2019

# INTERIM RECORD

A SUMMARY OF INTERIM ACTIVITIES

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## Kentucky's growing hemp industry faces challenges

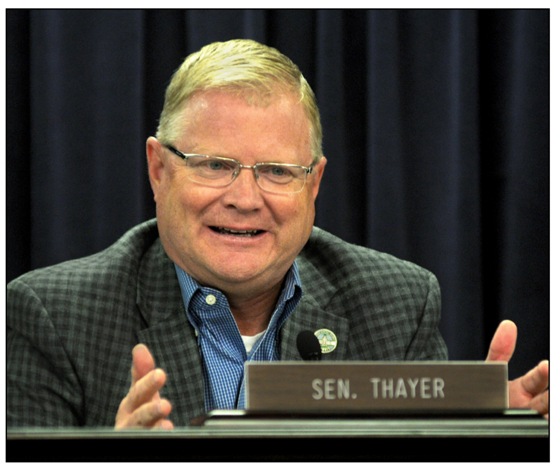
by Rebecca Hanchett
*LRC Public Information*

FRANKFORT—Six years ago, the Kentucky General Assembly created a framework for production of industrial hemp. Now the state is a hemp production leader, with around 26,000 acres planted this year alone.

But the growth of hemp and hemp processing in Kentucky under 2013 Senate Bill 50 and the 2014 U.S. Farm Bill has presented what Kentucky Agriculture Commissioner Ryan Quarles calls "growing pains," with farmers and processors facing some uncertainty from both federal regulators and financial lenders.

Although the federal government no longer classifies hemp – a type of cannabis plant--as a controlled substance under federal law, it still regulates the sale of cannabis and cannabis-derived products such as the increasingly popular CBD (or cannabidiol). That has not changed according to the federal Food and Drug Administration, which stated on its website in July that only one CBD product (the epilepsy drug Epidiolex) had been approved by the FDA to date and that marketing of any other CBD product for therapeutic, health or food use is "currently illegal."

Quarles said FDA oversight is the top issue facing hemp growers and processors, especially when it comes to any "consumable end product" like CBD which is often consumed as an edible or in drops under the tongue.




Senate Majority Floor Leader Damon Thayer, R-Georgetown, talks about hemp in Kentucky at the Oct. 7 meeting of the Interim Joint Committee on Agriculture.

Quarles said Kentucky has been in talks with the FDA about hemp's potential as a food or other additive, but that uncertainties remain.

"We still like to remind all of our program participants … that this is still a crop that has risks involved," he told the Interim Joint Committee on Agriculture on Oct. 7. "But the FDA is a very process-oriented

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## Preliminary estimates suggest General Fund surplus for FY 2020

by Rebecca Hanchett
*LRC Public Information*

FRANKFORT—Preliminary estimates from a group of state economic forecasters predicts that Kentucky will end this fiscal year with a General Fund revenue surplus of $26.7 million.

The preliminary fiscal year 2020 forecast —based on projected revenue growth over the state's current official revenue estimate, issued in late 2017—adopted on Oct. 15 by the Consensus Forecasting Group (CFG) reflects 0.8 percent projected General Fund growth by the end of FY 2020. It also predicts 2.0 percent revenue growth in FY 2021 and 1.7 percent growth in FY 2022.

The CFG also adopted revenue estimates yesterday for the state Road Fund which funds state transportation projects. Preliminary estimates suggest FY 2020 Road Fund revenues will exceed the current official estimate by $52.7 million.

The CFG will meet later this year to finalize the state's FY 2020-2022 revenue estimates for both the General Fund and the Road Fund and issue official estimates in December, giving the 2020 Kentucky General

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# New way to bet on the ponies pondered

by Jim Hannah
*LRC Public Information*

State Sen. Denise Harper Angel, D-Louisville, asks a questions about fixed-odds wagering on horse races during the Oct. 2 meeting of the Interim Joint Committee on Licensing, Occupations and Administrative Regulations.

FRANKFORT – A thoroughbred racing think tank has asked Kentucky lawmakers to consider allowing a new type of bet on horse races.

Fixed-odds wagering would allow track operators to be competitive against the expansion of legalized sports betting in other states, said Patrick Cummings of the Thoroughbred Idea Foundation of Lexington. He made the remarks during the Oct. 2 meeting of the Interim Joint Committee on Licensing, Occupations and Administrative Regulations.

This new type of wager would allow bettors to compete against the house, or bet taker. The house would set fixed odds on horses that bettors could choose to lock in with a wager. In general, sports betting on football, basketball and other sports are made under this model.

Cummings, a former executive with the Hong Kong Jockey Club, said this would be a historic shift from pari-mutuel wagering now offered across the horse racing industry. That's a business model where bettors compete against other bettors with the track removing a percentage of the pool, known as the takeout, before distributing the rest of the pool to winning players. The odds change as the pool fluctuates until the race begins.

"This is clearly an opportunity to develop a complementary product for racing's existing customers while introducing a modern form of betting for new ones as well," Cummings said while explaining why pari-mutuel betting isn't being embraced by younger generations. "This opportunity should be embraced with Kentucky leading the way."

Cummings said legislators should consider adding a provision to allow fixed-odds wagering on horse racing to any bill that would legalize sports betting. Currently, Sen. Julian M. Carroll, D-Frankfort, has prefiled a sports betting bill.

Senate Majority Floor Leader Damon Thayer, R-Georgetown, asked committee Co-chair Rep. Adams Koenig, R-Erlanger, to consider refiling a sports betting bill he introduced last session with the addition of the fixed-odds wagering for horses.

"I think this is an idea whose time has come," Thayer said of fixed-odds wagering on horse racing. "I'm supportive of it. And I would like to see Kentucky lead the way on this."

Sen. Reginald Thomas, D-Lexington, asked what other countries had legalized fixed-odds wagering on horse racing. Cummings said it is legal in Australia, South Africa, England, Ireland and likely many other European jurisdictions.

Cummings added that many American track operators, including Keeneland, have business arrangements with overseas bookmakers to offer fixed-odds wagering on American horse races to European bettors. He speculated that the market for fixed-odds betting by European customers on American races is about $1.4 billion.

In response to a question by Rep. Buddy Wheatley, D-Covington, Cummings said New Jersey is the only state to offer fixed-odds wagering on horse racing. He added that legal alternatives to fixed-odd betting in racing is incredibly limited.

"Outside of the few days when Churchill Downs offers their future wager via a limited pari-mutuel pool ... American customers cannot place a bet on the Derby until Derby or Oaks day and they won't know their potential return until the betting is stopped and the race is already underway," Cummings said

He said the biggest threat to track operators is offshore entities that offer fixed-odds wagering on horse races, including the Kentucky Derby. Cummings said one of the biggest operators catering to American horse racing fans is based in Costa Rica and licensed in Curacao. He said these types of operators do not return any portion of their profits to the thoroughbred industry as required from legal gambling operators.

Sen. Christian McDaniel, R-Taylor Mill, asked where Churchill Downs and Keeneland stood on fixed-odds wagering on horse races.

"Churchill has not publicly commented on the matter that I've been able to assess," Cummings said. "I've certainly had conversations with Keeneland, and they certainly seem very supportive of this concept – both from the marketing side and certainly the business side."

In response to another question from McDaniel, Cummings said Churchill and Keeneland were not members or financial supporters of his organization.

"Everything is privately funded by individuals," Cummings said of the source of his group's money.

Rep. Jerry T. Miller, R-Louisville, asked whether Kentucky voters would have to approve a constitutional amendment to allow fixed-odds wagering on horse racing. Koenig said he didn't think a constitutional amendment would be necessary but added that he hoped to have a nationally recognized legal expert on this type of betting testify before the committee in December.

Carroll, a member of the committee, asked about the taxing implications of the proposal. Cummings said he envisioned the take, or amount retained by the bet taker, to be 10 percent or 11 percent for brick and mortar sports bets and 14 percent for online operators. Thayer

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# Betting, from page 2

added that would be in line with previous sports wagering legislation considered in Kentucky.

Cummings said any of those figures would be a higher take than traditional sports bets, which are around 5 percent. He said the higher take was necessary for horse racing because that sport, unlike football or basketball, is funded through wagering.

House Majority Whip Chad McCoy, R-Bardstown, asked how the proposal would help increase purses, or the prize money in horse races. Cummings said the legislation would have to be carefully crafted to protect the interests of the industry, tracks and horsemen. He emphasized that no percentage of wagers taken by offshore operations benefit American purses or horsemen.

Sen. Denise Harper Angel, D-Louisville, expressed her support of the proposal.

"I think this is a great idea," she said. "I'm the proud senator that represents Churchill Downs, doubly proud because my father was an owner and trainer there for 40-plus years before moving on to Santa Anita. We have to stay ahead of this."

Thayer said he was happy the proposal received a largely receptive response from committee members.

"There are a lot of really good questions about taxation, and horsemen and purses," Thayer said. "We have to be able to tax it at a level that the customer will want to wager ... and the operator will invest to attract people currently making these wagers illegally."

# Hemp, from page 1

organization, as you know, and so we want to make sure that they don't regulate this business to death, that we educate them on the nutraceutical health care/health supplement side of the crop as well as other areas which are currently prohibited by law."

Financial lending is another challenge for the hemp industry, said Quarles, who said a lot of banks are hesitant to provide loans to processors and growers. That has improved since hemp became a legal crop in 2018, but he said lenders—especially national banking institutions—are holding back.

"We're just trying to figure out what issues they have," he told lawmakers. "A lot of these issues will have to be resolved in Washington, D.C."

A lack of crop insurance options is another concern for growers, said Quarles. A handful of the state's hemp growers elected for Whole Farm crop insurance coverage this year, he said, but he said he didn't expect many farmers to use that product in 2020.

Quarles said it could take three or four years for the hemp industry to produce the data that insurers need to provide the type of coverage now available for corn and soybean crops.

"They need production data. We simply don't have the data nationwide to say 'this is what an average yield is,'" he told the committee.

Rep. Joe Graviss, D-Versailles, said he is aware of some cash flow and payment concerns from Kentuckians in the hemp industry. He asked Quarles how those concerns are being addressed, and Quarles emphasized a need for more access to financial lending.

Nearly 1,000 Kentucky growers had a hand in this year's crop – a record since the state's hemp program began 2014.

"The inability of our legal hemp companies to go into a bank and have access to credit (is an issue)," he said. "It's disrupting business here in Kentucky."

Senate Majority Floor Leader Damon Thayer, R-Georgetown, asked Quarles if any legislative changes regarding hemp are needed at the state level. He mentioned the possibility of a special legislative meeting on hemp before the start of the 2020 session to iron out any proposals before budget talks consume lawmakers' time in February and March.

"There is a lot of bipartisan support for hemp, and we want to make sure we are prepared to send a message to growers and potential growers that we in Kentucky want to stay ahead of the curve," said Thayer.

Nearly 1,000 Kentucky growers had a hand in this year's crop – a record for hemp production since Kentucky began licensing hemp growers and handlers under the state's Industrial Hemp Research Pilot Program in 2014.

# Budget, from page 1

Assembly the information it needs to consider budget legislation for 2020-2022.

One factor influencing current national economic forecasts is the ongoing trade conflict with China, State Budget official Dr. J. Michael Jones told the CFG on Tuesday. He said it is assumed in the economic forecast released by the global firm IHS Markit—which supplies economic information to the CFG—that "all tariffs will be going into effect in the continuing trade war with China," including expanded tariffs on currently taxed goods and products, and a phase-in of goods not previously covered by tariffs, with the next round of tariffs levied on Dec. 15.

The preliminary fiscal year 2020 forecast adopted on Oct. 15 by the Consensus Forecasting Group (CFG) reflects 0.8 percent projected General Fund growth by the end of FY 2020.

Jones said that IHS Markit is also forecasting a 35-percent chance that there will be a national recession beginning in the first quarter of FY 2021 and lasting three to four quarters. The firm is predicting a short-lived recession, said Jones.

"Nothing like the malaise that we saw 2008 into 2010, the Great Recession, if you will," he said.

Another factor considered by the CFG is a 1.1 percent increase in FY 2020 first-quarter General Fund revenues. Governor's Office of Economic Analysis official Greg Harkenrider said the 1.1 percent increase was the lowest growth in first-quarter General Fund receipts since FY 2017.

State law requires the Office of State Budget Director to certify and present the General Assembly with the CFG's official revenue estimates for the General Fund and Road Fund for the current and next two fiscal years "on or before the fifteenth legislative day" in even-numbered years.

# 2020 REGULAR SESSION CALENDAR

**JANUARY**

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

**FEBRUARY**

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

**( ) Denotes Legislative Day**

**MARCH**

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---|---|---|---|---|---|---|
| 1 | 2 Last day for new House bills **(38)** | 3 Last day for new Senate bills **(39)** | 4 **(40)** | 5 **(41)** | 6 **(42)** | 7 |
| 8 | 9 **(43)** | 10 **(44)** | 11 **(45)** | 12 **(46)** | 13 **(47)** | 14 |
| 15 | 16 **(48)** | 17 **(49)** | 18 **(50)** | 19 **(51)** | 20 **(52)** | 21 |
| 22 | 23 **(53)** | 24 **(54)** | 25 **(55)** | 26 **(56)** | 27 | 28 |
| 29 | 30 | 31 Concurrence **(57)** | | | | |

**APRIL**

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---|---|---|---|---|---|---|
| | | | 1 Concurrence **(58)** | 2 **VETO** | 3 **VETO** | 4 **VETO** |
| 5 | 6 **VETO** | 7 **VETO** | 8 **VETO** | 9 **VETO** | 10 **VETO** | 11 **VETO** |
| 12 | 13 **VETO** | 14 **(59)** | 15 **SINE DIE** **(60)** | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | | |

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# Committee Meetings

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## LEGISLATIVE RESEARCH COMMISSION

### Minutes of the 563rd Meeting

September 18, 2019

**Call to Order and Roll Call**

The 563rd meeting of the Legislative Research Commission was held on Wednesday, September 18, 2019, 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 David Osborne, Co-Chair; Senators Julie Raque Adams, David P. Givens, Dennis Parrett, Damon Thayer, Johnny Ray Turner, and Mike Wilson; Representatives Rocky Adkins, John Bam Carney, Derrick Graham, Joni L. Jenkins, David Meade, and Suzanne Miles.

Guests:

LRC Staff: Jay Hartz and Christy Glass.

Senator Stivers called the meeting to order and welcomed Jay Hartz as LRC's new director. Senator Stivers asked everyone to be in prayer for David Jones' family. Mr. Jones was the founder of Humana, and passed away on September 17. Senator Stivers then called for a motion to approve the minutes of the May 15, 2019, meeting, accept as indicated items A. through K. under Staff and Committee Reports, refer prefiled bills as indicated and approve items B. through DD. under New Business, and accept and refer as indicated items 1. through 33. under Communications.

A motion was made by Senator Raque Adams and seconded by Senator Thayer.

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

**STAFF AND COMMITTEE REPORTS**

Information requests since May 2019.

Committee Activity Reports since May 2019.

Report of the Administrative Regulation Review Subcommittee meetings on May 14, June 11, July 10, and August 9, 2019.

Committee review of the administrative regulations by the Interim Joint Committee on Economic Development and Workforce Investment during its meeting on June 6, 2019.

Committee review of the administrative regulations by the Interim Joint Committee on Health, Welfare, and Family Services during its meetings on July 19, August 19, and September 9, 2019.

Committee review of Executive Reorganization Order 2019-286 by the Interim Joint Committee on Health, Welfare, and Family Services during its meeting on June 3, 2019.

Committee review of Executive Reorganization Order 2019-0466 by the Interim Joint Committee on Health, Welfare, and Family Services during its meeting on August 19, 2019.

Committee review of the FY 2020 Social Services Block Grant Application by the Interim Joint Committee on Health, Welfare, and Family Services during its meeting on August 19, 2019.

Committee review of the FY 2020-2021 Community Services Block Grant Application by the Interim Joint Committee on Health, Welfare, and Family Services during its meeting on August 19, 2019.

Committee review of the FY 2020-21 Unified Block Grant Application by the Interim Joint Committee on Health, Welfare, and Family Services during its meeting on September 9, 2019.

Committee review of the administrative regulations by the Interim Joint Committee on Natural Resources and Energy during its meeting on September 10, 2019.

NEW BUSINESS

Referral of prefiled bills to the following committees: **BR 258** (An act relating to hunting coyotes.) to **Agriculture**; **BR 32** (An act relating to the taxation of tobacco products.), **BR 36** (An act relating to an increase in tax rates.), **BR 107** (An act relating to an exemption of feminine hygiene products from sales and use taxation.), **BR 117** (An act relating to the taxation of pension income.), **BR 127** (An act proposing an amendment to Section 170 of the Constitution of Kentucky relating to exemptions from taxation.), **BR 215** (An act relating to the taxation of pension income, making an appropriation therefor, and declaring an emergency.), **BR 247**

(An act relating to property taxes for veteran service organizations.), **BR 339** (An act relating to the rural hospital tax credit.), and **BR 355** (An act relating to tax credits for airport noise mitigation.) to **Appropriations and Revenue; BR 105** (An act relating to prescription insulin.), **BR 180** (An act relating to mandatory benefits for health benefit plans.), and **BR 275** (An act relating to Medicaid payments.) to **Banking and Insurance**; **BR 72** (An act relating to the recognition and registration of professional employer organizations.), **BR 113** (An act relating to call centers.), **BR 132** (An act relating to wages.), **BR 237** (An act relating to wages.), **BR 263** (An act relating to wage theft.), and **BR 343** (An act relating to criminal histories of job applicants.) to **Economic Development and Workforce Investment**; **BR 27** (An act relating to historical instruction.), **BR 31** (An act relating to teachers and making an appropriation therefor.), **BR 61** (An act relating to public charter schools), **BR 82** (An act relating to tuition benefits and making an appropriation therefor.), **BR 120** (An act relating to corporal punishment in schools.), **BR 126** (An act relating to bullying.), **BR 136** (An act relating to school bus safety and making an appropriation therefor.), **BR 203** (An act relating to arts education.), **BR 334** (An act relating to full-day kindergarten.), and **BR 357** (An act relating to education.) to **Education**; **BR 7** (An act relating to voluntary non-opioid directives), **BR 121** (An act relating to long-term care administrators.), **BR 182** (An act relating to assisted-living communities.), **BR 278** (An act relating to Medicaid managed care contracts.), **BR 297** (A resolution designating September 2020 as Prostate Cancer Awareness Month.), and **BR 315** (An act relating to copayments by medical assistance recipients.) to **Health, Welfare, and Family Services**; **BR 79** (An act relating to the investigation of a shooting or deadly incident by a law enforcement officer.), **BR 94** (An act relating to criminal damage to rental property.), **BR 119** (An act relating to road safety.), **BR 133** (An act relating to road safety.), **BR 139** (An act relating to assistance dogs.), **BR 143** (An act relating to child abuse and declaring an emergency.), **BR 176** (An act relating to road safety.), **BR 187** (An act relating to carrying concealed weapons.), **BR 240** (An act relating to compliance with state and federal law.), **BR 341** (An act relating to firearms), and **BR 342** (An act relating to firearms and declaring an emergency) to **Judiciary**; **BR 205** (An act relating to veterinarians.), **BR 231** (An act relating to discriminatory practices against a person.), **BR 233** (An act relating to cosmetic services.) and **BR 236** (An act relating to sports wagering and making an appropriation therefor.) to **Licensing, Occupations, and Administrative Regulations**; **BR 45** (An act relating to fire districts.) and **BR 206** (An act relating to solid waste.) to **Local Government**; **BR 118** (An act relating to solid waste), **BR 204** (An act relating to key infrastructure asset), and **BR 270** (An act relating to mining permits and making an appropriation therefor.) to **Natural Resources and Energy**; **BR 160** (An act relating to state symbols.), **BR 179** (An act relating to the promotion of living donor human organ and bone marrow donation.), **BR 181** (An act relating to time.), **BR 257** (An act relating to employees of quasi-governmental agencies.), and **BR 356** (An act relating to the sale or transfer of historic places.) to **State Government**; **BR 95** (An act relating to motor vehicle titles.), **BR 166** (An act relating to operating a motor vehicle.), and **BR 285** (A resolution urging Congress to require car manufacturers to improve safety devices on automobiles for the protection of children left in cars) to **Transportation**; **BR 85** (An act relating to the Honor and Remember flag) and **BR 125** (An act relating to the Bowling Green Veterans Center, making an appropriation therefor, and declaring an emergency.) to **Veterans, Military Affairs, and Public Protection**.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving the creation of the Task Force on Electric Recording of Official Documents by County Clerks.

From Senator Chris McDaniel and Representative Steven Rudy, Co-chairs of the Interim Joint Committee on Appropriations and Revenue: Memorandum requesting authorization of the membership of the LRC Subcommittee on 2020-2022 Budget Preparation and Submission.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving Amendments to the Creation of the Interim Task Forces and LRC Staff Studies.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving appointments and authorization of the 2019 Kentucky Career and Technical Education Task Force.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving appointments and authorization of the 2019 Public Assistance Reform Task Force

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving appointments and authorization of the 2019 Area Development District Working Group.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving appointments and authorization of the 2019 Public Water and Wastewater System Infrastructure Task Force.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving appointments and authorization of the 2019 Alzheimer's and Dementia Workforce Assessment Task Force.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving appointments and authorization of the 2019 Mileage Based Transportation Funding Task Force.

From Senate President Robert Stivers, House Speaker David Osborne, and State Budget Director John Chilton: Memorandum approving the membership of the Consensus Forecasting Group.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving membership adjustment to the 2019 Public Assistance Reform Task Force.

From Senator Phillip Wheeler and Representative Jim Gooch, Co-chairs of the Public Water and Wastewater System Infrastructure Task Force: Memorandum requesting John W. "Doc" Holiday to be appointed as an additional member of the task force.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving appointments to the 2019 Task Force on Electronic Recording of Official Documents by County Clerks.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving membership adjustment of the 2019 Alzheimer's and Dementia Workforce Assessment Task Force.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving membership adjustment of the 2019 Task Force on Electronic Recording of Official Documents by County Clerks.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Ms. Denise Wells to the Alzheimer's and Dementia Workforce Assessment Task Force.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Sheila Mitchell, Harry Burchett, Kirk Biggerstaff, Bo Mathews, and Tim Bobrowski to the Local Superintendents Advisory Council.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Representative Terri Branham Clark to the Interim Joint Committee on Natural Resources and Energy.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum appointing Senator Steve West as Co-chair of the Budget Review Subcommittee on Justice and Judiciary and removing Senator Dan Seum from the subcommittee.

From Senate President Robert Stivers and House Speaker David Osborne: Memorandum approving changes to the Interim Joint Committee meeting calendar.

From Jay D. Hartz: Prefiling Deadlines for the 2020 Regular Session.

From Jay D. Hartz: 2020 Regular Session Calendar.

From Senator Jimmy Higdon and Representative Ken Upchurch, Co-chairs of the Mileage Based Transportation Funding Task Force: Memorandum requesting to meet on September 30, rather than the regular meeting date of October 7.

From Senator Paul Hornback and Representative Richard Heath, Co-chairs of the Interim Joint Committee on Agriculture: Memorandum requesting approval to meet on October 7, rather than the newly assigned date of September 30. There are no apparent membership conflicts.

From Senator John Schickel and Representative Adam Koenig, Co-chairs of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations: Memorandum requesting approval to meet at 10:00 a.m. rather than 3:00 p.m. on October 2. There are two potential conflicts.

AA. From Senator Mike Wilson and Representative Bobby McCool, Co-chairs of the Kentucky Career and Technical Education Task Force: Memorandum requesting approval to meet on October 2, rather than the regularly scheduled meeting date of October 9. There are no apparent conflicts.

BB. From Senator Jared Carpenter and Representative Bart Rowland, Co-Chairs of the Interim Joint Committee on Banking and Insurance: Memorandum requesting approval to meet at 3:00 p.m. rather than 10:00 a.m. on October 2. There are no apparent conflicts.

CC. From Jay D. Hartz: Memorandum recommending the adoption of an Animal Policy in General Assembly and LRC office spaces.

DD. From Senator Paul Hornback and Representative Richard Heath: Memorandum requesting reauthorization and membership of the Rural Issues Subcommittee and the Equine Issues Subcommittee.

**COMMUNICATIONS**

From the Office of the Attorney General: Constitutional Challenge Report for the months of April, May, June, and July 2019. Pursuant to KRS 418.075(3).

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of May, June, July, and August 2019. Pursuant to KRS 42.410.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Periods 10, 11, 12, and 13, and year-to-date activity for the period of July 1, 2018, through June 30, 2019; and Accounting Periods 1 and 2 and year-to-date activity for the period of July 1, 2019, through August 31, 2019. Pursuant to KRS 42.190.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarter ending June 30, 2019. Pursuant to KRS 154.20-150.

From the Cabinet for Health and Family Services: 2018 Pediatric Cancer Research Trust Fund Annual Report. Pursuant to KRS 211.597(4).

From the Justice and Public Safety Cabinet, Department of Corrections: HB 463 2018 Annual Report. Pursuant to KRS 439.560.

From the Auditor of Public Accounts: 2018 Report of the Audit of the Kentucky Department of Fish and Wildlife Resources.

From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the periods ending March 31 and June 30, 2019.

From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and Statement of Solvency as of March 31 and June 30, 2019. Pursuant to KRS 342.821.

From the Auditor of Public Accounts: 2019 Data Bulletin: The Establishment and Oversight of Multi-County Regional Jails in Kentucky.

From the Auditor of Public Accounts: 2018 Lung Cancer Research Fund Independent Accountant's Report. Pursuant to KRS 164.476.

From the Auditor of Public Accounts: 2018 Early Childhood Development Fund Independent Accountant's Report. Pursuant to KRS 200.151.

From the Auditor of Public Accounts: 2018 Rural Development Fund Independent Accountant's Report. Pursuant to KRS 248.655.

From the Auditor of Public Accounts: 2018 Kentucky Health Care Improvement Fund Independent Accountant's Report. Pursuant to KRS 194A.055.

From the Cabinet for Health and Family Services: 2019 Privatization of Child Welfare Services Recommendations developed by the RS18 House Bill 1 Study Group. Pursuant to KRS 620.345(5).

