed

Municipal bankruptcy, LRC - BR236

Substance Abuse

Involuntary treatment, include substance use in definition of "mentally ill person" - BR158

Taxation

Coal severance revenues, distribution - BR200; BR341  
County clerks, marriage license tax - BR154  
Education savings plan trust, income tax deduction for - BR289  
Natural resources severance and processing tax, refunds - BR122  
Organ donation, income tax credit established for promotion of - BR147  
Property tax on unmined coal reserves, exempt certain reserves from state and local tax - BR199  
Roll call vote, requirement for - BR255  
Sales and use tax, bees and beekeeping supplies, exemption - BR38

and use tax, holiday - BR201  
Tax increment financing, definition of qualifying mixed use development, expansions of - BR337

Taxation, Income--Corporate

Organ donation, tax credit established for promotion of - BR147

Taxation, Income--Individual

Education savings plan trust, income tax deduction for - BR289  
Organ donation, tax credit established for promotion of - BR147  
Welfare to work, 12 month income disregard - BR380

Taxation, Property

Unmined coal reserves, exempt certain reserves from state and local tax - BR199

Taxation, Sales and Use

Bees and beekeeping supplies, exemption - BR38  
Holiday from tax - BR201

Taxation, Severance

Coal severance revenues, distribution - BR200; BR341  
Natural resources severance and processing tax, refunds - BR122

Teachers

Preambles to US and Kentucky Constitutions, posting copies of - BR116  
Veteran, certification as teacher - BR42

Traffic Safety

DUI, penalties imposed - BR54  
penalties imposed, consideration of prior offenses - BR67

Transportation

Address protection program participant, acceptance of substitute address - BR260  
Education, safety, heatstroke, minor in vehicle - BR65  
Ford, Wendell H., designate Jefferson County bridge in honor of - BR141

Treasurer

Time of election, move to even-numbered year - BR178

United States

Firearms, federal laws and rules, invalidate - BR214

Universities and Colleges

Public postsecondary institutions, governing boards, required orientation and education program - BR31  
Tuition waiver, eligibility of student for - BR134

Veterans' Affairs

Ford, Wendell H., designate Jefferson County bridge in honor of - BR141  
Teacher, certification of veteran - BR42

Wines and Wineries

Powder or crystal alcoholic beverage products, prohibition against possession, sale, or use of - BR1

Witnesses

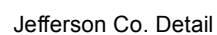
Oaths, taking of - BR20

Women

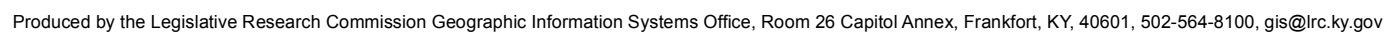
Abortion services, payments from government to entity providing, prohibition of - BR292  
Address confidentiality protection program, expansion of - BR260  
Employment, pregnancy and related conditions, prohibited discrimination, required accommodations - BR113  
Foreign law, application of, protection of rights - BR256

Workers' Compensation

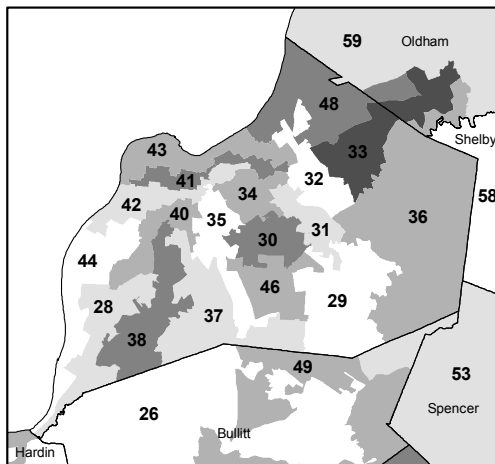
Exclusion for lawn services for private home for less than twenty days, exemption for - BR288



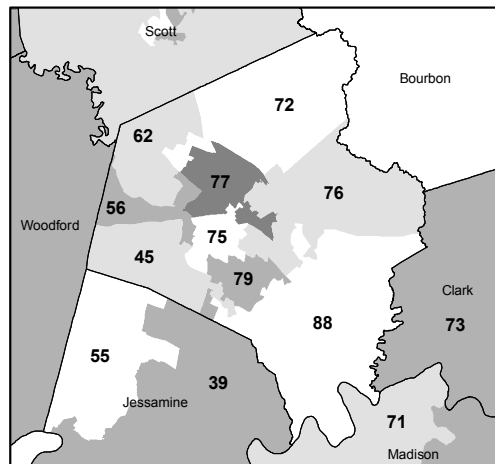
Senate Plan (SH001A02) became law (KRS 5.101 - 5.138) August 23, 2013, with enactment of House Bill 1.