From the Cabinet for Health and Family Services: 2019 Diabetes Report. Pursuant to KRS 211.752.

From the Cabinet for Health and Family Services: FY18-19 Kentucky Citizen Review Panel Annual Work Report. Pursuant to KRS 620.190.

From the Office of the Attorney General: 2019 Report on the Status of the Administrative Hearing Process in the Commonwealth of Kentucky. Pursuant to KRS 15.111(2)(f).

From the Cabinet for Health and Family Services: 2019 Kentucky Stroke Encounter Quality Improvement Project (SEQIP) Annual Report. Pursuant to KRS 211.575.

From the Sexual Assault Response Team Advisory Committee: 2019 Second Annual SAFE Act Report. Pursuant to KRS 403.707(5).

From the Cabinet for Health and Family Services: FFY 2020-21 Unified Block Grant Executive Summary. Pursuant to KRS 45.351.

From the Cabinet for Health and Family Services: 2018 HIV/AIDS Surveillance Report.

From the Justice and Public Safety Cabinet: 2019 Education Program on AIDS Annual Report. Pursuant to KRS 197.055.

From the Cabinet for Health and Family Services: Social Service Worker Caseload Averages. Pursuant to KRS 199.462(4).

From the Office of the Attorney General: Supplement to the 2019 Report on the Status of the Administrative Hearing Process in the Commonwealth of Kentucky.

From the Kentucky Transportation Cabinet: FY19 Operating and Financial Statement of the

Kentucky Public Transportation Infrastructure Authority. Pursuant to KRS 175B.100(1).

From the Legislative Ethics Commission: 2019 Recommended Changes to the Code of the Legislative Ethics.

From the Cabinet for Health and Family Services: 2019 Annual Report on Child Abuse and Neglect Fatalities and Near Fatalities. Pursuant to KRS 620.050(12)(c).

From the Auditor of Public Accounts: Report of the Examination of Lease Law Compliance. Pursuant to KRS 43.050(2)(e).

From the Kentucky Housing Corporation: FY19 Methamphetamine Housing Clean-up Assistance Program Awards.

From the Kentucky Housing Corporation: FY19 Kentucky Affordable Housing Trust Fund Fiscal Year Awards.

From the Cabinet for Health and Family Services: 2019 Family Preservation Services Annual Report. Pursuant to KRS 200.575(1).

From the Auditor of Public Accounts: 2018 Report of the Audit of the Kentucky Law Enforcement Memorial Foundation, Inc.

There being no further business, the meeting was adjourned.

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

**Minutes of the 5th Meeting of the 2019 Interim**

September 9, 2019

**Call to Order and Roll Call**

The 5th meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Monday, September 9, 2019, at 1:00 PM, at the Cabinet for Health and Family Services Building, Department for Public Health, Hearing Rooms A, B, and C, 275 East Main Street, Frankfort, Kentucky. Representative Kimberly Poore Moser, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Julie Raque Adams, Danny Carroll, Julian M. Carroll, Denise Harper Angel, Alice Forgy Kerr, Stephen Meredith, and Max Wise; Representatives Danny Bentley, Tina Bojanowski, Adam Bowling, George Brown Jr, Tom Burch, Daniel Elliott, Deanna Frazier, Robert Goforth, Scott Lewis, Mary Lou Marzian, Melinda Gibbons Prunty, Josie Raymond, Steve Riley, Steve Sheldon, Nancy Tate, Russell Webber, and Lisa Willner.

Guests: Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services; Eric Lowery, Executive Director, Office of Finance and Budget, Cabinet for Health and Family Services; Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services; Angela Dearinger, Commissioner, Tricia Okeson, Deputy Commissioner, Virginia Hamilton, Environmental Health Inspection Program Evaluator, Pamela Hendren, Environmental Health Branch Manager, Brenda Adams, Devon McFadden, Division Director, Kyra Vermillion, Executive Administrative Secretary, Tisha Johnson, Contractor Supervisor, Department for Public Health, Cabinet for Health and Family Services; Michele Blevins, Assistant Director, Division of Behavioral Health, Justin Peach, Grants Administrator, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services; Jim Musser, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services; Allison Adams, President, Kentucky Health Department Association; Glenna Goins, Governor's Office for Policy and Management; Phill Gunning, Executive Director, Shannon Baker, Director of Development and Communications, National Alliance on Mental Illness (NAMI) Lexington; and Ron Coleman, Benevis.

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, Dana Simmons, Becky Lancaster, Hillary McGoodwin, and Sean Meloney.

**Approval of the Minutes**

A motion to approve the minutes of the August 9, 2019 meeting was made by Representative Burch, seconded by Senator Alvarado, and approved by voice vote.

**Consideration of Referred Administrative Regulations**

The following administrative regulations were placed on the agenda for consideration: 201 KAR 008:581 - establishes requirements for charitable dental practices; 902 KAR 002:070 - establishes uniform procedures for diagnosis, prevention, and control rabies, and for operating as a rabies clinic; 902 KAR 015:010 - establishes standards for community construction and layout, sanitary standards for operation, the permitting and inspection fee schedule, and other matters necessary to insure a safe and sanitary manufactured or mobile home community operation; 902 KAR 045:075 - establishes the responsibilities of tanning facilities, the procedures for their registration and monitoring, and the required registration fee structure; 902 KAR 045:090 - establishes efficient administration and enforcement of home-based processors and home-based microprocessors; 910 KAR 002:020 - establishes referral requirements for adult guardianship; and 922 KAR 001:310 - establishes basic standards for child-placing agencies; and 922 KAR 001:350 - establishes criteria for public agency foster homes, adoptive homes, and respite care providers caring for foster or adoptive children.

**Consideration of Referred Administrative Regulations as Amended**

The following administrative regulations amended after comments were placed on the agenda for consideration: 902 KAR 045:065 - establishes the standards for tattooing; 902 KAR 045:070 - establishes the standards for body piercing and ear piercing; and 922 KAR 001:495 - establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for foster or adoptive children in the custody of the cabinet.

**Cabinet for Health and Family Services Department and Office Overview**

Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services (CHFS), stated that CHFS is the primary state agency responsible for protecting and promoting the well-being of Kentuckians through the delivery of health and human services. CHFS employs 6,700 people that includes approximately 1,400 contractors. The CHFS budget is $14.4 billion which is 33 percent of the total state operating budget of $33.4 billion. Ms. Putnam listed all of the offices that are within the Office of the Secretary and the other cabinet agencies. CHFS has been working to transform Kentucky Medicaid with the Kentucky HEALTH 1115 waiver and the 1915(c) Home and Community-Based Services (HCBS) waiver. The child welfare system transformation is making strides to have Kentucky's foster and adoption programs be the best in the nation. CHFS is leading the way with a collaborative and strategic approach to combat the opioid and addiction crisis.

The major areas of focus for the Department for Community Based Services (DCBS) are child welfare transformation, adult protective services, child care, and public assistance. DCBS serves 1.75 million Kentucky families including one million children. Kentucky has 813,000 families in poverty with 233,300 households receiving the Supplemental Nutrition Assistance Program (SNAP) benefits and 14,252 households receiving Kentucky Transitional Assistance Program (K-TAP) benefits. Ms. Putnam presented a list of programs and grants that are administered by DCBS.

The Department for Medicaid Services (DMS) has approximately 1,385,788 people in Kentucky that are eligible and receiving Medicaid benefits with 90.64 percent of total eligibles enrolled in managed care. Approximately 92 percent of Kentucky's providers are enrolled with DMS. In state fiscal year (SFY) 2019, DMS' budget for expenditures on administrative and benefits combined was $10.64 billion. Ms. Putnam listed the different divisions within DMS. DMS is working on the development and implementation of a Medicaid Enterprise Management System (MEMS), a partner portal for providers to use online, and an electronic visit verification system. She stated that the Kentucky HEALTH 1115 waiver will help to engage members and achieve long term health goals.

Ms. Putnam stated that the Department for Behavioral Health, Developmental and Intellectual Disabilities (BHDID) administers state and federally funded mental health, substance use disorder, developmental and intellectual disability programs and services throughout the Commonwealth. BHDID has an array of hospitals, specialty clinics, community-based residential substance abuse programs, intermediate care facilities, personal care homes, long-term care facilities, and community mental health centers (CMHCs) as part of the network for individuals with disabilities. There are approximately 800 clients that are served daily in inpatient facilities owned and operated, or contracted for operation by BHDID. She explained that the goal of BHDID is to preserve and enhance the behavioral health safety network. BHDID is working on programs to expand the recovery-oriented system of care to address the opioid crisis.

Ms. Putnam defined the different divisions within the Department for Public Health (DPH). She listed the DPH programs and services that focus on many different areas such as the Kentucky Health Access Nurturing Development Services (HANDS) program, emergency preparedness, immunizations, food manufacturing inspections, and prescription drug assistance. She stated that the Department for Aging and Independent Living (DAIL) serves older adults, adults with physical disabilities, and individuals under state guardianship. DAIL has programs and services that are federally and state funded. By 2035, it is projected that older adults will outnumber children. According to the United Health Rankings Senior Report 2018, Kentucky ranks as 49 out of 50 in overall health and 50 out of 50 in preventable hospitalizations. The average caseload of state guardianship for fiscal year (FY) 2018-2019 was 265 cases however best practice recommends the average should be between 55 and 70 cases.

Ms. Putnam stated that the Office of Inspector General (OIG) licenses and regulates health facilities, health services, child care providers, and child adoption or placement agencies. The OIG serves as the State Survey Agency under contractual agreement with the Centers for Medicare and Medicaid Services (CMS) to monitor health facilities that participate in Medicare and/or Medicaid. The OIG investigates fraud, waste, abuse, mismanagement, or misconduct by CHFS clients, employees, vendors, providers, and contractors. The OIG operates the Kentucky All Schedule Prescription Electronic Reporting (KASPER) Program and houses the Kentucky National Background Check Program.

The Office of Health Data and Analytics includes the CHFS privacy program, the Kentucky telehealth program, the Division of Health Benefit Exchange, the Division of Health Information, and the Division of Analytics. The consolidation of the oversight of policy and research matters regarding healthcare and social services allow Kentucky to be more readily able to address systemic drivers impacting these program areas for its citizens. The Office for Children with Special Health Care Needs (OCSHCN) provides comprehensive care for Kentucky residents that are younger than 21 years of age, meet medical eligibility, and meet financial eligibility. OCSHCN has 11 offices and 6 satellite locations throughout Kentucky that provide services. The Department for Income Support provides the Disability Determination Services program and the Child Support Enforcement program.

Ms. Putnam stated that the Division of Family Resource and Youth Services Centers' (FRYSC) mission is to enhance students' ability to succeed in school by developing and sustaining partnerships that promote early learning and successful transitions to school, academic achievements, graduation, and positive transitions into adult life. Serve Kentucky, the state service commission, works to engage Kentuckians in volunteerism and service to positively impact communities.

In response to questions and comments from Representative Frazier, Ms. Putnam stated that it is not likely that the Office of Health Data and Analytics would apply specific information gathered on an individual level but the information would be applied to the aggregate. The Office of Health Data and Analytics will review the aggregate data to see if there are trends. CHFS can change policy and enhance how it supports the providers according to data gathered and reviewed. The Kentucky Health Information Exchange (KHIE) is working to allow CHFS access to medical encounters but there are many different data bases that have to be merged together before information can be shared.

In response to questions and comments from Representative Goforth, Ms. Putnam stated that electronic reporting is the preferred method for the community engagement requirement for the Kentucky HEALTH 1115 waiver. However, there is also a paper form available that can be mailed or turned in to CHFS. Regarding implementation of the Kentucky HEALTH 1115 waiver, CHFS is in the appeals process. The other states that have pursued a community engagement requirement have also been stopped. Indiana has a voluntary community engagement option so they have not encountered the same challenges to move the waiver forward. The oral arguments for the waiver appeal are scheduled for October 11, 2019. After the arguments, the appeal opinion is expected to be given within a 30 to 45 day period. CHFS made an update to the waiver's reporting language in response to a request from CMS.

In response to questions and comments from Senator Wise, Ms. Putnam stated that she does not know how the $3.1 million that will be granted to Kentucky from federal funds for opioid efforts will be dispersed. CHFS wants to combine the grant money with ongoing efforts. CHFS would like support additional transformational employment.

In response to questions and comments from Senator Alvarado, Ms. Putnam stated that having experienced the rollout of managed care for the foster population in Florida by a separate cabinet, her opinion is that it makes more sense to put all of health and human services together under one cabinet. Separating CHFS would inhibit the ability to innovate across agencies to work effectively for the child and family. She stated that the peak number of Kentucky Medicaid enrollees covered under the Medicaid expansion was approximately 489,000. In SFY 2019, the average of total eligibles was down by approximately 67,000.

In response to questions and comments from Representative Burch, Ms. Putnam stated that the frontline social workers say that caseloads are overwhelming. CHFS has brought in a private child caring agency to help with the backlog of child protective services investigations in Jefferson County. CHFS recognizes that there are retention issues for frontline social workers. CHFS believes that implementing a culture of safety would help frontline social workers in all departments. DCBS also relies on each community to help with child welfare and to support the frontline staff. The foster parent payment is based on completion of a series of background screenings, trainings, and home inspections that many relatives and grandparents do not want to complete. CHFS has revised the relative caregivers support program so there is access to resources such as SNAP benefits, Medicaid services, and some cash assistance. The benefits are offered to the relative or grandparent to offset the cost of caring for a child. The foster parent payment is available to relatives who choose to complete the foster parent certification requirements.

In response to questions and comments from Representative Gibbons Prunty, Ms. Putnam stated that there is more data from Indiana regarding the implementation of the 1115 HEALTH waiver about the premium payments and the higher utilization. The individuals who are paying a premium are more likely seek preventative care. There is some data on community engagement but it is not known how robust the referral to resources process is in Indiana. During the interim, CHFS is working with community partners on how to connect systems and expand access to resources while waiting on the waiver approval.

In response to questions and comments from Senator Meredith, Ms. Putnam stated that the rankings in the Senior Report in five years depends on many factors. CHFS hopes to be out of the bottom five for all the categories and closer to the middle rankings. She stated that more money is not always the answer. In some circumstances, funds can be redirected to private contractors. Private contractors are sometimes able do more with less money. CHFS agrees that the same rankings are repeated for many years which is not uncommon in the health and human services industry. Kentucky seems to have more problems than other states but CHFS is looking into ways to do things differently to achieve better outcomes. CHFS is looking to be more of a prevention model of health and human services.

In response to questions and comments from Senator Harper Angel, Ms. Putnam stated that CHFS would prepare and send a report with data regarding the applications for grandparent assistance.

**Cabinet for Health and Family Services Budget Overview**

Eric Lowery, Executive Director, Office of Finance and Budget, Cabinet for Health and Family Services, stated that everyone in Kentucky utilizes a service provided by CHFS and benefits from its protection. For FY 2019, CHFS expenditures were over $13 billion. CHFS' focus is on maximizing the federal funds with most of the grants requiring a federal match. For FY 2019, 86 percent of every general fund dollar that CHFS received was tied to a federal match. In FY 2019, CHFS' expenditures were paid with 71 percent federal funds, 21 percent general funds, 8 percent restricted funds, and less than 1 percent of tobacco funds. In FY 2019, 92 percent of the expenditures were for grants, loans, and benefits, leaving only 8 percent for overhead expenditures. Kentucky Medicaid expenditures were 82 percent of the CHFS budget. The remaining 18 percent of the CHFS budget, which is approximately $2.4 billion in expenditures, covered all other CHFS departments.

Mr. Lowery stated that after DMS, DCBS is the next largest department with over $1.2 billion in expenditures. At the beginning of FY 2019 there was a general fund budget reduction of $144.9 million and an $83.3 million increase in total expenditures. There was an $82.8 million increase in retirement contributions, $131.1 million decrease in Medicaid benefit expenditures, and $69.7 million increase in out-of-home care expenditures.

Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services, stated that number of Medicaid eligible persons in the presentation is an average for the past twelve months. There were approximately 1,385,788 eligible persons covered by Kentucky Medicaid in SFY 2019. There are approximately 88,928 children covered under the Kentucky Children's Health Insurance Program (KCHIP). Over 46,000 of Kentucky's providers are enrolled with the DMS. The total of expenditures for fee-for-service is approximately 28 percent of the DMS budget. He stated that 10 percent of the Medicaid population consumes almost 30 percent of the budget. The total expenditures to managed care organizations (MCOs) was approximately $7.4 billion or 71 percent of the expenditures. The yearly benefit expenditures decreased in SFY2019 for only the third time in the past 20 years.

Mr. Bechtel shared a graph that illustrated a comparison of the original MCOs eligible persons forecast, the actual MCOs eligible persons, and the updated MCO forecast. The graph showed that the updated forecasts are more in line with the actual experience. He stated that the number of eligible persons has declined by approximately 69,000 since March 2018 but has established some stabilization the past six months. In SFY 2019, DMS had a total of $241 million in expenditures and has an enacted budget for SFY 2020 of approximately $234 million. DMS spent approximately 2.26 percent for administrative costs in SFY 2019. Eligibility, appropriations, and budget drive the DMS budget. When one of those components receives pressure then another area must be offset to keep the budget on track. After three years of work, DMS is current on payments to the MCOs and payments are no longer being pushed to the next fiscal year.

In response to questions and comments from Senator Raque Adams, Mr. Bechtel stated that DMS has a budget neutrality piece that must be met on the 1915(c) HCBS waiver. He did not know if the 1915(c) HCBS waiver redesign will have an impact on the Medicaid expenditure totals. He stated that he is trying to get a fiscal impact on the 1915(c) HCBS waiver redesign because it will impact the DMS budget.

In response to questions and comments from Senator Danny Carroll, Mr. Lowery stated that if there is any dramatic shift in the overall funding at a federal level, CHFS would come to the legislature first to discuss options because the changes could have policy implications. Mr. Bechtel stated that there are several provider networks that are proposing a provider tax or adjustment to increase the rates.

In response to questions and comments from Representative Frazier, Mr. Bechtel stated that the $600,000 savings to DMS caused by

156 people being approved for the Kentucky Integrated- Health Insurance Premium Payment (KI-HIPP) program is a small amount in comparison to the overall budget. He also stated that any amount that can be saved to help the budget is good and DMS expects those savings to grow.

In response to questions and comments from Senator Alvarado, Mr. Bechtel stated that the Medicaid expenditures include all traditional and expansion members. The members covered under the Medicaid expansion have copayments for pharmaceuticals but the traditional members do not have a cost for pharmaceuticals.

In response to questions and comments from Representative Moser, Mr. Bechtel stated that the MCOs' contract request for proposal (RFP) is in the procurement process. DMS cannot disclose or comment on the details in the RFP.

**Public Health Transformation**

Angela Dearinger, Commissioner, Department for Public Health (DPH), Cabinet for Health and Family Services, stated that the DPH is working to be an efficient, sustainable, and accountable public health system focused on producing better health outcomes for all Kentuckians. The public health transformation goals are to relieve the fiscal instability, to introduce a simplified public health model with clearly defined priorities, to create accountability at all levels of the system, to improve public health leadership capacity, to prevent duplication of effort, to reduce waste internally and externally, and to support data-driven decisions that promote the best community health outcomes.

Fiscal instability is a challenge in developing a sustainable public health system. There are 41 local health departments representing 4 districts that are at risk for fiscal default in calendar year 2020. The current fiscal analysis shows a $40 million deficit for the public health system in 2020. According to America's Health Rankings by the United Health Foundation, Kentucky is ranked 45 out of 50 in overall health outcomes. The current programmatic services are not reflective of the community's public health needs. Bureaucratic layering needs to be removed from the system to achieve operational efficiency and effectiveness. The public health laws are broad and voluminous. The statutes and regulations regarding public health do not allow for proper operational restructuring. The hybrid structure of public health makes change difficult. The local health departments must use local funds to match or supplement federal funds. Public health transformation will allow communities to evaluate community assets and define local health priorities.

Tricia Okeson, Deputy Commissioner, Department for Public Health, Cabinet for Health and Family Services, stated that the five focus areas with statutory and regulatory defined services are: population health, enforcement of regulation, emergency preparedness and response, administrative and organizational infrastructure, and communicable disease control. The HANDS program, the Women, Infant and Children (WIC) nutritional program, the harm reduction programs, and the substance use disorder (SUD) programs are not in statute but are important to public health. Community partners can offer these programs on behalf of the local health departments.

The Public Health Advisory Board is made up of the Kentucky Health Department Association president, the Kentucky Association of Local Boards of Health president, the Kentucky Public Health Association president, a university representative rotated on a two year cycle, and the commissioner of the Department for Public Health. The Public Health Council will review evidence-based and best practices to develop public health. The Council may request revision, clarification, approve, or deny submitted plans. The five components of a local health priority review are data-driven needs, evidence-based solutions, adequate funding identified, performance and quality management plans, and an exit strategy. Ms. Okeson stated that the planning and preparation of the public health transformation began in May of 2018. The statewide implementation of the public health transformation began on July 1, 2019 and the legislative initiatives are scheduled to be proposed in January of 2020.

Allison Adams, President, Kentucky Health Department Association (KHDA), stated that KHDA is grateful for the opportunity to partner with CHFS and the DPH in the transformation. KHDA has vetted and is supportive of the public health transformation. KHDA acknowledges that change is hard and there are limited resources. The actions taken in the public health transformation will have a positive impact for better health outcomes in Kentucky. She requested that the legislature stay active and engaged during the process of transformation.

In response to questions and comments from Senator Julian Carroll, Ms. Adams stated that there many issues at the local level with emergent and hospital care but public health has strayed away from its mission. The public transformation will focus on simplifying, focusing, and prioritizing the department. The transformation will be considered an investment into prevention. The partners in the transformation can drive solutions or programs to improve health outcomes at a broader level.

In response to questions and comments from Representative Bentley, Ms. Okeson, stated that ideally if the local health department had an issue with a disease or illness spreading, they would contact the Division of Epidemiology and Health Planning to work together regarding the definition and criteria of an outbreak. She stated that with the Hepatitis A outbreak in Northern Kentucky, the message eventually got out to not release the name of a restaurant unless the person with Hepatitis A truly put the patrons of the restaurant at risk.

In response to questions and comments from Representative Sheldon, Ms. Adams, stated that the cost savings will not just be in public health but also in other areas such as Medicaid. The transformation is an investment in leveling the health costs that are plaguing Kentucky.

**Legislative Hearing on the FFY 2020-2021 Unified Block Grant**

Michele Blevins, Assistant Director, Division of Behavioral Health, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services, stated that Unified Block Grant contains the Community Mental Health Services Block Grant and the Substance Abuse Prevention and Treatment Block Grant. The Unified Block Grant is a noncompetitive discretionary formula grant with an annual award of $29 million. The grant will go to BHDID to be distributed with 84 percent going to services. Community mental health services along with substance abuse prevention and treatment have the most acute need at the community level. The grant rules stipulate that the goods and services be used for community based services and not institutional care. There are some maintenance of effort requirements. The block grant application has been sent and will either be approved or have revisions requested. The application is open for public comment and can be reviewed on the CHFS website.

In response to questions and comments from Representative Bentley, Ms. Okeson, stated that there is a concerted effort to not overlap funding from different sources. With the Kentucky Opioid Response Effort (KORE) BHDID has been very diligent to make sure all viable partners are at the table. There are regular state level implementation team meetings that include all departments within CHFS and other participants from other cabinets as well. There are 14 community mental health centers with defined regions that cover all of Kentucky. The centers provide mental health, substance use prevention and treatment, as well as developmental and intellectual disability services. A motion to accept the block grant was made by Representative Sheldon, seconded by Representative Tate, and accepted by voice vote.

**Adjournment**

There being no further business, the meeting was adjourned at 3:25 PM.

## INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

**Minutes of the 3rd Meeting of the 2019 Interim**

September 11, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Wednesday, September 11, 2019, at 3:00 PM, in Room 129 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julian M. Carroll, Denise Harper Angel, Christian McDaniel, and Dan "Malano" Seum; Representatives Tom Burch, Thomas Huff, Matthew Koch, Nima Kulkarni, Chad McCoy, Jerry T. Miller, Kimberly Poore Moser, Ruth Ann Palumbo, Phillip Pratt, Sal Santoro, and Buddy Wheatley.

Guests: Tom Veit and Angie Thomas, Real Estate Appraisers Board; H.E. Corder, Marc Manley and Tony Cotto, Kentucky Real Estate Authority; Karen Lentz, Kentucky Association of Beverage Retailers, Gay Dwyer, Kentucky Retail Federation, Charles George, Wine & Spirits Wholesalers of Kentucky, Jeff Sandlin, Kentucky Malt Beverage Council, John Harris, Kentucky Beer Wholesalers Association, Adam Watson, Against the Grain Brewery, Kate Russell, Hopkinsville Brewing Company, Stephanie Stumbo, Goss Samford PLLC, Allen Dossey, Kentucky Winery Association, and Bart Baldwin, Bart Baldwin Consulting.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Melissa McQueen, and Lisa W. Moore

**Minutes**

The minutes from August 21, 2019, meeting were approved without objection.

**Consideration of Administrative Regulations**

Mark Manley, Acting General Counsel, Kentucky Real Estate Authority, Tony Cotto, Executive Advisor, Kentucky Public Protection Cabinet, and Tony Veit, Executive Assistant, Kentucky Real Estate Appraisers Board, came to answer questions on the administrative regulations. Responding to a question from Senator McDaniel, Mr. Veit said the $450,000 is already being generated by about 1,600 licensed appraisers annually in Kentucky.

Chairman Schickel motioned to pass over administrative regulations 201 KAR 030:110 and 201 KAR 030:190 because there are no new fee increases. The administrative regulations were passed over with no objections from the committee members.

Tom Hewlett, Committee Staff Administrator, Interim Joint Committee on Licensing, Occupations, and Administrative Regulations, explained 201 KAR 030:330 to the committee. Chairman Schickel motioned to passed over the administrative regulation and there was no objection.

**Kentucky Guild of Brewers**

Adam Watson, Against the Grain Brewery, said the Kentucky Guild of Brewers is pleased to report another year of continued growth, and increased economic impact. He thanked the Kentucky General Assembly for the support and legislative changes that have made the growth possible. The craft brewing industry has reached new levels of competitiveness, with changes in both the market place and customers' expectations and demands. It remains imperative to continue efforts to modernize and advance Kentucky's alcohol laws, improve the tax structure, and avoid pitfalls of those seeking to keep everything as it has always been.

Mr. Watson said Kentucky continues to rank toward the bottom among states in terms of brewers per capita. Tremendous potential for growth still exists. Kentucky remains an under saturated state as opposed to several others. Market demands for quality craft product continue to drive the opportunity for growth.

Mr. Watson said the focus remains on building the brands, assuring production of quality products, and enhancing customer service and tourism experiences. The primary goal is the production of high quality craft beer. The craft beer industry is about creating synergies with each other, industry partners, industry sectors, and our communities. This includes synergy with the General Assembly and policy makers to move Kentucky forward.

Mr. Watson said small independent American craft brewers contributed over $76.2 billion to the United State economy in 2018, up from $55 billion just two years ago. The craft beer industry supports more than 500,000 jobs. While overall beer sales by volume in 2018 had a loss of 0.8 percent, craft beer had a four percent increase in volume growth and production. According to the United States Department of Labor, wages in the beer industry remain among the highest of the 350 industries surveyed. The demand for local products increased ten percent as preferred products to consumers. Spiked seltzer, cans, crowlers and local craft beer are in demand.

Mr. Watson said Kentucky craft breweries led the nation in 2018 for growth with 69 active licensed craft breweries. Currently, 30 existing breweries have confirmed expansion activity, and 42 percent of existing Kentucky craft brewers are already expanding operations. In 2018, Kentucky craft beer had a $657 million economic impact. So far in 2019, mid-year data shows its economic impact has increased to $765 million. More Kentucky craft brewers are exporting than in 2018. Kentucky craft beer is now sold to more than 45 states and over 25 countries, but priority should remain on investment in Kentucky. Production numbers have also increased.

Mr. Watson said Kentucky craft breweries have created 133 new jobs so far in 2019, while employing over 1,000 Kentuckians. The breweries offer Kentucky tourism amenities such as tap rooms. Fifteen brewers also offer food, roof top experiences, farm, or other amenities that draw visitors to Kentucky microbreweries.

Mr. Watson said Kentucky microbreweries have already invested $6.6 million this year in the Commonwealth in expansions in the form of additional equipment, new tanks, canning lines, buildings, improvements, and new brewery openings. Currently, of the known existing craft brewers that are expanding operations, an additional $13 million will be invested in Kentucky breweries and operation by the end of 2020. He gave some specific, local examples, including Goodwood Brewing Company located in Frankfort, Kentucky. He offered to give any legislator that was interested a tour of any of the local facilities.

Kate Russell, owner and operator of Hopkinsville Brewing Company, shared her personal success story with the committee. Ms. Russell is a single mother of two children, a veteran, and a brewer. She employees 12 people, and is investing an additional $250,000 to buy the building next door and increase the breweries capacity. She said it offers tap room sales and distributing to other licensed retailers. She also noted the brewery is not just her passion, but her livelihood, and how she provides for her family.

Mr. Watson said Kentucky craft brewers expansions have continued to lead to the location, creation, and expansion of even more new support industries and indirect jobs in Kentucky, as well as enhancing its tourism experience. The Kentucky craft beer festivals yield a big draw and enhance tourism. Attendance for the Annual Craft Bash was up 15 percent this year over last year, and over 1,700 visitors attended the festival, traveling from 21 different states.

Mr. Watson said Kentucky brewers partner with the Kentucky Department of Agriculture, Kentucky Proud and local farmers, Kentucky Tourism, Kentucky Arts and Heritage Cabinet, and Kentucky's Economic Development Cabinet. The Kentucky microbreweries have made over $500,000 in local charitable donations to their communities supporting over 294 community organizations and charitable groups. The Kentucky brewers donate approximately 10 million pounds of spent grain to help Kentucky farmers.

Kentucky craft beer has both a direct and indirect economic impact in the Commonwealth including: 1) investment of new dollars in Kentucky; 2) Kentucky based infrastructure and jobs; 3) industry revenue and sales; 4) wages and benefits to Kentuckians they employ; and 5) tax revenue (federal, state, and local). The ripple effect of beer benefits include: agriculture, manufacturing, construction, transportation, affiliate industries, service industries, and many other businesses whose livelihood depends on or is supported by the craft beer industry.

Mr. Watson said the craft brewing industry is concerned with several key issues both nationally and in Kentucky. They include: transparency; brewery and producer direct to consumer sales (shipping and limited self-distribution for small brewers); franchise reform; excise tax and tax reform; tariffs and trade; underage drinking and responsible consumption; preservation of existing privileges; independent distribution systems; access to materials; water quality; modernization of state's alcohol laws; and threats to the ability to be competitive.

Responding to a question from Representative Miller, Mr. Watson said craft brewers use a variety and vast quantity of ingredients, so it is difficult to source all of them in Kentucky. Currently, Kentucky Hops is coming along nicely, but the right strains that grow here and can compete with the ones grown in their natural habitat are still being perfected. Barley is beginning to be processed in Kentucky instead of being shipped from other states. Kentucky wants to use its own products and processing plants whenever possible.

Senator Seum said he is proud and often advocates for his local craft breweries. He noted they are great for tourism and stimulate the local economy.

**Kentucky Winery Association**

Mr. Allen Dossey, President, Kentucky Winery Association (KWA), said the first item on the KWA's legislative agenda is to raise the Kentucky small farm winery gallon limit to 500,000 from 100,000. He noted this is important to be competitive with surrounding states. Indiana's limit is 1,000,000, and the Ohio, Missouri, and Iowa limits are 500,000.

The second item on the legislative agenda is to allow a Kentucky small farm winery to open earlier on Sunday in an effort to remain competitive with surrounding states. They would like to open at 11:00 a.m. on Sundays instead of the current time of 1:00 p.m. This would significantly help tourism sales. This would also put the statute for wineries equal to the laws for restaurants that serve alcohol.

The third legislative agenda item is to allow a Kentucky small farm winery the ability to self-distribute their wine if they produce less than 50,000 gallons. He said 15 states have such a program and this really helps small farm wineries to have a level playing field.

The KWA supports legislation that allows the "direct to consumer" shipping of wine into and out of Kentucky. They are fully in favor of direct shipping to consumers.

Mr. Dossey clarified that the KWA is not asking for any additional monies. They only want the flexibility to do their job to the best of their ability. He also noted there are viable reasons not to get a full winery license. For example, regular wineries are not allowed to have the wine tastings like the small farm wineries can.

Senator Schickel said the story of the Purple Toad winery in Paducah is a great success story. Mr. Dossey said they were biggest small farm winery in operation in Kentucky.

Responding to a question from Representative McCoy, Mr. Dossey said it is a state restriction that mandates the 1:00 p.m. opening time. It will require changing state law with a local mandate option for small farm wineries to open at 11:00 a.m. like most surrounding states.

Senator Seum mentioned that Senator Carroll has vast knowledge in the winery business, and was an original founder of the wineries in Kentucky.

Responding to a question from Representative Palumbo, Mr. Dossey said he would provide a list of the eight states allowing wineries to distribute their wine if they produce and sell less than 50,000 gallons.

Senator Carroll thanked the chairman and the committee for allowing the growth of the wine industry in Kentucky. He is proud that the wine industry is now active in all parts of the state. Mr. Dossey said there are 65 Kentucky-based wineries.

Responding to a question from Representative Moser, Mr. Dossey said when the original limits were incorporated in the wine industry, no one envisioned the tremendous growth that would occur. He said wine was underappreciated in this part of the country and there were very few wineries. He said 83 percent of wine in Kentucky is consumed and purchased by women, and the growth in the industry has superseded the limitations. Representative Moser said it is time to revisit the limits and revise accordingly.

**Wholesale and Retail Tiers**

Mr. Charles George, Wine & Spirits Wholesalers of Kentucky, said Kentucky's wine and spirits wholesalers, beer distributors, and alcohol retailers employ nearly 16,000 Kentuckians in 104 counties across the Commonwealth in jobs ranging from accounting and sales to logistics and truck delivery. The alcohol wholesale and retail industries generate nearly $500 million in taxable wages and collect hundreds of millions of dollars for state and local governments, which helps to support families, communities, and schools. The industry is supported by over 8,000 businesses in the Commonwealth. He has much respect for the distillers, but the alcohol has to be distributed and sold in a safe manner.

Mr. John Harris, Kentucky Beer Wholesalers Association, discussed his family owned River City Distributing Company. He said they have 200 employees, and offer $90,000 a year truck driving jobs, and a union environment. He said he is proud that he has a significant number of employees who have over twenty years in his business and will eventually retire from his company.

Ms. Karen Thomas Lentz, Kentucky Association of Beverage Retailers, said there are over 4,000 off-premise retailers, which include package stores, grocery stores, pharmacies, convenience stores, and general stores. There is approximately 3,713 employees, and a $99.4 million total payroll. She noted there is over $2 billion in products sold annually.

Ms. Lentz said there are over 800 retail package stores licensed to sell liquor by the package in Kentucky. She said approximately 85 percent employ fewer than ten employees, and are considered true family businesses. She said small retail package liquor will require a $400-500,000 initial investment, and this is just for inventory, supplies, and start-up employees, not the building. It would take $4 million or more to open a large party store. She noted that taxes are paid on all the inventory and they contribute significantly to the economic well-being of the community.

Mr. George said prohibition proved to be a huge failure. He said alcohol is a sensitive product, but the 3-tier system provides checks and balances. Three big benefits of the three tiers are consumer safety, tax collection, and product selection.

Mr. Sandlin, Kentucky Malt Beverage Council, said his company employs 62 full-time workers and offers a variety of jobs. He said employees with a Commercial Driver's License (CDL) are the most difficult to retain. He said the council utilizes 31 suppliers, with 8 being Kentucky craft suppliers, 3 Kentucky distilleries, and are a part of Purple Toad. He said they take the product into the retail stores and assist in pricing and displaying.

Gay Dwyer, Kentucky Retail Federation, said the Kentucky General Assembly passed legislation in 2000 to allow restaurants, who met certain criteria, to sell alcohol on Sundays. This was a game changer as it showed Kentuckians that selling alcohol on Sundays was not the end of the world in their community. Historically dry Kentucky counties are now trending on becoming wet, and there are only 15 counties left out of 120 that are completely dry. This is transformative and encouraged the committee members to remain open to change in order to modernize the system to help economic development. This could include selling wine in grocery stores, which is done in all Kentucky's surrounding states, plus 40 more. Kentucky's wine consumption is half of the national average and she feels wine sales would increase if it was available with food in the grocery stores.

Responding to a question from Representative Miller, Mr. George said the ABC Board's decision on serving alcohol in dry counties is still pending. Based on House Bill 256, sponsored by Representative Michael Meredith, it would allow the host of a wedding barn party to have alcohol as long as there are no sales. He said a final ruling from the ABC Board has not come to fruition to his knowledge.

With no further business before the committee, the meeting adjourned at 4:00 p.m.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Justice and Judiciary

**Minutes of the 3rd Meeting of the 2019 Interim**

September 10, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, September 10, 2019, at 8:00 AM, in Room 129 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative Jason Nemes, Co-Chair; Senators Denise Harper Angel, John Schickel, and Whitney Westerfield; Representatives Angie Hatton, Nima Kulkarni, and Jason Petrie.

Guests: Alex Payne, Commissioner, Department of Criminal Justice Training (DOCJT), Justice and Public Safety Cabinet (JPSC); John McGuire, Deputy Commissioner, DOCJT, JPSC; and Kevin Rader, Assistant Director, Administrative Division, DOCJT, JPSC.

LRC Staff: Zachary Ireland, Savannah Wiley, and Benjamin Thompson

**Department of Criminal Justice Training**

Commissioner Payne provided an update on the implementation of RS 2019 SB 1, relating to school safety.

In response to questions from Chair West, Commissioner Payne stated that DOCJT was responsible for training School Resource Officers (SROs). Commissioner Payne stated that there would be 15 School Compliance Officers, including two supervisors and the State School Security Marshal. Commissioner Payne noted that the recurring personnel costs for School Compliance Officers would be $1.8 million dollars.

In response to questions from Senator Westerfield, Commissioner Payne noted that the number of School Compliance Officers needed was determined by breaking down how many schools are in the commonwealth and then separating them into regions. Commissioner Payne stated that with DOCJT's plan, each officer would have roughly 90 schools to inspect on a yearly basis. Commissioner Payne noted that implementation would begin in January of 2020. Commissioner Payne noted that officers would go through a 40 hour training to become a School Compliance Officer and that they would be existing officers hired to a new position. Commissioner Payne stated that the Kentucky Youth Advocates helped DOCJT develop training for SROs and that SROs would undergo 120 hours of specialized training over three years, 40 hours of training per year.

In response to questions from Senator West, Commissioner Payne said he would prefer to have an SRO in every school in the commonwealth. Commissioner Payne noted that compliance officers would be there to work with schools to help them be compliant, rather than discipline them for noncompliance. Commissioner Payne noted that RS 2019 SB 1 addresses where copies of each compliance report would go, but that the law did not mandate transparency.

**Approval of Minutes**

Senator Schickel made the motion to approve the minutes of the August 20, 2019 meeting, seconded by Senator Westerfield, and the minutes were approved without objection.

There being no further business before the subcommittee, the meeting was adjourned at 8:31 AM.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

**Budget Review Subcommittee on Economic Development,**
**Tourism, and Environmental Protection**
**Minutes of the 3rd Meeting**
**of the 2019 Interim**

September 10, 2019

**Call to Order and Roll Call**

The third meeting of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, September 10, 2019, at 8:30 AM, in Room 129 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Lynn Bechler, Co-Chair; Senator Max Wise; Representatives Terri Branham Clark, Savannah Maddox, and Les Yates.

Guests: Steve Milby, Commissioner, Department of Housing, Buildings, and Construction (HBC), Public Protection Cabinet (PPC); Duane Curry, Deputy Commissioner, HBC, PPC; and, David Startsman, General Counsel, HBC, PPC.

LRC Staff: Sara Rome, Kevin Newton, and Amie Elam.

**Public Protection Cabinet**

**Department of Housing, Buildings, and Construction**

Steve Milby, Duane Curry, and David Startsman provided a brief overview of the HBC and the budgetary requirements of that agency.

In response to a question from Chair Bechler, Mr. Curry said Kentucky Industrialized Building Systems (KIBS) are producers of panelized modular construction systems that are built at their plant and delivered to the building site already constructed.

In response to questions from Representative Branham Clark, Mr. Startsman said cities are required by statute to have a building inspector, as outlined in KRS 198B.060(1). The HBC steps in to help when a city has lost an inspector and until they are able to hire a replacement, for which no time limit is stipulated. He said the HBC only checks licenses due to safety issues. Mr. Milby added that there are nine inspectors that hold multiple licenses, and cross-training within the Master Inspector Branch is being done in order to increase efficiency within the department. He said the current turnaround time for approval of plans is approximately thirty days, but with the new SmartGov software program in place that amount of time should begin to decrease.

In response to a question from Representative Yates, Mr. Milby said there is not currently a separate designation for residential-only inspectors.

In response to a question from Chair Bechler, Mr. Curry said when the HBC steps in to help, it depends on the stage of the project as to whether or not permit fees can be collected. Mr. Milby agreed to provide a chart outlining the differences in jurisdiction for HBC inspectors versus city or county inspectors. He added that Kentucky's plumbing code is simple and easy to follow.

In response to a question from Representative Branham Clark, Mr. Milby said the Fire Marshal's Office is the only division within the HBC that receives general fund dollars, and they need to add ten inspectors as well as three staff members.

**Adjournment**

There being no further business before the subcommittee, the meeting was adjourned at 9:27 AM.

## MILEAGE BASED TRANSPORTATION FUNDING TASK FORCE

**Minutes of the 2nd Meeting**
**of the 2019 Interim**

September 9, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Mileage Based Transportation Funding Task Force was held on Monday, September 9, 2019, at 1:30 PM, in Room 171 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll. The minutes from the August 19, 2019 meeting were approved.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Gerald A. Neal and Albert Robinson; Representatives Terri Branham Clark and Sal Santoro; Jim Oliver, Jason Siwula, and Bryan Sunderland (via teleconference.)

Guests: Maureen Bock, OReGO Program Manager, Office of Innovation Manager, Oregon Department of Transportation (via teleconference), Dr. Cameron Kergaye, Research Director, Utah Department of Transportation (via teleconference)

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

Maureen Bock, OReGO Program Manager, Office of Innovation Manager, Oregon Department of Transportation, stated Oregon's first gasoline tax was implemented in 1919, the first weight-mile tax for heavy vehicles was implemented in 1947, and the first operational Road User Charge (RUC) program was implemented in 2015. Oregon's Road User Fee Task Force was created in 2001 due to a legislative mandate that required a development of a design for revenue collection for Oregon's roads and highways that will replace the current system for revenue collection. By 2012, two Oregon RUC pilots had been established. In 2013, the first RUC bill passed in Oregon. In 2015 Oregon launched a fully operational OReGO Program. In 2017 Oregon allowed electric vehicles (EV) the option of using a RUC or paying fees. Also in 2017, Utah implements a RUC for alternative fuel vehicles. In 2019 Oregon demonstrated a local area RUC. Also in 2019, RUC West implemented a California-Oregon pilot. Going forward, MS. Bock predicted a possible federal call for a nationwide RUC pilot, telematics to be implemented with a RUC, and eventually state mandates to implement a RUC.

Ms. Bock explained the RUC concept. In Oregon they collect fuels tax as a prepayment of RUC. The miles are counted and multiplied by the RUC rate. Then the net tax is collected or the overage paid is refunded.

Ms. Bock stated the fuel tax rate is $0.34 and the RUC rate is 5% of the fuel tax rate (1.7 cents per mile) and it is based on the average efficiency of the fleet at the time of adoption. The registration surcharge is waived for efficient vehicles if they are enrolled in OReGO.

Ms. Bock stated the need for a road usage charge was due to unsustainable fuel tax revenues due to more efficient vehicles and increasing construction costs. Also because of pavement degradation being the same for all vehicles, regardless of fuel type, a need for a road usage charge was expressed. A flat fee registration cost pays for access and a road use charge pays for actual usage of the road. Ms. Bock also added that a fuel tax is unsustainable and a road usage charge is fair. She added that a RUC offers additional benefits.

In evaluating the evolving transportation model, Ms. Bock utilized a chart that showcased what Minnesota is using to tell its story and vision of the future. Currently in individual ownership, the perception is "my car, my privacy, and no mileage tracking". The relationship with transportation is that my vehicle serves me, and the user pays gas tax. In the emerging possibility of shared mobility, the perception is "using my smartphone I'm tracking a car I will use as I need it". The relationship with transportation in a shared mobility mentality is that "a fleet of vehicles serve my community" and the user pays a used based fee per mile.

While discussing the public opinion issues, Ms. Bock stated some citizens feel the adoption of a RUC is unfair, and it discourages the adoption of electric vehicles due to the disproportionate road mileage usage. She stated that good roads are good for all vehicles, and there are other ways to encourage the purchase of electronic vehicles such as rebate programs. She stated higher registration fees are electronic vehicles results in disparate treatment between those who drive a lot of miles and those who only drive a few. She added that a RUC is only as unfair as fuel taxes are, if you are paying either fuel tax or road usage charge, but not both, then it is actually less regressive than increasing the fuel tax. She also stated that one public opinion is that it penalizes rural drivers. She stated that studies have shown that rural drivers might actually benefit from a RUC because they tend to drive less efficient vehicles so with a gas tax they are already paying more per mile to use the roads than urban drivers.

Ms. Brock stated the RUC differs from other funding methods because all users pay the base rate similar to fuel taxes. A RUC is not variable by the time of day unlike congestion pricing. She also stated that a RUC is applicable to the entire system unlike tolling. Ms. Brock stated some future challenges include business disruptions, rapidly changing technologies, and impacts on revenue.

Ms. Brock stated Oregon has joined the national discussion on RUC by being a part of the Mileage Based User Fee Alliance (MBUFA) which developed a framework for a national pilot program. She added a significant amount of time has been spent discussing the I-95 corridor Coalition concerning an intersection of RUC and tolling and interoperability. Also she discussed that Oregon is a member of RUC West which focuses on interoperability between states and testing clearinghouse requirements. Ms. Brock stated Oregon also likes to stay current with the states that are receiving FAST Act grants.

Ms. Brock stated Oregon is engaging the public by explaining the funding problem and the solution, inspiring people to think and learn more about the issue. Communication tools will be utilized such as videos, print materials, presentations and the website https://keeporegonconnected.org/ beginning next year.

To further drive home the point of the need for the OReGO program, Ms. Brock stated after 2020, 70 bridges in Oregon will become structurally deficient each year and without an increase in federal funding, state road funds will decrease by 30% in 2020 as well. She added that Oregon has 74,000 miles of highways, streets, and roads and over 8,000 bridges to preserve and maintain. The cost to rebuild one mile of one lane can cost up to $1.5 million. Early preservation techniques for the same lane mile only costs $200,000. Many key transportation facilities are 50 to 80 years old; therefore, increased maintenance and preservation investments are necessary to keep these older facilities safe and operational.

In conclusion, Ms. Brock stated Oregon continues to work on outreach and interoperability of the program as well as sharing the mobility marketplace vision. That vision includes providing the latest technology solutions, administering accounts, providing interoperability and delivering an integrated user experience.

In response to a question asked by Chairman Higdon, Ms. Brock stated the OReGO program is a voluntary program which has a participation rate of approximately 1,600 people. The program has been received very well.

In response to a question asked by Chairman Higdon, Ms. Brock stated Oregon uses two third party vendors to track mileage usage and for billing purposes.

In response to a question asked by Chairman Higdon, tracking and charging is not utilized if a car has not gone out of the state of Oregon unless the driver does not have a GPS device. If a GPS device is not utilized, all miles driven are presumed to be driven in Oregon.

In response to a question asked by Chairman Higdon, Ms. Brock stated currently 40% of the revenue collected from the program goes to the third party vendors. When more vehicles are added to the program, the percentage should decrease.

In response to a question asked by Chairman Higdon concerning advice for Kentucky, Ms. Brock stated consulting the public has been a major help in deciding to move forward with a RUC program. Having a RUC task force helped tremendously.

Dr. Cameron Kergaye, Research Director, Utah Department of Transportation presented a history on gas tax. Oregon was the first to implement a gas tax closely followed by Utah in 1923. He added the national gas tax purchasing power has had a decline due to cars becoming more fuel efficient.

Mr. Kergaye stated that more drivers are driving more miles creating more demand on a roadway system. He provided a chart that showed in Utah that approximately 32 billion miles are being traveled in 2018 with a projected 51 billion miles to be traveled in 2040. More drivers are driving more miles creating more demand on the roadway system.

Mr. Kergaye stated a road usage charge (RUC) is a usage fee that is charged in proportion to miles driven, similar to usage charges with utilities such as water, natural gas, or electricity. The RUC is being considered in Utah as a replacement of existing gas tax, not a new tax.

Mr. Kergaye stated RUC systems work by having an in-vehicle mileage counter that transmits miles driven to a private-sector account manager. Then mileage fees are deducted from a pre-paid wallet managed by an account manager. A vehicle owner then adds funds to the wallet when it gets low. The account manager sends road usage charge collections to the state of Utah. The state of Utah contracts with (and oversees) the account manager.

Mr. Kergaye stated when considering a RUC to generate transportation revenue, it is important to consider that a registration fee does not scale with a vehicle miles traveled fee and does no align with a user pays principle. A gas tax provides some link to usage but increasingly less so. A road usage change scales with vehicles miles traveled and aligns with a user pays principle scenario.

Some RUC challenges include limited understanding of transportation funding by citizens, enforcement, technology issues and advancements, accuracy of data collected, out-of-state driving issues, privacy protection, and administrative costs. Mr. Kergaye stated that there are 14 states as that are members of RUC West, 17 states that are members of the I-95 Coalition, seven states that have completed RUC pilot programs, and only two states that have ongoing RUC programs. He also explained that interoperability and integration between states will be a key policy consideration going forward.

Mr. Kergaye stated rural and low-income

households benefit from RUC. He added that 94% of Utah households are urban and 6% are rural. While 47.7 is the average daily miles an urban household drives, 52.6 is the average daily miles a rural household drives. The average fuel efficiency per urban household is 22.8 miles per gallon, while in a rural household it is 21.1 miles per gallon. He also presented a calculation which estimates that while the average urban driver would pay $1 more a year with a RUC, the average rural driver would pay $19 less.

Charts were provided of data showing the share of the market of electronic vehicles by state and a change of the new sales market share from 2017 to 2018. A chart was also provided that showcased the size and growth of Utah's vehicle fleet. The chart showed that 89.5% of total registered vehicles in Utah are gasoline powered vehicles. Diesel powered vehicles account for 8.5%, gas hybrid vehicles account for 1.5%, electric vehicles account for 0.2%, plug-in hybrid electric vehicles account for 0.1% and other alternative fuel vehicles account for 0.2% of all registered vehicles in Utah. He added that electronic vehicles, plug-in hybrid vehicles, and gas hybrids are growing rapidly. The electronic vehicle growth averaged 47% per year from 2015-2018, and 54% from 2018 to 2019. Hybrids are growing less rapidly, but are still far outpacing growth of gasoline and diesel cars.

Mr. Kergaye stated owners of different types of vehicles currently pay a wide range of state and federal gas tax each year. Electric vehicles do not pay any gas tax. A semi-truck driving the average number of miles pays $1,409 annually in gas taxes. The average Utah sedan owner pays approximately $300 per year in state and federal fuel taxes.

In 2018 Senate Bill 136 was enacted in Utah and set basic direction for the Utah Department of Transportation (UDO) to study and provide recommendations for an alternative fuel vehicle RUC system. The RUC study recommendations included setting up a RUC Advisory Committee, provide a RUC alternative to paying flat fees for electronic vehicles, plug-in hybrid electric vehicles, and gas hybrid vehicles. Also recommended was to consider privacy, methods for reporting road usage, and options for administering the system. The study recommended implementing the initial system by January 1, 2020, and to submit annual reports of findings, and allow room for future pilot projects.