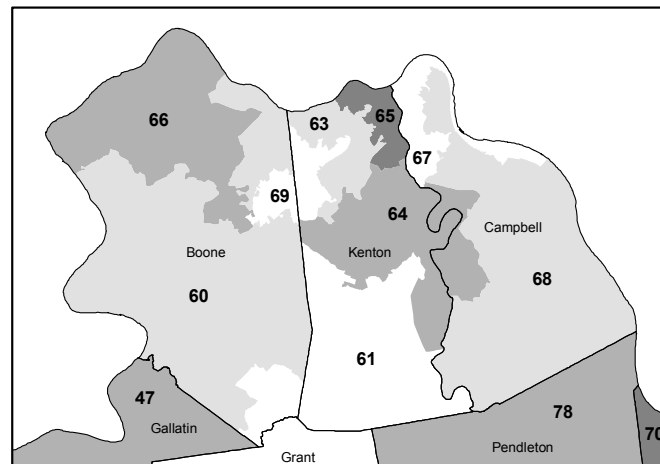




Jefferson Co. Detail



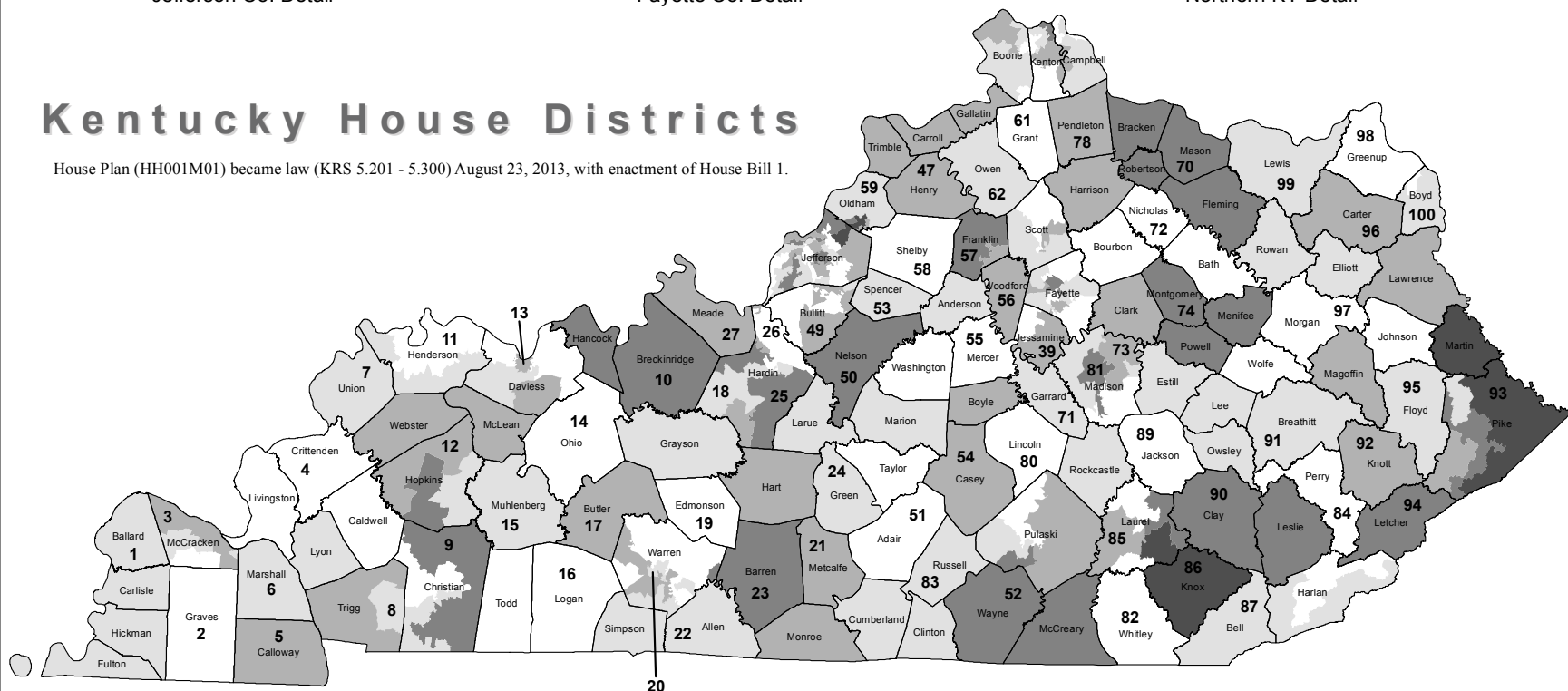
Fayette Co. Detail



Northern KY Detail

# Kentucky House Districts

House Plan (HH001M01) became law (KRS 5.201 - 5.300) August 23, 2013, with enactment of House Bill 1.



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