Senate Bill 72 was passed in 2019 and gave basic structure and direction to UDOT for how to implement the alternative fuel vehicle RUC program. Senate Bill 72 includes privacy and security protections, UDOT and DMV information sharing. It allows owners and lessees of EVs and PEHVs to opt into a RUC or pay an annual fee. Senate Bill 72 includes a RUC rate setting process where the Transportation Commission authority is to set rates with advice from UDOT. Also included is rulemaking authority for UDOT that allows for contracting CAM and administering the program, implementing enforcement mechanisms such as registration holds, as well as other enrollment components.

Mr. Kergaye stated at the November 2018 meeting of the RUC Advisory Committee, there was a set of discrete recommendations that was presented based on the work of the Committee and its technical groups during the previous six months. The recommendations were included in the development of the new system.

A CAM will operate Utah's RUC system. Participants will set up a prepaid wallet tied to electronic payment information and fees will then be deducted from the wallet as miles are driven. Monthly statements will be sent to participants so that they can see how many miles they are driving, fees that have been deducted, and where their annual cumulative fees stand in comparison to the annual cap. Participants can access their account either through the smartphone app or a web portal.

Utah will be the first state to integrate its RUC system with a state DMV. We will have a real-time link between our CAM and the DMV. This link will be beneficial for enrollment, enforcement, and customer user convenience.

Beginning in January 2020, owners of alternative fuel vehicles in Utah will have a choice about how to pay for their contribution to road funding. They may either pay a flat fee independent of how much they drive, or enroll in the RUC program and pay by the mile. The flat fees are specific to vehicle type. They are lower for the vehicles that already purchase the most gasoline (and are therefore already paying fuel tax) and higher for EVs that don't require gasoline at all. The per-mile RUC fees are capped annually at the flat fee amount applicable to each vehicle type. The annual flat fee for electric vehicles will be $120, plug-in hybrid electric vehicles will be $52, and gas hybrid vehicles will be $20. The usage-based fee will be 1.5 cents per mile.

Mr. Kergaye summarized the range of RUC elements being incorporated into Utah's initial RUC system beginning in January 2020. Privacy will be protected in several ways. The first is that joining the RUC program is completely optional. Anyone uncomfortable with even a minimal level of data collection can simply pay the flat fee. The default length of time that the Commercial Account Manager (CAM) will only store location data is 30 days following the end of each month to prevent date from being kept for a prolonged length of time. Raw location data will never be shared with the state except in narrowly defined cases related to dispute resolution or system audits. The data may at a future time be anonymized, aggregated, and shared with the state and potentially other entities, but Utah is still developing standards for data protection. It's vital that robust protocols be put into place in order to protect data privacy. The user agreement participants fill out when they enroll in the program will clearly describe privacy components.

Utah's initial RUC system is only open to electric, plug-in hybrid, and gas hybrid vehicles and the enrollment process will occur online. Participants will be required to enter their VIN number so that the CAM can verify through the DMV interface that the vehicle is eligible for the program. Participants will also be required to submit an odometer photo through the smartphone app in order to provide a starting odometer value and benchmark initial mileage. The DMV interface will also be used as an enforcement mechanism of last resort. If a participant is violating program terms or not paying RUC fees, the CAM will be able to request a registration hold be placed on the subject vehicle.

Mr. Kergaye stated 26 states have adopted annual flat fees for alternative fuel vehicles and 15 states have considered annual flat fees. Some fees, such as Utah's, are graduated such that the fees ramp up over a few years to an ultimate value. The ranges and averages quoted in the chart provided use the ultimate values for states that have graduated fees. He also added that some states have higher fees for commercial and heavy alternative fuel vehicles than they do for passenger-sized alternative fuel vehicles. The ranges and averages quoted on the chart provided only use the passenger-sized fee values.

The Utah Department of Transportation issued an RFP in February 2019 to hire a CAM to operate Utah's alternative fuel vehicle RUC program. Four proposals were received. A chart was provided that shows the cost ranges associated with the four proposals for the different cost categories required in the bid, as well as the total price proposals. The sum of the upper and lower bound does not equal the total cost of any one individual bidder due to line item variations. The financial model was provided that predicts that by 2025 the system will reach a point where RUC revenue matches expenses for operating the RUC system. Expenses capture both the external vendor cost as well as the internal costs associated with employee labor and consultant staff support. Vendor bids all provided rate reductions per vehicle each year as the enrollment grows.

In conclusion, Mr. Kergaye explained why a person might choose to enroll in the RUC program instead of paying the annual flat fee. Enrolling in RUC system saves money if enrollees don't drive many miles per year, they may save money relative to the annual fee. Enrollees may pay as they go instead of paying the annual fee. And lastly, enrollees may be curious about the RUC program and want to try it out.

In response to a question asked by Chairman Higdon, Mr. Kergaye stated the RUC program in Utah will launch in January 2020 and will admit vehicles according to the month that their vehicle registration is due. He added there are approximately 60,000 vehicles that can be part of the program, and approximately 6,000 of the 60,000 are electric vehicles. He does not anticipate very many hybrid vehicles to join the program. Mr. Kergaye estimated 500 to 1,000 vehicles will be a part of the program within the first year and should increase in the future.

In response to a question asked by Chairman Higdon concerning the program's billing cycle, Mr. Kergaye stated the participants will be billed monthly.

In response to a question asked by Chairman Higdon, Mr. Kergaye stated all miles will be considered initially, including out-of-state miles. He added that charging out of state drivers who come into Utah and having their home state charge them, would prove to be a very difficult task, and can only foresee that happening if there was a nationwide RUC program.

In response to a question asked by Chairman Higdon, Mr. Kergaye stated the advice he would give to Kentucky as members are looking into a mileage-based transportation fee, is to work with the public in informing them totally on all aspects of the program. Setting up an advisory committee of different interested groups, stakeholders, and legislators has been helpful. He also stated there is a wealth of information and resources to be taken advantage of given that other states have piloted programs as well.

In response to a question asked by Chairman Higdon, Ms. Bock stated there are two interstates that pass through Oregon. Mr. Kergaye stated there are four that pass through Utah.

In response to a question asked by Co-Chair Upchurch, Ms. Bock stated Oregon did not apply for the FAST Act federal grant program to implement the RUC program, because FAST Act was implemented after Oregon's program had already gone live. Mr. Kergaye stated that Utah did apply for one of the FAST Act grants and received the grant. He added they applied for $2.5 million where half of that money is state match funding.

With no further questions to come before the Committee, Chairman Higdon adjourned the meeting at 2:30 P.M.

## INTERIM JOINT COMMITTEE ON TRANSPORTATION

### Minutes of the 2nd Meeting of the 2019 Interim

September 9, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Transportation was held on Monday, September 9, 2019, at 3:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll. The minutes from the Committee's July 19, 2019 meeting were approved.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Ralph Alvarado, Perry B. Clark, C.B. Embry Jr., Jimmy Higdon, Paul Hornback, Stephen Meredith, Gerald A. Neal, Albert Robinson, Brandon Smith, Johnny Ray Turner, and Mike Wilson; Representatives Terri Branham Clark, Randy Bridges, Chris Fugate, Al Gentry, Robert Goforth, David Hale, Kathy Hinkle, Regina Huff, Thomas Huff, Derek Lewis, Savannah Maddox, Russ A. Meyer, Charles Miller, Sal Santoro, Maria Sorolis, Cherlynn Stevenson, Jim Stewart III, Ashley Tackett Laferty, Walker Thomas, and Tommy Turner.

Guests: Robin Brewer, Executive Director, Office of Budget and Fiscal Management, Kentucky Transportation Cabinet (KYTC); Matt Henderson, Commissioner, Department of Vehicle Regulation, KYTC; Brian Beaven, Director, Division of Motor Carriers, KYTC

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

**Road Fund Update**

Robin Brewer, Executive Director, Office of Budget and Fiscal Management, Kentucky Transportation Cabinet (KYTC), gave a presentation on the fiscal year 2019 closeout of the road fund. Ms. Brewer stated that the official revenue estimate for motor fuels tax in FY 2019 was $759.2 million. The actual revenue was $773.2 million, an increase of $14.0 million. She added that the official revenue estimate of the motor vehicle usage tax was $494 million. The actual revenue received from the motor vehicle usage tax was $514.5 million, an increase of $20.5 million. Other revenues had an increase of $24.9 million. Total official revenue estimates combined amounted to $1,506.6 million. The actual revenues received were $1,566.1 million, leaving a total increase of $59.5 million.

Ms. Brewer provided a chart that showcased the difference of FY 2019 actual revenues and FY 2018 actual revenues. In FY 2019, $773.2 million was collected in motor fuels tax, and $764.9 million was collected in FY 2018, therefore an increase of $8.3 million was realized in FY 2019. In FY 2019, $514.5 million was collected in motor vehicle usage tax compared to $493.1 million that was collected in FY 2018, resulting in a $21.4 million increase. In other revenues, $278.3 million was collected in FY 2019, and $252.9 million was collected in FY 2018, resulting in an increase of $25.4 million. Total surplus between FY 2019 and FY 2018 was $55.1 million, a 3.6% increase.

Ms. Brewer stated the motor fuels tax is estimated to be $761.2 million in FY 2020, motor vehicle usage tax is expected to be $492.6 million, and the motor vehicle license fee is approximately $116.3 million. Also estimated in FY 2020, the weight distance tax will be approximately $83.2 million, other road fund revenues will be approximately $36.4 million, the motor vehicle operators fee will be approximately $16.8 million, and total investment would be approximately $3.3 million, resulting in a total road fund estimate of $1,509.8 million for FY 2020.

Ms. Brewer provided a chart that showed that even though the motor fuels tax rate has remained at 26 cents per gallon since FY 2016, the motor fuels tax revenue has steadily increased from $750 million in FY 2016 to $773.2 million in FY 2019. Ms. Brewer then shared a graph showing historical motor vehicle usage tax revenues from FY 2000 to FY 2019. After a precipitous drop in revenue during the recession years of 2009 and 2010, revenues have spiked in recent years, hovering around $500 million per year since 2016. Ms. Brewer cautioned that the revenue may not stay at the $500 million level in the future. One last chart that was provided was a total road fund revenues by fiscal year chart which showed that in FY 2019 the total road fund revenues were $1,566.1 million; however, it was expected to drop to $1,509.8 million in FY 2020.

Chairman Ernie Harris reiterated that every penny that is collected in motor fuels tax is the equivalent of approximately $30 million received which is split 50% with cities and counties and the other 50% goes to the construction account.

Chairman Harris also reminded the Committee of the loss of toll credits beginning in 2020. Ms. Brewer stated toll credits are estimated to be gone by the end of either the state of federal fiscal year. She stated toll credits are what is used to match funds for federal programs and they will no longer be available. She added having toll credits gives flexibility for the use of state funds in other areas, but that going forward means those dollars and that flexibility will no longer be available.

**Regulations of Transportation Network Companies (TNC)**

Matt Henderson, Commissioner, Department of Vehicle Regulation, KYTC, and Brian Beaven, Director, Division of Motor Carriers, KYTC gave a brief presentation on the regulatory compliance and monitoring of TNC companies authorized by the Kentucky Transportation Cabinet. TNC pays an initial application and yearly renewal fee of $250 per company. They must also pay a vehicle fee (initially and yearly) of $30 per vehicle up to a maximum of a $22,500 bulk fee. The TNC must be registered with the Kentucky Secretary of State and demonstrate proof of financial responsibility and insurance. Vehicles must also have annual inspections by an automotive service technician certified by the National Institute for Automotive Service Excellence (ASE). Each TNC is required to perform a national criminal background check for each individual operating a TNC vehicle. Records are to be retained for a minimum of three years and are to be made available for audit purposes. Also for application and renewals, one unexecuted copy of the current contractual agreement between the business and the drivers must be enclosed. This copy must include any policies, procedures, and terms of service with which they intend a driver to comply. Lastly, a current driving history record for all drivers must be provided and updated annually.

Commissioner Henderson stated that quarterly and annual audits are conducted on TNCs to ensure compliance with Kentucky statutes and regulations. The Division of Motor Carriers randomly selects vehicles and driver records to inspect. If the TNC is not found to be in full compliance; penalties shall be assessed, per KRS 281.990. He added in 2019, five fines were issued totaling $1,000. The violations were for not providing proof of completing an approved driver safety training course.

Information that is required from TNCs through the monitoring and auditing process includes proof that a driver has completed an annual driver safety training course, a current five year driving history record, the current address of the driver, a copy of a valid state-issued driver's license, proof of current personal vehicle insurance coverage, proof of vehicle registration, written or electronic affirmation that a TNC driver is fit and able, verification of a nationwide criminal background check, records indicating if a driver has refused to accept a prearranged ride and the reason for doing so, records of complaints against a driver, and a copy of the current vehicle inspection.

Mr. Henderson provided a list of current TNC providers in Kentucky. Caliber is a company with 3 vehicles. MOOVMO LLC is a TNC that has one vehicle. LYFT has 4,094 vehicles, and Uber has 5,628 vehicles in Kentucky.

In response to a question asked by Senator Gerald Neal concerning vehicle fees, Commissioner Henderson stated Kentucky based their fees on models from other states. He will email the exact data that was used to base those fees.

In response to a question asked by Representative Santoro concerning the mandatory criminal background check for TNC drivers, Commissioner Henderson stated that is only mandated to occur one time per driver. Representative Santoro cautioned that could become an issue. Commissioner Henderson stated that could be changed in regulation.

In response to a question asked by Chairman Harris, Commissioner Henderson stated that taxi cab drivers are required to have the same mandatory criminal background check, and that is also only required one time.

Representative Santoro suggested putting into regulation that a TNC driver must turn on the dome light in the vehicle so that a rider is able to see his or her face.

An unrelated matter was discussed as Representative Goforth approached the issue of "Red Titles" which are titles that are issued that allows operation of vehicles in the state of Kentucky, which other states have deemed "junked" or not rebuildable. He stated there is still a timing issue on receiving those titles. He also stated he has been made aware of people bringing those titles from out of state and them being "washed" in Kentucky. Representative Goforth asked what can be done to insure those vehicles that are being restored and have a "Red Title" stay in Kentucky. Commissioner Henderson stated there are two states that allow for vehicles to be rebuilt and titles be issued for vehicles that may be deemed not rebuildable in other states, Kentucky and Alaska. He stated there is an influx of rebuilt vehicles coming into Kentucky from other states that are being processed through Kentucky. Brian Engle, Department of Vehicle Regulation, stated the time it is taking currently to be able to receive an not rebuildable title is just short of two months. He added on rebuildable titles, the turnaround time to receive a title is within five days if it is emailed, or processed on the same day if one is dropped off or mailed. For clarification, Commissioner Henderson stated it is not and should not be allowed for people to use Kentucky to obtain "red titles" and then continue use of the vehicle in other states.

Godwin Onodu, Assistant Director, Division of Motor Vehicle Licensing stated there are examiners that extensively review the documents to find out if the owner of the vehicle is using a Kentucky driver's license, unfortunately it is not a 100% fool proof method to catching people who are washing these titles. This is partially due to people using UPS addresses or other addresses in Kentucky. He stated the applications that use P.O. Box addresses are suspended and investigated. Mr. Onodu stated KYTC is trying to bring in more people to review the documents so that fraudulent activity is ceased. Commissioner Henderson stated Kentucky does not a have a fraud investigation unit embedded in the DMV or Department of Vehicle Regulation. He added they are currently in the process of setting an investigative unit.

In response to a question asked by Senator

Gerald Neal, Commissioner Henderson stated there is a local economic incentive to continue to allow red titles to be issued within the state of Kentucky.

The committee considered administrative regulations 603 KAR 5:5150 and 601 KAR 9:130. Upon discussion, 603 KAR 5:5150 had no issues raised. Don Blevins, Fayette County Clerk spoke in opposition of 601 KAR 9:130. Mr. Blevins raised concerns with new language in the regulation, which prohibited issuance of a Kentucky title to someone who was not a Kentucky resident. He cited examples of retirees who live in more than one state and individuals in other states who purchase vehicles for use of family members in Kentucky. After some discussion, KYTC requested to defer consideration of the regulation until the Committee's next meeting so that the Cabinet staff could confer with interested parties and draft an amendment that would address their concerns.

With no further business to come before the Committee, Chairman Harris adjourned the meeting at 3:54 P.M.

## TASK FORCE ON ELECTRONIC RECORDING OF OFFICIAL DOCUMENTS BY COUNTY CLERKS

**Minutes of the 1st Meeting of the 2019 Interim**

August 21, 2019

**Call to Order and Roll Call**

The 1st meeting of the Task Force on Electronic Recording of Official Documents by County Clerks was held on Wednesday, August 21, 2019, at 11:00 AM, in Room 171 of the Capitol Annex. Representative Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Joseph M. Fischer, Co-Chair; Senators Morgan McGarvey and Stephen West; Representatives Angie Hatton and Brandon Reed; Don Blevins, Michael Chodos, Debbie Donnelly, Russell Ford, Branden Gross, Mark Ladd, John McGarvey, Stephanie Schumacher, Debra Stamper, Gabrielle Summe, Pam Thompson, Barry Tuemler, and Tim Vaughan.

Guests: Gino Yoscovits, Quicken Loans; and Patricia Fry, Uniform Law Commission.

LRC Staff: Dale Hardy, Katie Comstock, and Yvonne Beghtol.

Chairman Fischer began the meeting by clarifying that the goal of the Task Force Committee is to implement the eRecording law, SB 114, which passed in Session 2019. One task is to consider eClosing, and eNotarization in other states.

**Business Interactions in States with RULONA**

Gino Yoscovits, Director of State Government Affairs for Quicken Loans in the Southeast, reviewed the three types of eClosings: Hybrid In-Person; In-Person eNotarization (IPEN); and Remote Online Notarization (RON).

On a national level, there are currently 22 states with RON legislation approved. Twelve states are awaiting regulations and ten states have officially gone into effect.

The industry has been more focused on RON, mainly because IPEN is not vastly different from traditional notarization. In creating the standards for IPEN there are questions to be considered and answered, such as requirements to become an e-notary.

Mortgage Industry Standards Maintenance Organization (MISMO) has been setting the standards for RON. The organization is made up of groups in the mortgage industry: document providers, lenders, e-Notary providers, and RON providers. The standards should be finalized in the upcoming weeks. Tennessee and Texas are two states Mr. Yoscovits refers to for industry standards.

Mr. Yoscovits detailed standards and security measures in areas of eClosings including government IDs, audio/visual quality, storage of records, and security.

Property Records Industry Association (PRIA) developed industry standards for eRecording, to ensure acceptance and implementation of eRecording.

In response to questions and comments from John McGarvey, Mr. Yoscovits clarified that any technology device, such as Androids, tablets, iPads, and laptops can be used. Mr. Yoscovits is not aware of any states using distributed ledger in the protection of documents and has not yet considered it.

In response to Chairman Fischer, Mr. Yoscovits confirmed that MISMO and eRecording standards are incorporated in the regulations for Texas and Tennessee.

**RULONA in Other States**

Patricia Fry, with the Uniform Law Commission, presented via remote audio. Over 20 states have enacted the Uniform Real Property Electronic Recording Act and have regulated the use of electronic technology for recordings. Local recorders have to establish the process for recording and indexing paper and electronic submissions. St. Louis, Missouri and Iowa have established an Electronic Recording System.

States have taken different approaches as to acceptable technology for eNotarizations, eRecordings, and eClosings. Because technology and business models change constantly, statutes and regulations containing specific technology standards will soon become obsolete. Ms. Fry suggests focusing on the function rather than the technology.

Distributed Ledger Technology offers prospects for ensuring reliable copies of electronic transactions. The multiple computers on which the records are stored need to be controlled by multiple parties, making the forgery of documents more difficult.

Ms. Summe stated that all counties are required by law to "paper out" electronic submissions into books.

Mr. Blevins stated that the official storage of permanent records is in paper or microfilm. Electronic storage is not considered a permanent record.

Mr. McGarvey addressed drafting with medium neutrality and durability, and emphasized that Distributed Ledger Technology is more of a security technique and not a back-up system.

Ms. Fry clarified the difference between the record and the evidence of something having occurred. The evidence is important to the lenders, title insurers, and lawyers.

**Future Task Force Meeting Topics**

Chairman Fischer would like to consult with Tennessee and Texas to determine regulations that may have to be implemented, and asked that members contact Dale Hardy with topics they feel would benefit the committee.

Mr. Blevins announced that, since the passing of SB 114, the clerks have been working on updates to fees, and updating the recording manual. Some issues they have run across and would like to discuss in future meetings are: Certificates of Delinquency, the attaching/unattaching of a manufactured home to real estate, how does a paper document get recorded, and how to determine if a copy from another county is truly certified.

Mr. Blevins asked Mike Nickles, Office of Business at the Secretary of State's Office, to speak to the committee. Mr. Nickles stated that Kentucky's in-house software used to track who is a notary is largely paper based, which needs to evolve into an electronic process.

Chairman Fischer asked that the clerks and the Secretary of State's Office to present issues that they would like the committee to consider, including the proposed regulations in draft form, along with any changes in the law.

Mr. McGarvey suggested the clerks review the integration of regulations regarding eFiling with paper filing for financing statements.

**Future Meeting Dates**

Chairman Fischer set the date of the next meeting to Tuesday, September 10th, at 11:00 am.

Mr. Gross suggested that the committee consider modifying legislation for documents coming from out-of-state. Ms. Summe would like a more standard form to be used across the state. She would also like the financial cost of retention, microfilm, and production of books to be assessed.

**Adjournment**

There being no further business, the meeting was adjourned at 12:04 PM.

## INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

**Minutes of the 2nd Meeting of the 2019 Interim**

September 11, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Banking and Insurance was held on Wednesday, September 11, 2019, at 10:00 AM, 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 Bart Rowland, Co-Chair; Senators Julie Raque Adams, Rick Girdler, Christian McDaniel, Morgan McGarvey, Dennis Parrett, Albert Robinson, Brandon Smith, and Reginald Thomas; Representatives Terri Branham Clark, Joseph M. Fischer, Deanna Frazier, Jim Gooch Jr., Kathy Hinkle, Stan Lee, Derek Lewis, Michael Meredith, Wilson Stone, Ken Upchurch, and Rob Wiederstein.

Guests: Charles Vice, Commissioner, Kentucky Department of Financial Institutions; Ballard Cassady, President and Chief Executive Officer, and Debra Stamper, General Counsel and Executive Vice President, Kentucky Bankers Association.

LRC Staff: Jessica Sharpe, Breanna Miller, and Dawn Johnson

**Approval of Minutes**

A motion by Senator Raque Adams and second by Senator Parrett to approve the minutes of the August 21, 2019, meeting carried by voice vote.

**Access to Financial Products and Banking Services for Lawful Hemp Farmers and Producers**

Commissioner Charles Vice, Kentucky Department of Financial Institutions said the hemp industry is a tremendous opportunity for the state, though, the financial regulatory aspects can be frustrating. While hemp is a legal product, several financial institutions have been hesitant to offer financial services to the industry. The growth in product sales is notable, increasing from $16.7 million in 2017 to $57.75 million in 2018. Capital improvements of $23.4 million have been made and in 2018, the industry employed 459 people. In 2017, 3,200 acres were approved for hemp production. That number increased to 50,000 in 2019. Commissioner Vice described his tours of two hemp facilities—Hempwood, a manufacturer of hemp "wood" flooring, and GenCanna, a facility that will be able to process 100,000 acres of hemp annually once construction is complete. Hemp can be grown for fiber or wood production, oils, and seed, offering tremendous economic potential for Kentucky. During the tour, a farmer stated he can produce approximately $6,000 net income per acre.

The 2014 Farm Bill passed by the U.S. Congress established the hemp production pilot program. It required producers to sign a memorandum of understanding with state agricultural departments as well as requiring extensive oversight relative to the growth and production of hemp, including Global Positioning System (GPS) coordinates and notification of harvesting and transporting. The 2018 Farm Bill removed hemp from the controlled substance list, but requires the United States Department of Agriculture (USDA) to develop guidelines.

Commissioner Vice said Kentucky is at the forefront of the hemp industry. Once complete, the GenCanna facility will be the largest hemp production facility in the world. The USDA is looking to the Kentucky Department of Agriculture to help them develop guidelines. Once complete, each state will be responsible for passing its own hemp laws. In April 2019, Senate Majority Leader McConnell sent letters to federal financial services regulatory agencies requesting that the agencies provide guidance to financial institutions under their jurisdiction to ease concerns they may have with providing services to hemp industries. Commissioner Vice said while there are many opportunities for hemp farmers, it is frustrating that many banks are still hesitant to offer financial services to them. The KDFI issued guidance in 2016 based on the Bank Secrecy Act. From the KDFI's perspective, there are no expectations that hemp customers will be treated as high risk simply because they are in the hemp business. After the 2018 Farm Bill was signed, KDFI released further guidance in 2019 acknowledging that hemp was removed from the controlled substance list. Some hesitancy remains because federal regulators, including the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), the Federal Reserve, and the Financial Crimes Enforcement Network (FinCEN), have not issued formal guidance relative to a financial institution offering services to companies involved in the hemp industry. The National Credit Union Association (NCUA) released a letter on August 19, 2019, providing limited guidance, but the letter stated that additional guidance will be issued once the USDA issues guidelines.

Ballard Cassady, President and CEO of the Kentucky Bankers Association (KBA) said hemp, once a popular crop in Kentucky, fell out of favor in the 1970s when it was rated as an abusive substance. Hemp is now produced in 101 out of 120 counties in Kentucky. He noted that Agriculture Commissioner Ryan Quarles had the foresight in the state's pilot program to allow farmers to oversee the program. Other states are overseen by universities only. Currently, hemp is still produced under the 2014 program permits; however, new permits based on the 2019 Agriculture Act will be issued soon. He has heard complaints that hemp products are being stopped and seized in other states because officials mistake it for marijuana. Some Kentucky banks do not provide services to the hemp industry; although, most community banks are working with hemp businesses. The KBA provides guidelines to assist banks with the process. Mr. Cassady said certain credit card companies refuse to accept any hemp-related transaction due to varying state laws regarding marijuana and hemp. He also noted that there is proposed federal legislation, titled the SAFE Banking Act, that legalizes, regulates, and taxes marijuana. As the hemp industry grows, the KBA is standing ready to help Kentucky farmers. Ms. Debra Stamper, General Counsel and Executive Vice President, said that constituents can call the KBA regarding hemp financing.

Senator Parrett said hemp farmers in his district have had to deal with people taking plants from fields to smoke.

Chairman Carpenter said he has noticed that hemp fields are replacing tobacco fields and that no other crop can net close to $6,000 an acre. Some financial institutions are concerned that once hemp is produced, finding a market for the product could be problematic. Until the recent guidelines took effect, local banks were hesitant to provide services to farmers. Mr. Ballard added that the 2018 Farm Act classified hemp as a commodity crop so farmers can now get crop insurance.

Commissioner Vice noted that GenCanna is partnering with Murray State University's engineering and marketing departments.

**Kentucky Department of Financial Institutions Update**

Commissioner Vice provided an overview of state financial institutions. From year-end 2016 to March 31, 2019, the number of state-chartered banks decreased from 133 to 120; the number of smaller banks, banks with less than $100 million in assets, decreased from 26 to 23; total assets for all state-chartered banks increased from $50.7 billion to $52.7 billion; and total loans for all state-chartered banks increased from $35 billion to $37.5 billion. Commissioner Vice reviewed Kentucky's state-chartered banking conditions as compared to contiguous states and nationally. As of March 31, 2019, Kentucky was highest in net interest margin at 3.94, fourth for return on average assets at 1.28, third in return on equity at 11.22, and first in capital ratio at 11.31. Commissioner Vice said that he considered a one percent return on average assets to be a strong indicator for the banking industry after the recession. Kentucky's rate is now 1.28, an outstanding achievement that is partially due to 2017 federal legislation reducing the corporate tax rate from 35 to 21 percent. Tax relief provided by the 2019 Kentucky legislature will also benefit Kentucky. When banks experience higher returns, they reinvest in their employees and the community. Commissioner Vice also discussed bank merger activity in Kentucky, which showed consolidation in the industry with no new banks since 2009. In 2013, state bank mergers were generally by Kentucky-acquired banks, but recent mergers have mostly involved out-of-state acquisitions. He said this was concerning because decision-making and capital many times will be outside of Kentucky, losing community focus. He stated that bank consolidations occur for many reasons, but one of the most impactful is increasing bank prices. The number of credit unions has decreased as well from 24 in 2016 to 22 in 2019. The majority tend to be smaller credit unions. Total assets have increased from $3.8 billion to $4.4 billion and total loans increased from $2.6 billion to $3 billion. It has been a long time since a new credit union was formed. Kentucky credit unions have a net worth ratio of 12.32, ranking third in contiguous states. Commissioner Vice also reviewed Kentucky credit union growth ratios. Strong growth numbers in 2015 reflect several federal credit unions converting to state charter.

Commissioner Vice gave an update on the Non-Depository Division, which oversees mortgage companies, consumer loan companies, money transmitters, check cashers, and payday lenders. As of June 30, 2019, there were 1,628 mortgage companies and brokers, 6,885 mortgage loan originators, 365 consumer loan companies, 125 money transmitters, and 438 check cashers and payday lenders. The number of payday lenders has steadily declined due to the 2009 moratorium on new licenses. In 2019, the moratorium was extended indefinitely.

As of June 30, 2019, the Securities Division reports 1,416 broker-dealer registrations, 129,946 registered broker-dealer agents, 1,335 state investment advisors (IA), and 5,791 investment advisor representatives.

Commissioner Vice said the Conference of State Bank Supervisors and the Federal Reserve Board hold a case study competition for universities to introduce college students to the banking industry. The winning university presents a paper and video at the conference. Typically, there are 55 to 60 entries in the competition. Murray State University was a finalist in 2016. Eastern Kentucky University (EKU) entered the competition for the first time in 2018 and won, and came in second place in 2019. EKU team members from both competitions are now employed with the KDFI.

Responding to Senator Thomas' question regarding what NIM means, Commissioner Vice explained that NIM is one of the biggest measures of community bank performance relative to earnings. It is interest income less interest expense divided by earning assets. The ratio is used to measure the profitability of community banks.

**Public Deposit Banking in Kentucky**

Debra Stamper explained that collateralization of public deposits has become a complicated compliance issue for Kentucky banks. The KBA receives many calls for direction on how to comply with the public deposit laws as they are applied to the various administrations in state and local government. Collateralization of public deposits is a protection measure in case of bank failure, a legitimate concern when the statutes were drafted. Since then, banks are stronger and regulations have become more strict and complicated, and thus, there is a question as to whether the current statutes are still needed. There are various statutes in various chapters that refer back to one another. The statutes are so complicated and knotted that even the most experienced banking attorneys have a difficult time untangling them. Banks have to jump through a bunch of hoops to accept and maintain public deposits. Statutory issues include the use of unfamiliar terms, undefined or vague terminology, and differing standards. The definition of a public depository has become more complicated in the most recent session because Kentucky now allows local entities to invest a portion of their funds in securities. If you put your deposit in a public depository bank, the deposit is insured up to the amount of the FDIC insurance and that current law requires that any deposit over the FDIC insurance amount be 100 percent collateralized. While there is list of collateralization that is accepted in the statutes, the options are nuanced and not available to all banks. This collateralization requirement prevents banks from using their capital for loans and other community investments. When you look at particular types of deposits, like sheriff's deposits which are temporary and can be very large during tax season, banks are required to tie up that collateral for what might be a very short period of time. Another problem is that the statutes addressing when these collateralizations must be reconciled are very confusing. State auditors are telling banks they have to reconcile the collateral daily, which can cause problems. The KBA is looking for a solution to these problems and would ask that the legislature start thinking with them about a solution. She suggested the possibility of using a sliding scale of collateralization for banks, which is an approach used in other states.

Senator McDaniel cautioned that many institutions that failed during the 2008 financial crisis were as stable as it came until they got wiped out. He expressed concern about changing collateralization requirements, but stated that he would be open to making clarifications. Senator McDaniel stated that he recognizes that the federal bailout of banks from that crisis is related but not the same and that everyone should closely review this discussion. Ms. Stamper said she agreed it is related but stated that the recent law allowing local governments to invest in securities flies in the face of the 100 percent collateralization requirement for bank deposits because securities are much riskier than bank deposits. She said she appreciated the Senator's concern.

Representative Meredith said that enacting the Local Government Investment Bill was a three year process. The law allows local governments to invest 20 percent of their assets in high-quality uncollateralized investments which is necessary to participate in the market's risk-reward relationship, but do not have the same surety as funds in a bank. He said Kentucky has not experienced a true bank failure since the 1980s, and there is a large difference between local depository institutions and investment banks, like Solomon Brothers. Locally-controlled banks are investing through home, vehicle, and small business loans in Kentucky citizens. He stated that these collateralization requirements do create a liquidity problem for banks, because much of the collateral put up for temporary public deposits are longer term securities. Now that up to 20 percent of local government deposits can go into the market, Representative Meredith said that it is against the will of the General Assembly's previous actions to require 100 percent collateralization for public deposits. Ms. Stamper stated that also, some banks might not want to take larger deposits if it pushes that bank into the next level of regulation where they would have more compliance burdens. Senator Carpenter said he experienced these issues working at a community bank.

Senator McDaniel said he understands the banking side's perspective, but taking deposits is a voluntary business decision. While he understands what the legislature did for the cities and counties and their ability to invest, there is a difference between that law and the public deposit laws. He is not necessarily opposed to changes in the statutes, but that the discussion requires more oversight and scrutiny. Mr. Cassady said he understands what the Senator is talking about. The KBA's interest in starting to think about safe alternatives. Mr. Cassady suggested that bank ratings, given as a result of regulatory examinations, could be used as a way to manage collateralization requirements for public deposits. There is an array of other avenues other than matching cash for cash because this hurts the bank's ability to serve the community.

Senator Thomas said he was inclined to agree with Senator McDaniel in needing to proceed with great caution. He discussed the collapse of Wachovia Bank, which he said was very prominent. Senator Thomas said it is incumbent that legislators keep in mind that people rely on banks to keep their family assets. No bank is immune in an economic downturn. Mr. Cassady said there has never been a depositor in Kentucky that lost their deposits, that he does not think anyone in Wachovia lost money, and that depositors are probably the safest people within that kind of structure.

Referring to Commissioner Vice's comments, Representative Meredith said that Kentucky banks are strongly capitalized and that capital is what matters because it offsets bank failure risk. He stated that at times, 100 percent collateralization does cost a bank more than what the bank can make off the deposit. Another thing is that if local banks have to send depositors to another bank because the deposit is too much of a burden, then that depositor is potentially going to a bigger bank headquartered in a bigger place. Representative Meredith said that in most rural communities, one of the largest tax payers is the local bank. Every time a city or county invests in a community bank, he said the bank is paying them back taxes on the money. He said there are a lot of factors to keep in mind as the legislature works through the issues to see if some relief can be given to banks.

Senator Carpenter said there is a lot involved in the banking industry and regulations have become very complicated. The number of small banks is decreasing because it is harder for them to survive in the marketplace. He said that small banks are the backbone of communities and that they understand local people.

There being no further business, the meeting adjourned at 11:18 AM.

## INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

**Minutes of the 4th Meeting of the 2019 Interim**

September 12, 2019

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, September 12, 2019, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Russell Webber, Co-Chair; Senators Perry B. Clark, Ernie Harris, Reginald Thomas, and Max Wise; Representatives Lynn Bechler, John Blanton, Adam Bowling, R. Travis Brenda, McKenzie Cantrell, Daniel Elliott, Chris Freeland, Al Gentry, Kathy Hinkle, Thomas Huff, Nima Kulkarni, Jason Petrie, Ashley Tackett Laferty, and Buddy Wheatley.

Guests: Representative Jason Nemes; Representative McKenzie Cantrell; Josh Sweeny, Representative of Communications Workers of America; Jason Devaldivielso, Representative of Communications Workers of America; Adam Watson, Government Affairs Chair, Kentucky Guild of Brewers; Kate Russell, Owner, Hopkinsville Brewing Company; Kate Shanks, Vice President of Policy Development, Kentucky Chamber of Commerce; Paige Mankovich, Chief of Staff, Aetna Better Health of Kentucky; and Jennifer Hancock, President and CEO, Volunteers of America Mid-States.

LRC Staff: Andrew Manno, Chip Smith, Candice Messer, and Sasche Allen.

**Approval of Minutes**

A motion to approve the minutes of the August 22, 2019 meeting was made by

Representative John Blanton, seconded by Representative Chris Freeland, and approved by voice vote.

**Call Center Relocations**

The primary sponsor of legislation prefiled for the 2020 Regular Session, Representative Jason Nemes, along with Representative McKenzie Cantrell, Josh Sweeny, and Jason DeValdivielso, spoke about why the legislation will help to protect state taxpayers and jobs. The bill would create a new section of KRS Chapter 337 to require an employer that intends to relocate a Kentucky call center or some of its units in certain situations from Kentucky to a foreign country to notify the Secretary of the Labor Cabinet at least 120 days prior to such relocation. It would also require the Labor Cabinet Secretary to compile a list of employers that have relocated a call center to a foreign country in six months after the enactment of the bill and every six months following. KRS 337.990 would be amended to create a civil penalty of not more than $1,000 for each violation. Only those call centers with more than 50 full time employees would be required to comply

Responding to a question from Co-Chair Danny Carroll, Representative Jason Nemes said if a call center has over 50 employees and takes over 30 percent of the company's positions to a foreign country, then the call center would lose future economic incentives but not existing benefits. He further explained that if a call center company has multiple locations, then all locations would be used to calculate the total number of employees.

Answering a question from Representative Buddy Wheatley, Representative McKenzie Cantrell reiterated that a call center would only lose future economic incentives and not current benefits it may be receiving.

Replying to Senator Ernie Harris, Representative McKenzie Cantrell stated that there has been a similar bill filed in Congress that would bar the company from doing work with the federal government but that stipulation is not included in the proposed legislation. Representative Jason Nemes referred Senator Harris to Section 4(a) of the bill that says a company "shall not be eligible for any direct or indirect state grants, state-guaranteed loans, or state tax benefit for five (5) years after the date the list is published."

Addressing Representative R. Travis Brenda, Representative McKenzie Cantrell restated that similar bills have been filed in other states and that Kentucky, much like surrounding states, needs to hold companies accountable when it comes to incentive funds.

Responding to Representative John Blanton, Representative Jason Nemes said that no existing benefits that were approved before being placed on the Secretary of the Labor Cabinet's list would be effected. The five years of ineligibility would start after the company is placed on the list.

Answering Co-Chair Danny Carroll, Jason Devaldivielso said there is trend of call center jobs and companies moving to a foreign country. One of the main reasons is to be able to pay lower wages. Representative McKenzie Cantrell explained that this bill is a good business model to follow in general across the state and could be applied across other industries, but call centers were addressed first because companies moving overseas is the most prevalent in that industry.

Replying to a question from Representative Bechler, Representative McKenzie Cantrell said that whether a company could be defined as a call center would depend on the company's corporate structure.

Addressing a question from Representative Chris Freeland, Representative Jason Nemes said the legislation would not apply to a company that was downsizing unless it had more than 50 full time employees and was moving more than 30 percent of its total number of employees to a foreign country.

Responding to Representative Adam Bowling, Representative Jason Nemes referred to Section 5 of the bill that states "The head of each state agency shall ensure that all state-business-related call center and customer service work is performed by state contractors or other agents or subcontractors entirely within Kentucky. State contractors who perform such work outside Kentucky shall have two (2) years following the effective date of this Act to comply with this subsection".

Answering a question from Senator Reginald Thomas, Representative Jason Nemes explained the difference between Sections 4 and 5 of the bill. Section 4 refers to private sector employers that would be ineligible for five years if the company's name was put on the Secretary's list. Section 5 refers to state agencies being required to use state contractors or other subcontractors within Kentucky and having a two year grace period to comply.

Replying to a follow up question from Representative Lynn Bechler, Representative Jason Nemes confirmed that if a large company with 10,000 employees had a call center with 50 employees which then moved that call center overseas, then the company would be ineligible for state incentives for five years.

Addressing Representative Jason Petrie, Representative McKenzie Cantrell said that statistics are being gathered regarding call center jobs and Representative Jason Nemes stated be was unaware of this type of legislation being applied to any other industries. Representative McKenzie Cantrell mentioned legislation that has been filed during previous sessions that addressed accountability and transparency of economic incentive programs. Representative Petrie suggested that certain stipulations may be needed to be incorporated in contracts before changes such as these reach legislative action. Replying to an additional question, Representative Nemes said it would be possible for a company to decrease its number of employees below 50 prior to a relocation and still be eligible for benefits. Answering another question, Representative Nemes said the fine would be $1,000 per day for up to 120 days, and Representative Petrie said he was unsure if that amount was appropriate.

Responding to Representative Daniel Elliott, Representative Jason Nemes said that when the bill went into effect, state contracted companies that may have call centers out of state would have two years from that date to move those jobs into Kentucky.

Answering a question from Representative Nima Kulkarni, Representative McKenzie Cantrell said although it is not specifically stated, she would think the first initially notification would be in written form, but hopefully there would eventually be a face to face meeting for the Labor Cabinet to discuss why the company would want to remove jobs from the state.

**Craft Beer Industry Update**

Independent craft brewers contributed over $76.2 billion to the U.S. economy in 2018 and currently support more than 500,000 jobs. Craft beer sales account for 24 percent of the nation's $114.2 billion beer market, and the U.S. Department of Labor ranks the craft beer industry's wages among the highest of the 350 industries surveyed. Although, Kentucky craft breweries led the nation in 2018 for growth, the state still ranks forty-first in number of breweries. The Commonwealth has 69 active licensed craft breweries, 11 known new brewery locations currently in the planning stages, and 30 existing breweries with confirmed expansion activity. Kate Russell, the owner of Hopkinsville Brewing Company which opened in 2016, spoke about her experience as a brewer. She said that her goal is for her brewery to be a downtown anchor to attract people to the area and hopes to increase sales and hire more employees with a recent purchase of a neighboring property with plans to expand. In 2018, state craft beer had a $657 million economic impact, and there has been an economic impact of $765 million thus far in 2019. Craft beer from the Commonwealth's breweries is now being sold to more than 45 states and over 25 countries. The industry has created 133 new jobs in the state in 2019 and currently employs over 1,000 people. Microbreweries have increased their workforce in 2019 of more than 15 percent and are offering tourism amenities such as tap rooms, food, and roof top experiences.

Tax data shows that Kentucky is the sixth most highly taxed in the nation in terms of beer. In-state microbreweries are required to pay federal, state, and local taxes, as well as excise, wholesale, and sales taxes on all products. After upfront investments for facility and brewing equipment, taxes are a significant portion of the ongoing operating expenses. Microbreweries are concerned with several key issues both nationally and statewide, including transparency; brewery and producer direct to consumer sales; franchise reform; excise tax and tax reform; tariffs and trade; responsible consumption; preservation of existing privileges; independent distribution systems; access to materials; water quality; and the modernization of the state's alcohol laws. Legislation that would address the needs of the craft beer industry would include fixes to statutory inequities; process simplification; barrier reduction; promotion of healthy competition; alignment with modern processes and tax policies; and codification of direct to consumer e-commerce. Mr. Watson highlighted an issue that brewers have been facing with the Department of Revenue regarding sales and use tax on manufacturing equipment.

Replying to Senator Reginald Thomas, Mr. Watson said that ecommerce is a growing priority for the craft beer industry. The Kentucky Guild of Brewers is a part of a work group that includes the beer, wine, and spirits industries and produces, distributors, retailers, and third party transporters. The ecommerce market is growing across the U.S. and other states have capitalized on direct to consumer sales. Ms. Russell said that her smaller brewery does not face as many issues with ecommerce sales but understands the great opportunity it could crate for larger breweries.

Answering a question from Senator Max Wise, Mr. Watson said that the ecommerce legislation would have to address shipping to and from the Commonwealth. Other states are finding ways to work together and form reciprocal agreements.

Responding to Co-Chair Danny Carroll, Mr. Watson explained the state is long way from becoming saturated with breweries and there is room for opportunities and growth within the industry. Answering another question, Mr. Watson said that sales with his brewery, Against the Grain, have to happen through the distributor, but there are also in-house sales staff that facilitate and promote the brand.

**The Opioid Response Program for Business**

The opioid epidemic has a major impact on the business community and mainly through workforce participation. The commonwealth ranks forty-seventh in the nation in workforce participation. The Chamber has put together a response program to become a resource to business to deal with the issues and facilitate a link between employers and employees who are recovering from drug addiction that are reentering the workforce. The Opioid Response Program includes public and private partners. Chamber members have also formed the Opioid Task Force.

Jennifer Hancock, the President and CEO of Volunteers of America Mid-States, gave her perspective and discussed some opioid related statistics. There were 1,565 deaths in the Commonwealth in 2017 due to drug overdose compared to 782 deaths related to traffic accidents and 263 murders. Kentucky has the fourth highest rate of overdoses in the nation. Workers' compensation programs account for 18 percent of opioid prescriptions and 68 percent of injured workers' receive opioids. Workers who abuse opioids miss an estimated 29 days of work per year which contributes to the decline in workforce participation rates. People who abuse pain medication have the lowest workforce participation rate compared to people who misuse other types of drugs, and half of all men age 24 to 54 who are not in the labor force take medication on a daily basis. Opioid prescriptions could account for approximately 20 percent of the decline in the male workforce participation, compared to 25 percent of females. An important statistic for employers to note is that 75 percent of adults ages 18 to 64 with substance use disorders are active in the workforce.

Volunteers of America provides care and support for those working to overcome substance use disorder. Its programs are tailored for individuals who are pregnant and parenting, veterans, men exiting the criminal justice system, and for populations who have been out of the workforce due to addiction. Volunteers of America provides treatment for substance abuse as well as assisting with living arrangements and employment opportunities. The organization works with employers that are willing to work with individuals who have previously had substance abuse issue. Ms. Hancock highlighted one program called Freedom House that is a two generation solution that treats both mothers and babies.

Paige Mankovich, the Chief of Staff of Aetna Better Health of Kentucky, spoke briefly about what the Chambers' partners are trying to do to play a role in finding solutions to the opioid epidemic. The Opioid Task Force has been analyzing the state's workforce participation rate and working with employers that want to become second chance employers for those who are recovering from opioid addiction. The Opioid Response Program recently hired two employment specialists, one Human Resource Specialist and another individual who is in recovery. Additionally, the Program has aligned with the Talent Pipeline Management Network and hosting employer technical assistance clinics across the state. Ultimately the Opioid Response Program is to meet with employers to assess their needs and connect them with treatment providers in an effort to help those who are recovery reenter the workforce.

Replying to a question from Senator Reginald Thomas, Ms. Shanks agreed that education investment will aid in improving workforce participation rates and noted the Chambers' Business Education Round Table Report that brought together those from the education and business community. Answering another question, the Chamber is not opposed to raising wages in the Commonwealth, but there are issues that may arise with mandated increases above the federal minimum wage.

Answering a question from Representative Chris Freeland, Ms. Shanks said she is not aware of any tax incentives offered to employers that may be second chance employers or employers that participate in programs like the Opioid Response Program. The incentive to participate should be a willingness to help with the opioid epidemic and to increase workforce participation. There may be some policy implications that may have to be considered in the future.

Responding to Representative Nima Kulkarni, Ms. Hancock said that the increase in opioid related deaths can be correlated with the availability of prescription medications. She has observed that individuals who are addicted to other drugs and receive natural consequences can more easily stop the drug use versus an opioid addict because opioids are so physically addictive.

After Representative Lynn Bechler questioned some of the statistical information regarding the types of drugs that are causing the increase in drug overdoses, Ms. Hancock explained that in a lot of cases prescription drug use leads to illicit drug use and the context in which the statistics were being discussed was mainly focused on the workforce and those individuals available to work.

Addressing a question from Representative Jason Petrie pertaining to the Chambers' Opioid in Kentucky Abuse Report, Ms. Shanks stated that the main focus when reclassifying drug possession as a misdemeanor is to emphasize resources being prioritized towards treatment.

Representative Ashley Tackett Laferty spoke about the opioid epidemic in her district and recently speaking at a function that addressed opioid abuse and how employers can bring people back to the workforce. Ms. Shanks said she would connect Representative Tackett Laferty with the Chambers' employment specialists to help link employers with individuals trying to reenter the workforce in her district.

Representative John Blanton made comments concerning individuals who accept plea deals for drug possession when the original charge was drug trafficking which may create some misleading statistics. He also cautioned about reclassifying drug possession as a misdemeanor.

Co-Chair Russell Webber announced that the next meeting of the Interim Joint Committee on Economic Development and Workforce Investment would be October 3, 2019 at 1:00 p.m. in the Capitol Annex.

There being no further business, the meeting adjourned at 2:46 p.m.

## INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

**Minutes of the 4th Meeting of the 2019 Interim**

September 12, 2019

**Call to Order and Roll Call**

The fourth meeting of the Interim Joint Committee on Local Government was held on Thursday, September 12, 2019, at 8:00 AM, in Room 171 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Michael Meredith, Co-Chair; Senators Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Robby Mills, Albert Robinson, Damon Thayer, and Johnny Ray Turner; Representatives Danny Bentley, Jeffery Donohue, Larry Elkins, Deanna Frazier, Joe Graviss, Cluster Howard, Regina Huff, Kim King, Jerry T. Miller, Rob Rothenburger, and John Sims Jr.

Guests: Secretary John Tilley, Kirstie Willard, Deputy Commissioner Hilarye Dailey, and Cyndi Heddleston, Justice and Public Safety Cabinet; Christian County Jailer Brad Boyd, and Oldham County Jailer Mike Simpson, Kentucky Jailer's Association; Campbell County Judge/ Executive Steve Pendery; Shellie Hampton, Kentucky Association of Counties; Prentice Harvey, Government Strategies, LLC; and Ron Wolf, Associated General Contractors of Kentucky.

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

**Approval of Minutes**

Upon the motion of Representative Sims, seconded by Senator Mills, the minutes from the August 22, 2019 meeting were approved.

**Discussion of State and Local Fiscal Impact of Housing State Prisoners in Jails**

Secretary John Tilley stated that the true crisis of the state is over-incarceration. The state and counties are trying to work together on this issue. State law passed in the 1990's requires the state to place Class D inmates in county jails. This represents about 12,000 inmates and is just under half the overall state inmate population. Kentucky is tenth in the nation in prison population.

In 1970, the state incarcerated around 3,000 people at a cost of five million dollars. Today the state incarcerates 24,000 persons and will spend 650 million dollars in correction costs. Kentucky is lucky as a state that something has not occurred relative to the prisons and jails which has not drawn national headlines.

Jails have limited resources. Only 21 jails of the 76 have substance abuse programs. The state pays an extra nine dollars for housing inmates in those jails. Around 50 jails have one-off classes, such as a weekly parenting class. This is less than what is provided to state inmates in prisons.

Jails were not built for long stays but for pretrial stays. In 2016, there were 37,000 pretrial inmates that were housed for 109 days at a cost of 100 million dollars. Kentucky's pretrial incarceration rate is too high, despite Kentucky having the gold standard in pretrial services. The issue of pretrial stays can be solved with common sense bail reform. The question for pretrial incarceration should be whether or not the accused is dangerous or a flight risk. It should not be based on whether or not the individual can pay the bail.

Overcrowding in jails is an issue. Although programs within the jails do help, the lack of space makes it difficult to implement. Recidivism rates in Kentucky's state prisons are lower than that of jails because of programming. Kentucky's reentry program is nationally recognized.

Performance-based jail funding would be helpful, but it is unfeasible at the present time. Per diems have not been increased in 11 years. The cabinet would advocate for an increase, but would also advocate for the incentivation of better practices to go along with an increase in the per diem to a particular jail. The issue of modernizing the monetary degree associated with felony level convictions, which is presently 500 dollars should also be examined. Thirty-eight states have increased their felony threshold levels: Texas is at 2,500 dollars and Georgia and South Carolina have set theirs at 2,000 dollars. The cabinet is willing to work with counties to develop a cost sharing model to avoid shifting the costs entirely to jails were the felony conviction monetary levels changed upward.

Kentucky needs to address its rising female incarceration rates. It is second in the country in per capita female incarceration. Kentucky has more women in prison than in the entire state of New York. The female incarceration growth rate is five times that of the male incarceration growth rate. Over 80 percent of the state female incarcerees are serving their time in county jails with little or no programming services.

In response to a question from Representative Meredith, Secretary Tilley replied that the rankings in the country for the male and female incarceration growth rate is per capita.

Senator McDaniel commented that the number one issue in Kentucky is a fully funded pension system. Most of the general public is not concerned with the overcrowding of prisoners. It is important, but not the main concern of the committee. There is a lack of uniformity and quality in jails. There needs to be a coherent and affordable plan.

Representative Meredith commented that the over-crowding of prisoners is an issue for three committees: Appropriations and Revenue, Judiciary, and Local Government Committees.

Secretary Tilley agreed with Senator McDaniel regarding the pension issue. He also agreed that jails are not uniform, and the only options the cabinet has when conditions warrant, is to remove state prisoners, which they have done, or shut jails down completely which then requires finding places for that jail's prisoners.

In response to a question from Representative Frazier, Secretary Tilley said that it is mandated to place state inmates in county jails and that taking on state prisoners with the idea that the per diem may help them with other costs may not work out. Ms. Kirstie Willard, Director of Local Facilities with the Justice and Public Safety Cabinet said that unfortunately, the overwhelming majority of Madison County's inmates are county inmates. The cabinet has no authority to require another county to take them inmates from another county.

In response to a question from Senator Thayer, Secretary Tilley replied that the drug epidemic issue, especially opioids, is the main reason for the marked increase in female incarceration.

In response to another question from Senator Thayer, Secretary Tilley stated that Kentucky's trafficking laws are as tough as those in any other state that comes to mind, but studies do not support the thought that tougher trafficking laws eliminate drug abuse.

In response to a question from Representative Miller, Secretary Tilley replied that there has been overwhelming support for common sense bail reform. People just need to look at the 2016 figures which included 37,000 low-to-moderate risk offenders who served an average number of 109 days in jail, to see what the impact would be if common sense bail reform was instituted. That amounts to 120 million dollars and represents a significant amount of bed days, also.

In response to a question from Representative Rothenburger, Secretary Tilley said that the issue of inmates losing their Medicaid benefits while awaiting trial stems from the federal government and is a huge issue for the cabinet. Representative Rothenburger asked Secretary Tilley to get back with him on the specifics of the Medicaid issue.

Representative Rothenburger commented that "citing and releasing" is not working out because people are failing to appear and follow court orders, causing the issuance of a warrant. Secretary Tilley said in Utah, misdemeanors were reduced to violations, as well as in Kentucky. In Kentucky's case, the failure to appear rate did not change.

In response to a question from Representative Meredith, Secretary Tilley said all 76 full service jails in Kentucky house state inmates.

In response to another question from Representative Meredith, Ms. Willard said all 76 jails are over populated.

Representative Meredith said that the counties are subsidizing the state in regards to housing prisoners.

Senator McDaniel requested Secretary Tilley to estimate what it would cost to remove the state prisoners from county jails and house them in state facilities on an initial and ongoing basis.

**Discussion of Issues relating to** the **Incarceration of Prisoners in Jails**

Christian County Jailer and President of the Kentucky Jails Association (KJA) Brad Boyd, told the Committee that Kentucky has 76 full service jails, four regional jails, four life safety jails, and 40 jails that have been closed. Kentucky's jails house county inmates, state inmates, and federal inmates and ICE detainees.

In regard to county jail populations, jailers do not arrest, set bail or bond, prosecute, sentence, or classify the inmates located in the facilities. Jailers are charged with housing and caring for inmates' health. Many jails offer programming to inmates with little additional funding from the state. The jail population is often in very poor health, suffering from drug addiction, mental illness, dental decay, need for dialysis, heart conditions, and other conditions. The state's classification system dictates which inmates can be housed in what facilities.

Regarding county jail budgets, funding comes from state appropriations which includes the jail bed allotment, daily per diem, Local Corrections Assistance Fund, county general fund dollars; and restricted funds which would be, for example, the commissary. While county jails have continuously been asked to do more with less, county jails want to continue working with the state to keep Kentucky safe and institute smart programs to reduce recidivism.

Solutions include raising the county jail per diem and comprehensive penal code reform. County inmate populations, including pre-trial and sentence misdemeanants should be considered in any reforms moving forward. Bail reform is something the association has been supportive of in the past. Raising the threshold for felonies is something the association would be happy to discuss, but it is not known if that is the solution. Expansion of substance abuse programs within jails is desirable, but the policy of segregation of those inmates from the other jail population is problematic for some jails space-wise. For years, the KJA has fully supported uniform training for all deputy jailers. The KJA plans to work with members of the legislature to ensure such training, but funding is an issue. If any jail officers or staff are engaging in inappropriate behaviors, the KJA does not condone that behavior. In fact, the KJA's leadership went as far as to request the resignation of a particular jailer before news of inappropriate behavior was reported.

Oldham County Jailer and Vice President of the KJA Mike Simpson told the Committee that even though 40 county jails have closed, it does not mean that counties are out of the jail business. Oldham County's contractual per diem with other counties to house their inmates exceeds the state's per diem rate. Televisions might be able to assist with allowing inmates to participate in drug rehabilitation programs.

Senator Thayer commented that beyond inmates receiving a bed, meals, and not being mistreated, the public is ambivalent at best regarding inmates. Jailer Simpson agreed, but the public needs to be educated so they will care since they are directly affected.

Jailer Boyd stated that he did not agree with "cite and release" for a person caught with heroin or cocaine, and that it was not the answer for drug addiction—at least not without treatment.

In response to a question from Representative Meredith, Jailer Boyd replied that Christian County outsources with Trigg County. In response to another question from Representative Meredith, Jailer Boyd said the lowest cost per day to house other county's inmates with them is $25 per day, with the highest being $35 per day. Trigg County does not pay what it actually costs Christian County to house them.

Senator McGarvey commented that people do not know the difference between jails and prisons. While awaiting trial, it is estimated that in Kentucky 20 percent of prisoners are in jail, because they cannot afford bail to be released before their trial. Jailer Simpson agreed and said that methods to instill hope are needed.

In response to a question from Representative Rothenburger, Jailer Simpson said county jails are not mandated to have medication programs for prisoners with drug addictions. Jailer Boyd said that Kenton County operates a program and that Christian County ensures that prisoners on a medication program receive their medication.

Senator McDaniel commented that jail is

the place that saves people's lives. Inmates receive medical and dental care, and are eating better than before they went in.

Senator Thayer stated that it was time to have a serious discussion about bail reform.

**Discussion of Costs Associated with the Incarceration of Prisoners in Jails**

Campbell County Judge/Executive Steve Pendery agreed that the public does not care about inmates and should be more engaged. One way to get the public's attention is to educate them on how much of their tax money is used to pay for the incarceration of inmates. Jails are the biggest business for Campbell County—half of the county's employees work for the jail. Counties spend the most money on jails.

From an economic standpoint, the taxpayers save nothing if the state cuts a cost only to pass it on to counties. If this practice results in inefficiency, then the taxpayers actually pay more.

The per diem is $31.34 per state inmate, per day, but it actually costs Campbell County $50 per inmate, per day. That per diem paid to counties is roughly half what it costs the state to house a prisoner per day.

Just under two dollars per day is allowed for medical costs for each state prisoner. Campbell County has applied to get money from the state's catastrophic medical fund to be reimbursed for medical expenditures but cannot collect from it. The entire state's catastrophic medical fund could be absorbed by Campbell County's costs alone.

Counties should be able to take a sick prisoner across the state line, which is a mile away in the case of Campbell County, for medical treatment, rather than paying for costs to take them to Louisville or elsewhere. Counties should also be allowed to receive prisoners from other states to reduce costs.

In response to a question from Representative Meredith, Judge Pendery stated that Campbell County's jail costs are higher than the current pension contribution. In response to another question from Representative Meredith, Judge Pendery agreed that pension and jail costs are county's most expensive services.

In response to other questions from Representative Meredith, Jailer Simpson said that while per diems from the federal government vary, his jail receives 57 dollars a day to house prisoners and that medical and transportation costs are covered by the federal government. Ms. Willard said that there is one private prison still in operation, and she would get the figure for the per diem it receives for the chairman.

Representative Frazier noted county limitations in raising general fund dollars to offset jail costs.

The next meeting of the Committee will be held October 3, 2019. There being no further business, the meeting was adjourned at 10:10 a.m.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Minutes of the 4th Meeting of the 2019 Interim

September 10, 2019

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, September 10, 2019, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Steven Rudy, Co-Chair; Senators Matt Castlen, Rick Girdler, David P. Givens, Alice Forgy Kerr, Morgan McGarvey, Stephen Meredith, Gerald A. Neal, Dennis Parrett, Dan "Malano" Seum, Robin L. Webb, Stephen West, and Phillip Wheeler; Representatives Lynn Bechler, Danny Bentley, Joseph M. Fischer, Kelly Flood, David Hale, Mark Hart, Angie Hatton, Jason Nemes, Ruth Ann Palumbo, Phillip Pratt, Melinda Gibbons Prunty, Brandon Reed, Steve Riley, Sal Santoro, Wilson Stone, James Tipton, and Susan Westrom.

Guests: Robin Fields Kinney, Associate Commissioner, Office of Finance and Operations; Donna Duncan, Director, Division of District Support Services, Office of Finance and Operations; Steve Bechtel, Chief Financial Officer, Kentucky Department for Medicaid Services; Lee Guice, Director, Policy and Operations, Kentucky Department for Medicaid Services; Amy Barnes, Executive Director, Office of Federal and State Grants, Department for Local Government (DLG); and Laura Redmon, Budget Analyst, Office of Federal and State Grants, DLG

LRC Staff: Jennifer Hays, Cynthia Brown, Morgan King, and Chase O'Dell

**Approval of Minutes**

A motion was made, and seconded, to approve the minutes of the August 20, 2019 meeting. The minutes were approved by voice vote.

**Kentucky Facilities Inventory and Classification System (KFICS) Project**

Robin Fields Kinney, Associate Commissioner, Office of Finance and Operations; and Donna Duncan, Director, Division of District Support Services, Office of Finance and Operations, discussed the Kentucky Facilities Inventory and Classification System (KFICS) project.

Robin Kinney testified that the statutory authority to do an inventory of school buildings on their condition and quality is found in KRS 157.420. KFICS is the new iteration of the 'Parsons' report that was done in 2011. The Parsons report focused on the worst, to the best, school buildings in Kentucky. Funding was not continued for the report. In 2016, the General Assembly appropriated additional funds to implement KFICS. Part of the goal is to build a sustainable assessment process of the physical condition of school buildings using industry standard methodology.

The Kentucky Department of Education (KDE) is required to submit a KFICS report to the Legislative Research Commission (LRC) by October of every odd-numbered year.

Donna Duncan testified that 169 school districts participated in the condition assessment of one school building per district during phase one of KFICS. Six school districts did not participate, five of which were independent districts. The improvements made to KFICS since phase one in 2017 were reviewed by Ms. Duncan. There are now four components that are a part of the conditions report. KDE has communicated to school districts regarding KFICS.

Ms. Duncan said that the facilities construction process is set out by statute, and implemented through regulation. The regulation establishes the process that districts use. KDE has made enhancements to the processes to improve efficiency and transparency. In 2017, KDE converted over to an automated workflow system known as the Facilities Planning and Construction (FACPAC) system. Beginning in 2018, KDE formalized a tier process for projects. Tier one projects are major renovations or new schools. Tier four projects are usually small athletic projects. The majority of projects are tier three and four.

The construction process includes KDE, school districts, boards of education, design professionals, construction vendors, and more. Ms. Duncan reviewed the pre-construction and construction processes.

Ms. Duncan testified that one of the biggest challenges faced by the District Facilities Branch is staffing. The staff consists of one branch manager, four staff architects, and one analyst. There are 1,492 active projects being managed. In Fiscal Year (FY) 2018-2019, 115 school districts initiated 331 projects, with an estimated cost of over $622 million. The projects included 14 new buildings, 51 major renovations, and more. The impact of the new initiatives in 2019 Senate Bill 1 is also a challenge to the District Facilities Branch. Another challenge is the implementation of KFICS.

In response to a question from Senator McDaniel, Ms. Duncan stated that there are now more buildings per school district than just the original ones entered into KFICS during phase one.

In response to a question from Senator Givens, Ms. Duncan said that her branch is concerned with building safety.

In response to a question from Representative Bechler, Ms. Duncan testified that KDE allowed each school district to choose which building would be evaluated in phase one, although KDE encouraged the districts to choose the worst building in the district. The intent after the first report is to see the full inventory of school districts. Ms. Kinney testified that the goal is for all 1,200 school facilities to be in KFICS.

In response to a question from Senator Castlen, Ms. Duncan stated that the district facilities branch must give approval for property acquisitions.

In response to a question from Representative Rudy, Ms. Kinney stated that the Office of Finance and Operations would not be preparing a final dollar amount for 2019 Senate Bill 1, but that the office would be happy to help with questions related to it.

In response to another question from Senator McDaniel, Ms. Kinney stated that the deadline for school district input was June 30, 2019. However, districts will still be able to submit information.

**Medicaid Funding**

Steve Bechtel, Chief Financial Officer, Kentucky Department for Medicaid Services; and Lee Guice, Director, Policy and Operations, Kentucky Department for Medicaid Services, discussed Medicaid funding.

Steve Bechtel testified that in 1986, the first managed care program, the Kentucky Patient Access and Care (KenPAC) Program, a primary care case management program, was introduced. The program enrolled low income adults and children on a mandatory basis. KenPAC covered acute primary and specialty care coordinated by providers. In 1997, the Kentucky Health Partnership, a comprehensive risk-based managed care program was implemented. In 2011, the KenPAC program was terminated and Medicaid received approval to expand managed care statewide to cover beneficiaries in regions not served by the Kentucky Health Partnership. In 2013, the state began awarding contracts to additional Managed Care Organizations (MCOs) to manage care for beneficiaries in the regions served by the Kentucky Health Partnership. In 2014, Kentucky expanded Medicaid Managed Care to the expansion population through an Alternative Benefit Plan (ABP).

Mr. Bechtel stated that the actual managed care expenditures for FY 2019 added up to a little over $7.4 billion, totaling 71.5 percent of total Medicaid spending for Kentucky. The other 28.5 percent of expenditures are for the 10 percent of the Medicaid population known as the fee-for-service (FFS) population. This population is the more vulnerable and expensive population.

Mr. Bechtel testified that the federal matching rate changes every October for the traditional Medicaid population. The federal funding rate for traditional Medicaid is usually around 70 percent. The Affordable Care Act (ACA) expansion population is currently 93 percent funded by federal dollars. The Children's Health Insurance Program (CHIP) population is normally 80 percent federally funded. Mr. Bechtel gave a brief history of CHIP. Kentucky's Children's Health Insurance Program is referred to as (KCHIP).

In response to a question from Senator McDaniel, Mr. Bechtel testified that the difference in allocations needed for the ACA expansion population between this year and next year will be approximately an additional $45 million. In response to another question, Mr. Bechtel stated that approximately 40 to 50 million dollars from the general fund will need to go into KCHIP for each year of the next biennium.

In response to a question from Senator Meredith, Mr. Bechtel testified that the $15 million needed from the general fund for KCHIP in FY 2020 was determined by considering projections. The $15 million has been provided through the enacted budget.

In response to a question from Senator Givens, Mr. Bechtel stated that the Medicaid eligible population was on a downward trend from March of 2018 to January of 2019. It has since stabilized. In response to another question, Mr. Bechtel testified that if there were a recession, enrollment would be expected to increase. In response to further questioning, Mr. Bechtel said that the Medicaid eligible population is lower than in recent history. Most of the flux in eligible Medicaid population is within the expansion population.

In response to a question from Representative Gibbons Prunty, Mr. Bechtel testified that the 1115 waiver is not a part of forecasts.

**Coal and Mineral Severance Tax Programs**

Amy Barnes, Executive Director, Office of Federal and State Grants, Department for Local Government (DLG); and Laura Redmon, Budget Analyst, Office of Federal and State Grants, DLG, discussed the Coal and Mineral Severance Tax Programs.

Amy Barnes testified that coal and mineral severance tax funds are distributed on a quarterly basis through two programs. The programs are the Local Government Economic Assistance Fund (LGEAF) and the Local Government Economic Development Fund (LGEDF).

Ms. Barnes stated that 50 percent of gross mineral severance tax revenue goes to the state's general fund, while the other 50 percent goes to the LGEAF. Eligible counties are producers of non-coal minerals such as limestone, clay, oil, or natural gas. Funds are distributed based on the taxes collected and reported for each individual county. 10 percent of each county's allocation goes to the cities within that county. The distribution to cities is based upon population. In FY 2019, the LGEAF mineral program allocated over $17 million to participating counties and cities. The amount projected for FY 2020 is a little over $16 million.

Ms. Barnes said that in statute, coal severance tax revenues are to be split evenly, with 50 percent of revenues going to the General Fund, and the remaining 50 percent of revenues going to the LGEDF. According to statute, funds in the LGEDF program are divided into thirds. Two thirds comprise the "single county" coal severance program. The other third is comprised of the "multi-county" coal severance fund.

In FY 2019, "off the top" appropriations deducted from the gross coal severance tax revenues totaled a little over $29 million.

Ms. Barnes testified that under Regular Session 2018 House Bill 200, a set appropriation goes to the LGEDF each year. In FY 2019, that appropriation totaled a little over $15 million.

The appropriation will total $7.5 million in FY 2020. Per statute, of the funds transferred from the LGEDF to the LGEAF, 60 percent are distributed to the counties based on the taxes collected in that county. Thirty percent of funds are distributed based upon per capita income, ton miles, and population. These funds together go to producer counties. The remaining 10 percent of LGEAF moneys are distributed to each coal-impacted county based on geographic area, ton miles, and per capita income.

Ms. Barnes stated that LGEAF funds cannot be used for the general administration of government.

The projected coal severance tax revenue for FY 2019 totaled $77.9 million. Actual revenues for the year were over $92.9 million, creating an excess of $15,006,946.91. Gross coal severance tax revenue is estimated to reach a little over $65 million in FY 2020.

Ms. Barnes testified that in FY 2019, over $17 million in LGEDF funds were distributed to the 33 participating counties in the single county program. A county is a participant in the single county program if it has coal production in any quarter during the last four years. In FY 2020, the distribution will drop to $13.5 million. LGEDF funds are being expended in a variety of ways, including in public infrastructure, water, sewer, road improvements, and more.

In response to a question from Senator Webb, Ms. Barnes testified that a variety of jail expenses are being paid for with coal severance money. In response to another question from Senator Webb, Ms. Barnes stated that jail expenses have been included over the past several years.

In response to a question from Senator McDaniel, Ms. Barnes said that the language regarding recurring expenses from a previous budget bill was not included in the current budget bill. Ms. Barnes continued to say that the intent of the statute is for funds to be spent on industrial and economic development.

In response to a question from Representative Gibbons Prunty, Ms. Barnes testified that libraries are a statutorily eligible use for LGEAF funds. In response to another question, Ms. Barnes stated that many counties have bought equipment to implement meals on wheels for senior centers. She also stated that many counties have bought exercise equipment for senior centers.

In response to a question from Senator West, Ms. Barnes said that the highest coal severance revenues occurred in FY 2012, when gross revenues were $313 million. She continued to say that revenues are now at the lowest they have ever been, at $65.1 million. In response to another question, it was testified that there have been no education projects completed using coal severance money under 2018 Regular Session House Bill 200.

In response to a question from Senator Webb, Ms. Barnes testified it is not yet known how the $15 million in excess funds were spent by the recipient counties. The counties will report how the money was spent in their budget reports filed with the Office of Federal and State Grants.

In response to a question from Representative Bentley, Ms. Barnes stated that 10 percent of each county's allocation go to the cities within that county, based on population.

**List of Reports Received Since August, 2019**

Senator McDaniel encouraged members to review the list of reports received since August, 2019.

**Adjournment**

With no further business before the committee, the meeting was adjourned at 2:27 p.m.

## INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

**Minutes of the 3rd Meeting of the 2019 Interim**
**September 12, 2019**

**Call to Order and Roll Call**

The third meeting of the Interim Joint Committee on State Government was held on Thursday, September 12, 2019, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representatives Jerry T. Miller, Co-Chair, and Kevin D. Bratcher, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Robby Mills, Albert Robinson, Dan "Malano" Seum, Damon Thayer, and Johnny Ray Turner; Representatives Tina Bojanowski, Tom Burch, McKenzie Cantrell, Jeffery Donohue, Jim DuPlessis, Larry Elkins, Joseph M. Fischer, Kelly Flood, Derrick Graham, Joe Graviss, Richard Heath, Scott Lewis, Mary Lou Marzian, Patti Minter, Jason Nemes, Jason Petrie, Rick Rand, Steve Sheldon, James Tipton, Ken Upchurch, and Les Yates.

Guests: Representatives John Blanton and Lynn Bechler; Senator Danny Carroll; and Sergeant Jason Rothermund, Fraternal Order of Police, Bluegrass Lodge #4, Lexington, Kentucky.

LRC Staff: Alisha Miller, Karen Powell, Daniel Carter, Kevin Devlin, Michael Callan, Roberta Kiser, and Peggy Sciantarelli

**Approval of Minutes**

A motion to approve the minutes of the August 22, 2019, meeting was adopted without objection by voice vote.

**Proposed Legislation Relating to Sanctuary Cities**

Representative John Blanton and Senator Danny Carroll discussed legislation they plan to co-sponsor for the 2020 legislative session relating to enforcement of sanctuary policies. Jason Rothermund, Special Operations Sergeant in the Lexington Police Department and President of Bluegrass Lodge #4, Fraternal Order of Police, accompanied them and testified in support of their draft legislation. Representative Lynn Bechler discussed BR 240, relating to compliance with state and federal law, which he prefiled on September 10 for the 2020 regular session.

Representative Blanton said the draft legislation is a work in progress. The intent is to prevent any government entity within the Commonwealth from declaring, enacting, adopting, or otherwise enforcing any sanctuary policy, whether written or oral. It seeks to enable law enforcement officers to do their job and to prevent local government entities from dictating which laws can and cannot be enforced.

Senator Carroll said that safety of citizens depends on cooperation between all law enforcement agencies at all levels. To allow any action within Kentucky to limit that cooperation would be detrimental to safety, and that is unacceptable. The Kentucky League of Cities (KLC) and the Kentucky School Boards Association (KSBA) have proposed changes to the draft legislation, and he and Representative Blanton will likely agree with most of those changes.

KLC is proposing language to ensure that the law will apply on a statewide basis. This language addresses cooperation between all law enforcement agencies—state, local, and federal. It would allow law enforcement officers to ask about the immigration status of a victim or witness only when the information is pertinent to the public offense, or for the purpose of providing information about federal visas that may protect persons who assist law enforcement.

It would nullify any preexisting or later-enacted sanctuary policy that would be in violation of the law. It would allow any constitutional officer or legislator to file suit to enforce the law, whereas the original draft specifies only the governor. KLC's proposed language would also cover all employees of a law enforcement agency, not just the sworn officers. It would eliminate the requirement for an Immigration and Customs Enforcement (ICE) detainer if the person provides proof of citizenship or legal immigration status. Senator Carroll said this change will call for more discussion; he believes the proof of citizenship or legal immigration status would need to be verifiable.

KLC would also add a requirement that the attorney general defend any relevant actions brought against an agency, if requested by the agency head, and the state would be liable for expenses or other associated cost. Senator Carroll said the proposed legislation does not change current practice, and he does not see any need to change that element of the law. He said there are other suggested changes by KLC that are still under discussion. KSBA's proposed changes would consider Supreme Court case law, the federal Family Educational Rights and Privacy Act (FERPA), and other federal laws that might preclude this law from being enforced in Kentucky schools.

Senator Carroll said that many of KLC's changes were compiled from the best provisions of similar laws that have been implemented in other states. A lot of research has been involved in the endeavor, and the conversation will continue. He hopes to have an updated draft of the legislation completed within a week or so, followed by another round of meetings. The provisions will continue to be tweaked to ensure soundness of the legislation before it is presented to the General Assembly.

Sergeant Rothermund stated that police agencies, sheriff's departments, and correctional facilities rely on partnerships with, and resources provided by, federal agencies. The federal partnerships are critical to the safety of Kentucky citizens, and the police officers that protect them. Restricting valuable law enforcement partnerships and resources based solely on political rhetoric or agendas places entire communities at risk. He said he represents over 630 active police officers in Fayette County and has received many phone calls questioning the extent to which they are allowed to work with federal agencies.

Sergeant Rothermund said the legislature has the ability to impact the effectiveness of law enforcement in the state. He believes the draft legislation sponsored by Senator Carroll and Representative Blanton is straightforward, and he likes the changes that have been proposed. The legislation simply addresses the ability of local entities to continue utilizing resources as they have in the past. He said the law enforcement climate in the Commonwealth will be confusing if sanctuary policy is not clarified at the state level. Standards should be the same for cities when requesting help from federal agencies. Sanctuary status can also result in loss of federal funding to local municipalities. He believes Kentucky is somewhat "behind the curve" on the sanctuary issue and that the proposed legislation is a step in the right direction.

Representative Blanton thanked the committee for hearing the proposed legislation. He said they are not trying to make a political statement but rather only ask that law enforcement across the state retain the ability to do their jobs. An estimated 161 ICE-detained persons are currently incarcerated in the Kentucky corrections system, with an average sentence of 19.5 years and, for nine, a life term. The crimes include murder, manslaughter, assault, robbery, rape, and trafficking. They come from a spectrum of countries including Mexico, Honduras, and Guatemala. In closing, he said the proposed legislation does not change the way business is conducted in Kentucky today. It is an attempt to get ahead of the curve on the sanctuary policy issue.

Representative Miller said he appreciates the sponsors' bringing the topic forward. He acknowledged that the topic is political but believes there is general agreement on the need for legal immigration and guest worker programs. There is also need for the rule of law and for change at the federal level.

Representative Bratcher asked how the bill would relate to school districts. He said he believes the school board in his district had indicated in the past that they are not going to cooperate with local law enforcement on immigration issues. Senator Carroll said there will be further study of how the bill would affect schools. Other states have adopted language similar to the language proposed by KSBA. Schools are not allowed to ask about immigration status, per a 1982 Supreme Court case, *Plyler v. Doe*, which originated in Texas, that exempts school districts, boards of education, and public charter schools, or employees or contractors thereof, including but not limited to school resource officers. The exemption also applies to the release of information contained in educational records, except that which conforms with federal and state FERPA law.

Representative Donohue said that no law enforcement officer in his Louisville district has told him they are being impeded in the ability to do their job. He believes the legislation is dangerous and can have severe consequences. In the city of Louisville, police officers are allowed to do their job without taking extreme measures. If law enforcement encounters a situation involving an immigrant, they handle it without going outside their normal line of duty. Senator Carroll responded that protection of the public sometimes requires extreme measures and cooperation and that placing limits on law enforcement can be detrimental to public safety.

Responding to questions from Representative Graham, Representative Blanton said there is policy currently in place that would impede law enforcement in regard to the sanctuary issue. The legislation is needed to prevent such policy from being implemented in the future. Senator Carroll said that KLC did not initiate the legislation but submitted proposed changes after the legislation was announced. With inclusion of the changes, KLC will be supportive of the legislation. The KLC proposal included applicable research regarding laws in other states. The bill under discussion today is not related to any bill that was introduced during the last legislative session. Sergeant Rothermund said that he is testifying on behalf of FOP Bluegrass Lodge #4 and that it would not be lodge protocol to conduct a vote relating to his testimony.

Representative Bechler said his BR 240 proposes that any political subdivision, such as a county or city or institutions of higher learning in the Commonwealth, be precluded from having a sanctuary policy. BR 240 also establishes monetary penalties for entities that choose to have such a policy. Currently there are approximately 50,000 illegal aliens living in Kentucky. They represent about 1.1 percent of Kentucky's total population, 3 percent of Kentucky's total immigrant population, and about 1.7 percent of Kentucky's labor force. In 1990, the illegal alien population in Kentucky was estimated to be less than 5,000. By 2005, the number was estimated at 35,000, and in 2009 reached its current level of approximately 50,000.

A U.S. Government Accountability Office study of a sample population of 249,000 arrested criminal aliens, either legal or illegal, found that 48 percent had been arrested for drugs; 35 percent for assault; 21 percent for larceny, theft, fraud, forgery, or counterfeiting; 19 percent for weapons violations; 18 percent for burglary; 12 percent for sex offenses; 9 percent for robbery; 8 percent for homicide; and 1 percent for arson. These rates are substantially higher when compared to total arrests in the United States.

Representative Bechler said that sanctuary cities enable human smugglers and cartels. Many of the gangs currently operating in the United States have their roots in other countries. It is estimated that about 42,500 undocumented or illegal aliens of working age reside in Kentucky, with almost 32,000 of them paying payroll taxes and using fraudulent social security numbers. It is estimated that illegal aliens pay approximately $37 million in sales and excise taxes, individual income taxes, and property taxes. However, one study estimated that in Kentucky state and local governments incur $225 million annually in costs related to the illegal population. During the 2011 regular session, a fiscal note for SB 6 presented a less troubling estimate that Kentucky spent about $33 million from the General Fund on education and about $15.5 million on other state-provided services for illegal aliens.

Representative Bechler said he was shocked to learn that a Kentucky administrative regulation specifically says that illegal aliens shall be charged in-state tuition. In the language of the administrative regulation, a person is considered a Kentucky resident regarding admission and tuition if the person graduated from a Kentucky high school and is an undocumented alien. He stated that this conflicts with federal law. Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act, codified in 1998, prohibits state colleges and universities from allowing illegal aliens to receive in-state tuition on the basis of residence within the state unless all U. S. citizens receive the same rate. Based on data showing the number of full-time out-of-state undergraduate enrollees, Kentucky public colleges and universities could potentially be losing over $250 million per year if Kentucky were required, as federal law indicates, to charge no more to out-of-state students than in-state students as a result of allowing illegal aliens to attend at in-state rates.

Representative Bechler said 13 states—Alabama, Arizona, Arkansas, Florida, Georgia, Iowa, Indiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, and Texas—have laws of some type to ban sanctuary cities. Georgia and Indiana include universities in their ban. Virginia passed a sanctuary cities law, but it was vetoed by the governor. Alaska, Connecticut, Idaho, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New York, Ohio, Oklahoma, Pennsylvania and Rhode Island have also considered legislation banning sanctuary cities. While no Kentucky public university or college has an official policy of being a "sanctuary place," there are troubling signs. At Northern Kentucky University a former associate president of enrollment management said that if a person qualifies for admission, they will be admitted, whether an international, resident, or undocumented student. Additionally, NKU's Division of Latino Programs and Services provides resource and scholarship guides for undocumented students. At the University of Kentucky there is a website created to aid illegal alien students. The website states that the university does not have need to ask for the immigration status of any student, does not keep a list, and has been a national leader in efforts to protect student privacy. In addition, in November 2015, a petition containing more than 1,500 signatures was delivered to President Capilouto and the Provost requesting that the university become a sanctuary campus. The University of Louisville at one time had, but may no longer have, an undocumented student resource council that met monthly with the stated purpose of creating solutions and resources for undocumented students. In February 2017, Western Kentucky University passed a resolution declaring the university to be a sanctuary campus. Representative Bechler said that, to his knowledge, officials at Eastern Kentucky, Kentucky State, Morehead, and Murray State Universities, and the Kentucky Community and Technical College System have made no public comments to support their institutions becoming sanctuary places. Concluding his presentation, Representative Bechler thanked the committee and stated that, for the sake of the Commonwealth, he believes it is time to take action and not "turn a blind eye" to the sanctuary issue.

Representative Burch questioned how the small percentage of illegal immigrants incarcerated in Kentucky can justify the proposed legislation. He said he has never heard that sanctuary policy is an issue in his district, but lately it has become a political issue. Police have power now to enforce the laws that are on the books, and it is not their job to enforce federal law. He thinks the proposed legislation is unchristian. He has neighbors from other countries, and his grandfather emigrated from Germany. He does not believe the proposed legislation is needed and that it is not good for police officers, who already have enough work to do. Representative Bechler responded that the bills under discussion do not ask local police to enforce federal immigration policy.

Representative Cantrell said her district is a diverse community and that she represents a lot of immigrants. Some have been there for generations and have become citizens. Also, immigrants are needed in Louisville to keep the economy going. She said the committee cannot see how BR 240 differs from the legislation proposed by Representative Blanton and Senator Carroll, because they have not provided copies of it. She also questioned why legislation is being debated that is antagonistic to immigrants. In response, Representative Blanton said he welcomes immigrants and wants them to come, not only to help with job needs but also to have a better life. His legislation focuses on law enforcement and does not include provisions relating to universities. It is preemptive to prevent anything from happening in the future to prevent law enforcement from doing its job. It is not intended to instill fear or antagonize people. Representative Bechler said that his BR 240 does not address legal immigration. Legal immigrants are welcome and needed. He is in favor of immigrants coming to Kentucky, but they need to be here legally and follow the law.

Representative Bojanowski said it is her understanding that, with extended enforcement of federal law, the bills would mandate local jurisdictions to file either a 287(g) or a Secure Communities agreement with the federal government and that there would be costs related to that. She asked about other possible costs to implement the legislation, such as increased law enforcement, potential litigation, and social service needs. Senator Carroll said that his and Representative Blanton's bill only retains the status quo; it does not involve fees or require papers to be filed. It strictly follows and protects the policies and procedures currently used by law enforcement on a daily basis. The legislation is preemptive, and if not enacted, there is no doubt that at some time in the future there will be movement to designate some cities as sanctuaries. Representative Bechler said that BR 240 does not say there should be extended enforcement of federal law. It simply requires law enforcement to cooperate with immigration officials.

Representative Graviss asked whether the Kentucky Farm Bureau, Keeneland and Churchill Downs officials, thoroughbred owners and breeders, farm managers, and others in the agricultural community have been contacted about the legislation. Senator Carroll said they have not. He went on to say that he believes illegal immigrants who are long-term and productive residents should be given a path to citizenship. Kentucky's economy is going to need immigrants to sustain it. The legislation would not cause more illegal immigrants to be arrested; it just protects the relationship between all law enforcement agencies in the need to cooperate on immigration issues. Representative Bechler said he has spoken with members of the agricultural community in his district, which has quite a few farms. They have H2A guest worker programs in place, and spend a lot of money to make sure they follow the law by hiring workers who enter the country legally. He is not familiar with 287(g) and Secure Communities agreements. Representative Graviss encouraged him to become familiar with those and their potential impact on Kentucky.

Representative Marzian said she wants to apologize to all documented and undocumented immigrants in Kentucky for the reference to them as "aliens," a term she considers offensive. She said undocumented immigrants are human beings that come to the United States for a better life and a better education for their children. She believes the legislation is political, and she finds it offensive. She was also critical of interference by the General Assembly in local government matters.

Senator Thayer said he does not think persons connected with the horse industry would oppose the legislation, because it really does not affect them. He also noted that federal immigration law uses the term "illegal alien" and defines it as someone who is in the United States unlawfully. He believes there is broad support for the legislation in his district and the state. He appreciates that the sponsors have started it early. Whether it is introduced first in the House or in the Senate, he looks forward to its quick passage in the next regular session. He think the legislation will move quickly and send a signal that the General Assembly supports law enforcement, who have the job of keeping Kentuckians safe.

Representative DuPlessis said he does not believe anyone present is anti-immigrant. The issue is "legal" versus "illegal" immigration. Encouraging illegal immigration negatively affects the labor pool, keeps wages down, and increases unemployment for those who are following the law. He appreciates legislators who want to act to prevent rather than react to problems. He said he does not know whether he can support Representative Blanton and Senator Carroll's bill because he has not seen it yet, but he is aware of the detrimental effects of illegal immigration.

Representative Tipton said the federal government should have resolved the illegal immigration issue a long time ago. He vividly remembers images of the terrorist attacks on September 11, 2001, and he believes that on September 12 the nation may have become more united than ever in his lifetime. He said he wants to publicly thank Representative Blanton, Senator Carroll, Sergeant Rothermund, and all police officers and first responders for their dedicated service to the Commonwealth. He appreciates the opportunity to live in a country where today's discussion can take place, and he looks forward to continuing the conversation.

Representative Miller pointed out that not only people but the rule of law are at issue. He said he has spent time in Mexico and Honduras. The reason that a predominant number of immigrants come from Honduras is because that country lacks the rule of law. In the United States they can enjoy the ability to enforce a contract and live without fear of police asking for a bribe.

Representative Miller asked Sergeant Rothermund whether he has ever been asked by a federal agent to enforce illegal immigration law without an underlying crime having been committed against the state or local government. Sergeant Rothermund said he has not during his 15 years as a police officer. In Lexington, the police do not go out of their way or have the authority to seek enforcement of federal immigration law. Statements have been made by some local officials that begin to define a city as a sanctuary city without actually saying the word. When this happens in response to a national political narrative, it begins to cause confusion for police officers. Representative Blanton and Senator Carroll's bill would allow police officers to continue doing their jobs to keep people safe in the Commonwealth and ensure that the partnerships with federal law enforcement remain intact. Many of the individuals targeted and detained by ICE also prey on other undocumented workers. Without federal cooperation, police cannot protect undocumented workers from the undocumented gang members.

Representative Miller thanked the guest speakers for their testimony and for bringing forth their proposals. He said this is just the beginning of the conversation.

**Proposed Legislation Relating to the Legislators Retirement Plan**

Representative Tipton discussed his BR 268 draft proposal relating to current and future legislators enrolled in the Legislators Retirement Plan (LRP) and the Kentucky Employees Retirement System-nonhazardous plan (KERS-NH). He provided copies of "BR 268 Draft Proposal (Discussion Document)."

Representative Tipton said that BR 268 is a work in progress. His goal with the legislation is to ultimately end the Legislators Retirement Plan. Over the years there have been questions why legislators have their own retirement plan and why it is funded better than the other retirement systems. Some legislators did not prefer having a retirement plan but were given no choice. He said when he joined the General Assembly in 2015, he decided to participate in LRP but that he would have chosen differently if he knew then what he knows now. He thanked Representative Graviss for his input on the issue and said he hopes to receive input from members of the State Government Committee.

As outlined in the discussion document, BR 268 would only impact current and future legislators who are members of LRP or KERS-NH. It does not impact the County Employees Retirement System (CERS), the State Police Retirement System (SPRS), Teachers' Retirement System (TRS), the Judicial Retirement Plan, or any other members of KERS. Also, under the proposal no funds, other than administrative expenses, shall be provided to LRP until LRP has a funding level that is equivalent or less than KERS's funding level (based upon the most recent actuarial valuation).

Under the BR 268 draft proposal, effective July 1, 2020, new legislators would no longer have the choice to either participate in LRC or KERS-NH but would instead participate in KERS-NH unless the member opts out of KERS coverage within 30 days of taking office. This would effectively close LRP to new members. Current legislators who joined LRP on or after 1/1/2014 (cash balance members) would cease participating in LRP effective December 1, 2020, and have their service and account balances transferred to KERS from LRP and would prospectively participate in a KERS cash balance account. They would also have the option to make a one-time irrevocable election to not participate in KERS for service as a legislator. For legislators elected after January 1, 2014, the LRP inviolable contract covers only their account balance.

Current legislators who joined LRP prior to 1/1/2014 (defined benefit members) would have the option to make a one-time irrevocable election to prospectively participate in KERS for service as a legislators instead of LRP (past service in LRP not impacted), or to prospectively not participate in LRP or KERS for all future legislative service. The benefit factor would be reduced from 2.75% to 1.97% for each year of service accrued on or after July 1, 2020, for service as a legislator. BR 268 would also modify the LRP inviolable contract to exclude future changes to the law after July 1, 2020.

Representative Tipton reviewed the tiers, contribution rates, interest credit, and various retirement options offered for legislators who were elected after and prior to January 1, 2014. He also discussed how past legislation has affected legislative retirement. HB 299, passed in 2005, allowed the retirement benefits for legislators who went to work in the executive branch to be inflated by the higher executive branch salary—basically spiking their pension. He finds that troubling and believes that constituents across the state would also find it troubling. Under BR 268, salary reciprocity for nonlegislative compensation earned on or after July 1, 2020, would be removed for defined benefit members in LRP prior to 1/1/2014, and benefits at retirement would be calculated based on legislative salary and nonlegislative compensation earned prior to July 1, 2020. The same change would apply to benefits earned by legislators in KERS. Legislators would still be able to participate in the Deferred Compensation program.

Representative Tipton said that several years ago the benefit factor for legislators was increased from 1.97% to 2.75%. In light of the current retirement funding situation, he finds it incomprehensible that the increase is still in effect. For him, it is a matter of principle and doing the right thing for the people that the General Assembly represents. Concerns have been raised, and BR 268 could add a provision to reduce the benefit factor or give legislators the ability to opt out of the higher factor.

Representative Tipton said he still has work to do on BR 268 but that Chairman Miller asked him to present it today to get reaction and feedback from the committee. He has not yet had time to meet with representatives of Kentucky Retirement Systems and the Judicial Form Retirement System but plans to do so in the near future.

Representative Miller thanked Representative Tipton for sponsoring the legislation. He said he heartily endorses its inclusion of funding restrictions for the LRP.

Senator Seum expressed concern that with a reduction in benefits—and in view of the considerable amount of time legislators must spend away from home—only the wealthy would be able to run for office in the General Assembly. Representative Tipton said that issue has been raised in regard to recruiting good qualified candidates for the General Assembly. He understands it is not a part-time job. He explained, though, that the proposal does not eliminate legislative retirement but provides choice options for each individual.

Representative Graviss thanked Representative Tipton for working with him on BR 268 and said he appreciates the discussions. It has seemed improper to him that legislators have their own retirement system and that it has been funded differently than the systems for state workers. He also thinks it is important for legislators to have a sound retirement. He voiced concern about potentially damaging the foundation of the inviolable contract. He hopes that the discussions will continue and provide solid evidence that BR 268 will not damage the inviolable contract, while accomplishing the objective to increase money going into the KERS-NH system.

Representative Cantrell said that some of the information in BR 268 is new to her. She is thankful for the discussion outline but thinks it would be more informative and helpful to be provided actual pieces of legislation for discussions in committee. She also asked how BR 268 differs from legislation relating to legislative retirement that was introduced by former state representative James Kay. Representative Tipton said he would have to review that previous legislation. He believes there may be similarities but that BR 268 is probably more detailed and somewhat more in depth. BR 268 includes many of the concepts that were part of SB 151, which was overturned by the Supreme Court. He has not had time to finalize BR 268, but it will be completed in time for the legislative session. Representative Miller said BR 268 was presented today at his request. Sanctuary cities and legislative retirement are important topics, and it is good to have them thoroughly vetted before they are filed. Representative Cantrell encouraged Representative Tipton to review Representative Kay's legislation.

Representative Graham said he did not choose LRP as his retirement plan, but he is not in favor of doing away with retirement benefits for legislators. He questioned why only legislators, and not state employees, would be able to opt out of retirement coverage, as provided in BR 268. He is also concerned about erosion of the retirement system and having defined benefit plans replaced with defined contribution plans. Representative Tipton said that currently no legislator or state employee has the option to opt out of retirement. He confirmed that the legislation does not address judicial retirement, nor does it change the hybrid cash balance plan that was established by SB 2 in 2013.

Senator Thayer said he appreciates Representative Tipton's commitment to the issue. Presenting a legislative proposal, without having a specific bill, is a good approach and is appropriate for discussion by an interim committee. He said the public needs to understand that passage of BR 268 would make a lot of people feel better, but it will not make a material change in the pension systems' unfunded liability. It is hard to explain to the public that one reason LRP is well funded is because of the relatively small number of participants. It is also not subject to the problems, vagaries, market disruptions, and other issues that have led to underfunding in the other systems.

Senator Thayer said that SB 2, which he sponsored and which passed in 2013, put all new members of the legislature in a hybrid cash balance plan just like the one that KERS and CERS employees have been in since January 1, 2014. Passage of SB 2 is starting to have the desired effect of "turning the Titanic around" for the pension system. It is important to note that, since 2014, legislators have been treated exactly the same as members of KERS and CERS. Transparency for legislative pensions has also been enacted, and information about legislators' pension benefits is now accessible to anyone. He supports efforts by many in the General Assembly to repeal the spiking initiative that allowed some former legislators to spike their pension by going to work in the executive or judicial branch. He said that if SB 151 had not been overturned by the Supreme Court on a procedural matter that is used in every other legislature in the country, the benefit factor for the LRP plan would have been reduced to 1.97%. He plans to sponsor a bill for structural reform of TRS, which is needed in order to make a material change in unfunded liability in the pension systems. He said he wants to go on record that the General Assembly has tried to address problems in the pension systems, succeeding in some areas but failing in others. He appreciates the comprehensive approach in BR 268. It includes many provisions that are worthy of consideration in the 2020 regular session, and he looks forward as a member of the Senate State and Local Government Committee to working with Representative Tipton. He also commended him for his work on HB 1 during the 2019 special session.

Representative DuPlessis said that Representative Tipton has done a great job with BR 268 and that he appreciates working from a bullet point list rather than a bill. This allows the interim committee to help form legislation before the session begins in January—which is one of the main purposes of interim joint committees.

Representative Tipton thanked everyone for their participation and encouraged them to contact him if they have questions or comments. He said legislative retirement is a bipartisan issue on which everyone should work together.

Representative Miller announced that the next meeting will be October 3. Business concluded, and the meeting was adjourned at 12:05 p.m.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Education
### Minutes of the 3rd Meeting of the 2019 Interim

September 10, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, September 10, 2019, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Steve Riley, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representatives James Tipton, Co-Chair, and Steve Riley, Co-Chair; Senators C.B. Embry Jr., and Gerald A. Neal; Representatives Tina Bojanowski, Randy Bridges, Joseph M. Fischer, Kelly Flood, David Hale, Cluster Howard, Regina Huff, Bobby McCool, and Attica Scott.

Guests: Brigitte Blom Ramsey, Executive Director, Prichard Academy for Academic Excellence; Perry Papka, Deputy Director, Prichard Committee for Academic Excellence; Mike Nemes, Deputy Secretary, Education and Workforce Development Cabinet; Linda Hampton, Executive Director, Early Childhood Advisory Council; John Roden, Chair, Early Childhood Advisory Council; Bill Buchanan, Early Learning Liaison, Office of Special Education and Early Learning, Division of IDEA Implementation and Preschool; Charles Harman, Director, Office of Finance and Operations, Division of Budget and Financial Management, Kentucky Department of Education.

LRC Staff: Chuck Truesdell, Jennifer Krieger, Seth Dawson, and Amie Elam

**Prichard Committee for Academic Excellence**

Brigitte Blom Ramsey and Perry Papka, Prichard Academy for Academic Excellence, gave a presentation regarding the importance of early childhood investments.

In response to a question from Representative McCool, Ms. Blom Ramsey said that grandparents are able to access the childcare subsidy and public preschool dollars. She added a child is eligible for the services regardless of who their caretaker is.

In response to a question from Representative Tipton, Ms. Blom Ramsey said the freeze in subsidy allowance for families and a drop in the eligibility level left many families without a way to pay for childcare. Many childcare facilities had to close as a result of parents no longer being able to afford services.

In response to a question from Representative Bojanowski, Ms. Blom Ramsey said the Prichard Committee believes that education should take on a holistic approach. She stated that high quality learning environments understand the importance of developing social and emotional skills, both early on and throughout postsecondary education.

**Education and Workforce Development Cabinet**

Mike Nemes, Linda Hampton, and John Roden gave a presentation regarding the financial and economic benefits of early childhood education.

In response to a question from Senator Neal, Ms. Hampton said the preschool development grant application was built from the data and information gathered in the sustainability validation reports that were completed during the Race to the Top Early Learning Challenge Grant process.

**Kentucky Department of Education**

Bill Buchanan, Charles Harman, and Dr. Lewis gave a presentation focusing on kindergarten and state-funded preschool.

In response to a question from Senator Neal, Dr. Lewis said kindergarten is funded at half-day. However, the majority of districts provide full-day kindergarten. To pay for full-day kindergarten districts are subsidizing the increased cost with local funds. Dr. Lewis added that, beginning next year, districts will be submitting applications for non-competitive grants to fund public preschool services.

In response to a question from Chair Riley, Mr. Harman said that moving from 160 percent of the poverty level to 200 percent would be an increase of $17 million. Mr. Buchanan said at least four districts in Kentucky do not offer full-day kindergarten.

In response to a question from Representative Tipton, Mr. Harman said that KDE will provide the committee with data from each district regarding the cost of going from half-day to full-day kindergarten.

There being no further business to come before the committee, the meeting was adjourned at 11:58 a.m.

## INTERIM JOINT COMMITTEE ON AGRICULTURE

### Minutes of the 3rd Meeting of the 2019 Interim

September 9, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Agriculture was held on Monday, September 9, 2019, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Richard Heath, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Richard Heath, Co-Chair; Senators David P. Givens, Stan Humphries, Robby Mills, Dennis Parrett, Damon Thayer, Robin L. Webb, Stephen West, and Whitney Westerfield;

Representatives Myron Dossett, Kelly Flood, Joe Graviss, Mark Hart, Kim King, Matthew Koch, Phillip Pratt, Rick Rand, Brandon Reed, Rob Rothenburger, Steven Rudy, Dean Schamore, John Sims Jr, Wilson Stone, Nancy Tate, Walker Thomas, James Tipton, Susan Westrom, and Les Yates.

Guests: H.H. Barlow, Executive Director, Kentucky Dairy Development Council, and Laura Knoth, Kentucky Corn Growers Association.

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

The August 22, 2019 minutes were approved, by voice vote, upon motion made by Representative Reed and seconded by Senator Thayer.

**Overview of the Kentucky Dairy Industry**

H.H. Barlow, Executive Director, Kentucky Dairy Development Council (KDDC), stated that KDDC actively pursues education, promotes and represents dairy farmers, and fosters an environment of growth for the Kentucky dairy industry. The KDDC's Board of Directors comprises 20 members; 12 dairy farmers and eight allied industry representatives. The KDDC is funded through a grant provided by the Kentucky Agricultural Development Fund along with dues paid by allied industry organizations and advertising receipts from the Kentucky Milk Matters Newsletter. KDDC also receives donations from individuals and dairy farmers. The KDDC Dairy Consultant Program's primary purpose is to provide manpower to implement and facilitate programs.

Mr. Barlow explained that nationally, in 1997, there were 110,000 dairy farmers, and milk production was approximately 168 billion pounds. In 2017 the number of dairy farmers dropped to 40,000 but milk production increased to 218 billion pounds. He said that in 2005 Kentucky had 1,500 dairy farmers and presently there are only 500 still in business. The largest dairy farm is in Logan County, Kentucky where there are 2,300 cows.

He stated that improved efficiency in milk production had created an excess in the milk supply. In 2018, the increased milk supply caused farmers in Wisconsin and New York to pour their milk out because there was nowhere to send it for processing. He said that due to the oversupply of milk, depressed milk prices, and closing of processing plants, 19 Kentucky dairy farms were forced to liquidate last year. Kentucky milk has mostly been sold for fluid consumption, while nationally, most of the milk goes into the production of cheese. Kentucky has three fluid dairy processing plants and four product processors.

Liquidation of dairies, diminishing profits, loss of infrastructure (large animal veterinarians and the closing of dairy supply companies), lack of markets, loss of fluid milk consumption, and loss of dairy farm equity are some of the main challenges for Kentucky's dairy industry. Kentucky produces only half of what the processing capacity is, so a lot of milk is shipped into Kentucky. Once the new processing plant in Michigan goes online, it should open up the milk market in Kentucky.

Kentucky has an abundance of natural resources, ideal environmental conditions, and strong market potential. Dairies can act as a strong economic engine for rural communities. One cow can produce enough milk to bring in $4,000 per year. According to a Wisconsin study, each cow contributes over $14,000 to the local economy. Kentucky's strongest tool for dairies reaching their potential is the Kentucky Dairy Development Council (KDDC). It is the only organization in the state that focuses on the dairy industry. The mission of the KDDC is to educate, promote, and represent dairy farmers in order to maintain the industry as a leading agricultural economic engine for rural Kentucky. In addition to several other KDDC programs, the Young Dairy Farmer Initiative program is important to the future of the industry. Through the Milk Incentive Leadership Kentucky Program (MILK), over $8 million has been paid directly to producers who had to meet certain goals. A producer can be paid up to $12,000 per farm. Half of the $8 million came from the Agricultural Development Fund and the processing industry matched those funds. The KDDC has four dairy consultants; three of the four owned and operated dairy farms and the fourth worked in dairy processing. Their knowledge and experience is valuable to the future success of the dairy industry in Kentucky.

Mr. Barlow said that the liquidation of dairy farms had slowed down and things should get better. There is still a lot of work ahead to keep the dairy industry from declining, but KDDC is committed to making the industry a success.

Mr. Barlow explained that the University of Kentucky sold the research dairy farm, and the dairy has to be closed by 2021. KDDC is working with the University of Kentucky and Eastern Kentucky University to merge the dairies into one location at Eastern Kentucky University.

In response to Senator Thayer, Mr. Barlow stated that he did not know where the distilleries were getting their supply of dairy products to add to their bourbon cream products. He agreed that a local source of milk would be good for the Kentucky dairy industry.

In response to Representative King, Mr. Barlow said that each school system bids out for their milk supplies. He said he did not know about the universities.

In response to Representative Stone, Mr. Barlow said that the milk pricing market is a complicated system and states are split into territories. Kentucky is not under the component pricing index that includes being paid for protein in the milk, which is the main building block for cheese. This would have to be changed under Federal Order hearings and KDDC is very interested in seeing the federal pricing system changed.

In response to Senator Webb, Mr. Barlow said it is a problem dealing with animal welfare organizations that do not understand certain practices in the dairy industry, such as dehorning.

In response to Senator West, Mr. Barlow explained that the University of Kentucky is selling the Coldstream dairy farm in order to acquire land in Lexington for campus expansion. The landswap is a result of an agreement with the Lexington-Fayette Urban County Government. The dairy professors are concerned about the program, as getting a student to drive 40 miles to Eastern Kentucky University might be a problem. There is something to be said for hands-on experience. There is no talk about moving the UK Dairy to other areas in or nearer to Lexington.

In response to Senator West, Mr. Barlow said if some of the federal rules could be changed it would help Kentucky dairy farmers. Kentucky dairy farmers are frustrated and have talked about leaving the federal system.

In response to Representative Westrom, Mr. Barlow said that $190 million worth of milk was produced in Kentucky last year. Even with fewer dairies, the number of cows on farms has increased. He said genetics, nutrition, and technology have helped milk production efficiency.

In response to Representative Tipton, Mr. Barlow asked that the committee send a letter or resolution to our Kentucky Congressmen urging them to pass the United States-Mexico-Canada Agreement (USMCA). It is vital to the dairy industry to have this agreement in place.

In response to Representative Tipton, Mr. Barlow said that dairy farmers do need a federal guest worker program. Representative Tipton noted that the National Holstein Convention would be held in Lexington in 2023.

Senator Hornback said that a guest worker program for dairy would need to be different from other programs. Dairy farmers need help 365 days a year. He also explained that Kentucky is a deficit state in milk production. Kentucky has to ship milk in and farmers pay for those shipments.

In response to Senator Hornback, Mr. Barlow said labeling for alternative milk products needs to be addressed.

In response to Senator Givens, Mr. Barlow stated that farmers need to do a better job of telling the story of animal agriculture. He said that out of every 100 pounds of milk sold, 15 cents goes into promotion. He said that KDDC could start organizing farm tours for school children.

**Discussion on Renewable Fuel Standard-Renewable Volume Obligation**

Ms. Laura Knoth, Kentucky Corn Growers' Association, said that the United States Environmental Protection Agency (EPA) is now allowing the sale of E-15. The EPA recently waived Renewable Volume Obligations (RVO) to small refineries. In doing so, the waivers will have dire consequences for the farmers in Kentucky and the United States. The Kentucky Corn Growers' Association, representing over 5,000 corn farm families, sent a letter to the EPA commenting on the proposed rule for the 2020 volumes. The letter contained recommendations about adjusting the 2020 RVO percentages, remand and restore the 500 million gallons missing from the 2016 RVO, and develop a plan for reallocating the renewable fuel blending volumes.

In response to Representative Schamore, Ms. Knoth said all of agriculture is in a tough situation right now. Grain farmers are experiencing a 40 to 50 percent decrease of prices in the last few years. She said there are several contributing factors for the reduced demand of corn such as large crops and trade disruptions.

Ms. Knoth explained that on her recent trip to Japan, the group met with international importers/buyers of U.S. beef and pork. Japan is experiencing a meat boom and is finding U.S. meat products to be of the highest quality.

In response to Representative Stone, Ms. Knoth said that the United States needs to export more grain products, meat, poultry, dairy products, and ethanol. Kentucky exports approximately 10 percent of its grain crop -- nationally that number is 25 percent. She said that over half of Kentucky's grain crops go to livestock and poultry.

In response to Senator Hornback, Ms. Knoth said 35 to 40 percent of Kentucky's corn goes into the ethanol market. She explained that the by-products from ethanol comes back in the form of dry distillers grain, corn oil, and the $CO_2$ is used at a dry ice facility. Kentucky is sending approximately 10 percent of its corn to the ethanol industry and 10 to 15 percent to the bourbon industry.

In response to Representative Tipton, Ms. Knoth said that E-85 fuel can only be used in flex-fuel vehicles. She said that Kentucky Corn Growers' Association and the national association are meeting on a regular basis with the American auto industry, the renewable fuels industry, and the petroleum industry. Higher blends are expected in order to meet fuel standards of today's engines. Ms. Knoth also said that the Grain and Forage Center of Excellence has the best researchers for increasing grain production in the future.

In response to Representative Flood, Ms. Knoth said that Kentucky had not been able to export grains to China for the last three or four years. She said that not exporting to China had nothing to do with the current administration. China decided not to accept grain exports because of hybrids and traits that had not been approved in China. China cut some contracts because of price. She said that Kentucky corn growers want trade on all fronts, but right now they are focusing on every other market available. Ms. Knoth explained that Japan was the number one importer of wheat and beef and number two for corn and pork. Japan has been a longtime partner for American exports. Ms. Knoth stated that the United States-Mexico-Canada Agreement is the most important issue on their agenda. Mexico is the number one market for corn, and Canada is the number one export market for ethanol.

Senator Hornback stated that he believes there were several factors for not shipping corn to China: one being the price and the other being that China stole intellectual property pertaining to agriculture technology and corn varieties.

Meeting adjourned.

## INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

**Minutes of the 4th Meeting of the 2019 Interim**

September 10, 2019

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Tuesday, September 10, 2019, at 3:00 PM, in Room 154 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators Jared Carpenter, Matt Castlen, C.B. Embry Jr., Paul Hornback, Robby Mills, Reginald Thomas, Johnny Ray Turner, Robin L. Webb, and Phillip Wheeler; Representatives John Blanton, Adam Bowling, Terri Branham Clark, R. Travis Brenda, Randy Bridges, Jim DuPlessis, Daniel Elliott, Chris Fugate, Angie Hatton, Derek Lewis, Suzanne Miles, Melinda Gibbons Prunty, Cherlynn Stevenson, and Rob Wiederstein.

Guests: Bruce Scott, Deputy Secretary, Energy and Environment Cabinet (EEC); Tony Hatton, Commissioner, Department for Environmental Protection, EEC; Jon Maybriar, Director, Division of Waste Management, EEC; Dan Bock, Landscape Architect, Operations and Readiness Division, Huntington District United States Army Corps of Engineers (USACE); Rodney Holbrook, Resource Manager, Fishtrap Lake, USACE; and Dr. Rick Honaker, Professor and Chair, Department of Mining Engineering, University of Kentucky.

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

**Litter and Illegal Open Dump Cleanup Programs**

Tony Hatton stated the Litter Abatement Grant Program (LAGP) within the Kentucky Pride Fund (KPF) was established with the passage of HB 174 in 2002. The Kentucky Department of Transportation transfers $5,000,000 annually to KPF for LAGP. The funds are distributed to counties based on road miles, total population, and rural population. Cities may apply for a portion of the funding. The funding is used for direct expenses associated with litter cleanup and litter prevention education. The recipients of the funds must report all expenses annually, and unspent funds must be returned. From 2003 to 2018, total litter expenditures of grant funding plus additional spending by cities and counties were $126,302,172.

The Illegal Open Dump Grant Program was established with the passage of SB 50 in 2006. It is supported by the Environmental Remediation Fee of $1.75 per ton of landfill waste within the KPF. A portion of the funds must be used for orphaned landfills. The total grant expenditures from 2006 to 2018 were $18,839,206.

In response to a question from Senator Smith, Bruce Scott stated the EEC does not have the number of litter fines issued in 2018. EEC does not have litter enforcement authority. There are statutes that provide enforcement authority to state police (KRS Chapter 433) and to local government authorities (KRS Chapter 512). The EEC has had discussions to create a website for anonymous reporting of littering. Jon Maybriar stated investigating the origin of litter is a safety issue.

In response to a question from Representative Blanton, Mr. Scott stated local governments use digital media for public awareness about littering.

In response to a question from Representative DuPlessis, Mr. Hatton stated there are counties that do not participate in the grant funding.

In response to a question from Representative Lewis, Mr. Scott stated solid waste coordinators in some counties have other job responsibilities that impact their output.

Jon Maybriar stated in 2015 a large sewage leak into Big Sandy River in Virginia impacted Fishtrap Lake in Pike County and brought attention to the ongoing problem of excessive floating debris restricting the use of the lake. The Division of Waste Management (DWM) has been working on a solution. In 2018, DWM met with Pike County officials and USACE to devise a cleanup plan.

**Drift and Debris Management Plan for Fishtrap Lake**

Rodney Holbrook stated the majority of the debris in Fishtrap Lake comes from Virginia, because 95 percent of the watershed is located there. The majority of the waste is naturally occurring debris from trees and beaver dams.

COE signed an agreement with Pike County Fiscal Court in February of 2019 to utilize a $126,000,000 grant from the state. Two phases of the cleanup have been completed. Two additional phases of cleanup will start in September 2019 and January 2020. There is also an agreement with Kentucky Pride to conduct annual volunteer lake cleanup.

**Rare Earth Element Recovery from Kentucky Coal Sources**

Dr. Rick Honaker stated the majority of rare earth elements (REEs) are located in China, which impacts manufacturing costs. Manufacturing is a large part of Kentucky's economy. REEs are used in manufacturing phones and batteries.

Researchers at the Massachusetts Institute of Technology estimated that in 2010 the world consumption of REEs was 125,000 tons annually, and China supplied 74,000 tons annually. China purchases REEs from other countries and controls the majority of the resources. The United States uses approximately 10,000 to 12,000 tons REEs annually.

The worldwide number of electric vehicles is expected to increase from around $4,000,000 today to $400,000,000 by 2040 and will require an increase of REE production of around 60,000 tons annually.

In 2014, the University of Kentucky conducted a study and found the total amount of REEs contained in the coarse refuse generated from 20 active coal preparation plants. The total amount of REEs in the course refuse would generate 50 percent of the annual demand for REEs in the United States. Kentucky has more than 50 coal preparation plants and could meet the need for REEs in the United States.

There is an REE pilot plant, funded by the Department of Energy, in Providence, Kentucky. The plant processes REEs from coal and coal byproducts in Kentucky. The pilot plant has been successful in creating a concentrate that is 99 percent pure REEs material. Based on a preliminary assessment of a single hypothetical REE recovery plant, the plant could generate $6,000,000 in state and federal income tax per year and create 50 new jobs.

In response to a question from Senator Webb, Dr. Honaker stated there are security protocols to protect the intellectual property of this new technology.

In response to a question from Representative Elliott, Dr. Honaker stated REEs are recycled by dissolving and reconcentrating the material. The process is very expensive. Large companies, such as Lexmark and Apple, are interested in recycling REEs.

In response to a question from Representative Gooch, Dr. Honaker stated China could stop selling REEs anytime and manufacture the final product.

In response to a question from Representative DuPlessis, Dr. Honaker stated REEs have a very low concentration of radioactive materials.

In response to a question from Senator Thomas, Dr. Honaker stated REEs are used to produce a lot of materials used by the Department of Defense.

There being no further business, the meeting was adjourned.

## INTERIM JOINT COMMITTEE ON EDUCATION

**Minutes of the 4th Meeting of the 2019 Interim**

September 11, 2019

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Education was held on Wednesday, September 11, 2019, at 1:00 p.m., in Room 149 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Regina Huff, Co-Chair; Senators Jimmy Higdon, Alice Forgy Kerr, Stephen Meredith, Reginald Thomas, Johnny Ray Turner, and Stephen West; Representatives Tina Bojanowski, R. Travis Brenda, Randy Bridges, Jeffery Donohue, Mark Hart, Scott Lewis, Mary Lou Marzian, Reginald Meeks, Charles Miller, Kimberly Poore Moser, Melinda Gibbons Prunty, Steve Riley, Attica Scott, John Sims Jr, James Tipton, Russell Webber, and Lisa Willner.

Guests: Robbie Fletcher, Lawrence County Schools.

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

Chair Wise welcomed members and guests to the meeting. Following his welcoming remarks, he led those present in a moment of silence in remembrance of Patriot Day and those lost in the events of September 11, 2001.

**Approval of Minutes**

Representative Tipton made a motion to approve the minutes as written. Senator Kerr seconded. The motion passed by voice vote.

**Child Abuse and Neglect Awareness and Prevention**

Senator Rick Girdler was present with guests Amanda Underwood, teacher, Boyle County Middle School and, by teleconference, Jenna Quinn, Child Abuse Prevention Advocate. Also present were students Kennedy Aulick, Addison Woodard, and Brooklyn Rockhold from Boyle

County Middle School. Senator Girdler told the committee that this topic was brought to his attention by this group of students and their work informed Senate Joint Resolution 38 in the 2019 Regular Session. Ms. Underwood explained that the students' proposal to implement a child abuse awareness and prevention education program grew from coursework performed in their extracurricular classes on leadership in Y-Club. Ms. Quinn spoke briefly about her work to end child abuse prompted by her own history as a survivor of child sexual abuse. She said as many as one in four girls and as many as one in six boys are sexually abused before age 18. As many as 42 million individuals are living today with the trauma of childhood sexual abuse, which is great and is carried long into adulthood.

Victims are three times more likely to suffer depression, six times more likely to experience post-traumatic stress disorder, 13 times more likely to abuse alcohol, 26 times more likely to abuse drugs, and four times more likely to attempt suicide. The economy is impacted from these issues which are mostly covered by the taxpayer, averaging approximately $830,000 per victim over a lifetime, through increased healthcare costs, criminal justice costs, and many other hidden costs. Children are predominately abused by individuals whom they know and trust, making it very unlikely that they will report the abuse. It could take years to report the abuse. Ms. Quinn said that thankfully, research indicates that up to 95 percent of child sexual abuse is preventable through proper education. If students are educated in body safety and creating open communication pathways, which are age and developmentally appropriate, they are much more likely to report abuse and get help. She informed members that Senate Bill 68 of the 2019 Regular Session was a bill to implement child sexual abuse awareness education in Kentucky public schools, and she hopes to see it make more progress towards passage in 2020.

Addison Woodard shared the story of an individual, Allison, who was abused and did not report it. She also shared statistics from several research groups that illustrated the prevalence of child abuse and the dramatic increase in dropout rates and suicide attempts by abused children. There are 22 victims for every 1000 children in Kentucky. The national average is nine victims for every 1000 children, making our Commonwealth the highest in the nation. Between 2013 and 2017, the number of child abuse victims in Kentucky grew by more than 27 percent. Every year, approximately 15 more Kentucky students per 1000 will experience abuse, and this number has steadily increased since 2013.

Kennedy Aulick spoke about the personal experience of a friend, Alex, who was the victim of child abuse from his father. She explained that friends and classmates are 10 times more likely to report abuse than the victim. Educating students on how to report suspected abuse is critical to increase reporting and stop abuse. To address fears that committee members may have about increasing false reports, Ms. Aulick said that there is a slight increase in reporting the first two years after such legislation is enacted; however, it drops off and stabilizes after that initial period. Additionally, false reports account for only two to eight percent of total reports, and little to no additional cost will result from implementation of this education which is already readily available for schools. The Catholic schools in Louisville, Kentucky, already implement a program called "Speak Up, Be Safe" that could be shared with public schools.

Brooklyn Rockhold spoke of her own experiences as the victim of child abuse from her father. She shared how her mother strove to protect her and her siblings, but abuse occurred on mandatory visits with her father and his family. It was only after several years and increased education about the signs of abuse that she was able to fully identify her father's actions towards herself, her siblings, and her mother as abuse. Currently 28 states across the nation have some form of childhood abuse education legislation. The legislation also encourages Kentucky schools to recognize April 6th each year as Child Abuse Awareness and Prevention Day. Kentucky children deserve to know they are not alone and that child abuse is not acceptable under any situation.

Ms. Underwood shared the story of one of her students who had behavior issues and an IEP requiring special assistance. As a teacher, she knew how to assist this student for those issues, but she did not know how to recognize the signs of abuse the child was experiencing at home. Teachers have an obligation to report, but without proper training in recognizing the signs of child abuse, it is difficult to know what to report. Increasing the awareness of potential reporters and making it easier for abused children to share their stories addresses the growing epidemic on two additional fronts. Continuing the current trends, Kentucky will exceed 35,000 cases of child abuse and neglect this year. We know about the severity and the monetary costs, and we have a plan to follow which has been proven to be effective in other states. Now is the time to act.

Chair Wise thanked the students and Ms. Quinn for their powerful testimony on this critical issue facing Kentucky students.

Senator Kerr thanked the presenters for their bravery and also asked why the legislature has waited so long to address this issue. She spoke about bringing similar legislation twice before the General Assembly, once as testimony only before the committee and once before Senate leadership. At the time, leadership felt the topic was too unsavory. But as a survivor of child abuse herself, Senator Kerr is passionate about this topic and hopes to see legislation make more progress in the upcoming session, as it has bipartisan support. Ms. Underwood thanked the Senator for sharing her personal stories and agreed it has gone on far too long. Kentucky leads the nation in number of children being abused and this needs to be addressed.

Representative Willner spoke to the isolation felt by children who suffer abuse and the urgency of providing education about bodily autonomy, safety, and healthy relationships to all children.

Representative Gibbons Prunty also shared her history as a survivor of child sexual abuse and asked for the data shown during the presentation to be provided to members of the committee.

In response to a question from Representative Riley, the students agreed that Child Abuse Awareness and Prevention Day often falls during Spring Break and encouraged schools to recognize it on any day near that date when students are in school.

Representative Bojanowski said she felt April 6th may be too late into the school year to raise proper awareness. Ms. Underwood said she had worked closely with the Catholic schools in Louisville who implement the "Speak Up, Be Safe" program twice a year in their schools and provide a more intensive program in high school theology classes. She would encourage any and every school to implement an appropriate curriculum as soon as possible and as early as possible.

**Improving Teacher Recruitment, Retainment, and Quality**

Dr. Jim Flynn, Executive Director, Kentucky Association of School Superintendents was present with Barry Lee, Director of Special Education, Casey County Schools; Dr. Robbie

Fletcher, Superintendent, Lawrence County Schools; Patricia Shepherd, Superintendent, Union County Schools; and Dr. Robin Cochran, Superintendent, Washington County Schools to speak regarding teacher recruitment, retainment, and quality. Dr. Flynn stated that since April there have been over 2,000 vacancies posted on the Kentucky Educators Placement Service website, a resource used by most school districts to post and fill vacancies. Unfortunately, many of those remained open when school started. This problem needs to be immediately addressed or students will continue to suffer. The numbers of students entering teacher preparatory courses is also declining, with even more dramatic declines in completion rates for those students. This is a very rewarding and meaningful profession, but it needs a competitive salary with appropriate benefits and safe work environments. The tools and resources should also be available to teachers to do the best they can for students and to expand their own skills with professional development. Ongoing mentoring from experienced teachers and support from their administrative bodies is important to increase teacher retainment and success.

Dr. Fletcher spoke about the 20 districts he represents in the eastern part of the state. Among those, only two have all of their positions filled. In the other 18 districts, there are 63 unfilled or emergency certified positions ranging from special needs, to math, science, language arts, physical education, and early childhood. Emergency certification can only be used if there are no available certified or qualified applicants for a position. In the past 15 years, he has seen the number of applicants for an open elementary position go from 20 applicants to only two or three. Many districts are doing the best they can with what they have and are limiting options for enrichment courses, such as Advanced Placement, just to meet the needs of courses required for graduation. Other districts are resorting to online offerings in order to bring core course material to students in areas such as science and mathematics. There have also been incentives for dual credit course teachers and increased use of alternative pathways for teaching certification. Teach for America has brought a dozen teachers into his region, but only three have stayed in the teaching profession, and only one has stayed in the mountain region.

Ms. Shepherd said her districts have filled positions using largely alternative certification, with up to 28 percent of her district openings being filled with alternative certifications. Additionally, there are also nearly a quarter of her teachers with less than four years of experience. This kind of high turnover has resulted in a very inexperienced staff and little mentorship opportunities. Working to entice any individual with a bachelor's degree into the classroom has been a key factor in closing the teacher gap. However, there have been great needs in instructional education for emergency certified teachers who have expertise but no classroom management skills. She said the district utilizes monthly training modules to bring new teachers together with veteran teachers or administration to share pedagogy and methods because emergency certified individuals do not have that delivery of education experience. She also partners with local community colleges to encourage students who are getting their associate degrees to continue into a teaching program. This and other opportunities are incentivized with scholarships and salary increases. To increase retention she would like to see an increase in salary for those teachers with higher rank and greater experience. These increases were partially funded through community partnerships and local tax increases.

Dr. Cochran spoke about also using the alternative pathways to certification in order to get teachers for even elementary physical education courses. She thanked the legislature for their work toward funding scholarships for STEM but that effort needs to be mirrored for education. It is a high demand sector as much as the other manufacturing and industrial areas targeted with the Work Ready Scholarship. She also said that using lay individuals who are not trained in teaching will also make it difficult for schools to reach the achievement goals set by the new assessment and accountability system. As a parent and an educator, she does not want her children to be taught all year by a substitute or by a computer. They deserve better and the teachers deserve to have the resources they need to help their students succeed. She spoke very highly of the Ed Rising program and its ability to encourage students to look at education as a meaningful and viable profession.

Mr. Lee said he was only able to hire a math teacher this week, six weeks into the school year. Currently, there are several openings still unfilled in both elective courses and in foundational courses. He spoke to the uncertainty of having students in the classroom with instructors who do not have teaching certificates. The individuals he is hiring are wonderful and dedicated, but they are untrained and lack skills that are necessary to do the job well. He would love to see more ways to get instructional prep courses into the schools for teachers who have been emergency certified in order to get them the best preparation they can have going forward.

Dr. Flynn said we need to change the narrative around the profession of teaching because it is foundational to all other professions. Even while debating policy issues, the career path needs to be seen as desirable. This has been done before for vocational professions, now rebranded as career and technical education. There are so many ways to attract the best and brightest to the classroom and provide the supports of mentorship and onboarding. Reducing or eliminating unfunded mandates and paperwork helps as well to increase the attractiveness of the teaching profession.

Chair Wise said this is a timely issue for all professions, but especially for teaching, because without teachers there would be no doctors, law enforcement officers, and other critical professions. Telling the stories of those coming from outside the profession and now succeeding in the classroom is a valuable tool.

Responding to questions from Representative Tipton, Dr. Fletcher said he had spoken with other superintendents from the central regions and all are experiencing dramatic declines in applicants, but rural areas do experience intense need because of low population density. He spoke of the need to recruit and hire locally or keep individuals local. The highest need is for teachers in special needs but also in the sciences and mathematics. Physical education is also a surprisingly high need area. Representative Tipton spoke to the high cost of postsecondary education and the high level of student loan debt that teachers carry. Increasing or implementing more scholarships for teaching could be a valuable tool towards teacher recruitment.

In response to a question from Representative Miller, Mr. Lee said that career and technical pathways have seen a dramatic increase, primarily due to the use of dual credit that students can use towards certifications. However, if dual credit was used more for general education courses, then the credit would be applicable toward a teaching certificate and therefore reduce the higher education cost burden for teachers. There would also be a way for students to perform their apprenticeships and job shadowing within their school system. Again, it is critical to work locally to address local needs.

Senator Meredith said there is more work to do to reduce the red tape and bureaucracy regarding the teaching profession. It is also critical to stop the narrative of there being governmental animosity toward teachers. Dr. Fletcher agreed it is vital to work together to move education and the Commonwealth forward. Senator Meredith also said it is necessary that we stop teaching students for a profession but teach them to be good people, part of which may be addressing the classroom environment.

Representative Riley spoke to how alarming the statistics are regarding teaching shortages but how it is critical that we speak of all professions, especially teaching, with kindness and respect.

Responding to questions and statements from Representative Bojanowski, Dr. Flynn said there has been a lot of talk from current teachers regarding the pension funding issue, but little actual retirement or resignation as a result. Many teachers are taking a "wait-and-see" approach. Dr. Flynn advises that the conversation be elevated and to have structure and respectful attitudes as all interested parties try to resolve the pension crisis issue.

Chair Wise said he would like to see a survey performed of students in education training programs to better understand their reasons for going into teaching. He feels it might be useful to know the reasons in order to understand how best to encourage others to enter the field.

Responding to questions from Representative Gibbons Prunty, Mr. Lee said there are some cyclical trends in shortages per content area, but right now it is a much more widespread shortage across the board. Representative Gibbons Prunty requested some more research to support that statement. She spoke to the wide amount of misinformation about teaching and about legislation regarding the education profession. Politics needs to get out of the classroom and everyone needs to be more supportive of teachers.

In response to a question from Senator Higdon, Dr. Fletcher said his district is using an online program to deliver content, however, it requires the students to be independent learners. In one instance, he has an 83-year-old volunteer who also is studying nightly in order to assist students in biology, which is a core education requirement. Use of online instruction delivery is excellent for specialized content for advanced learners, but it is not as effective or desirable for all students in core content areas. Dr. Flynn echoed that statement that virtual education is not right for every student.

Representative Donohue spoke to the difference in classroom culture among students today versus when he was a student. He encouraged the panel to look to their communities and use their understanding of the local culture to improve the image of the teaching profession and increase teacher recruitment.

Responding to questions from Senator West, Dr. Flynn said there is a single certified salary schedule that applies to all teachers across the Commonwealth. There are ways to increase these salaries, however, through the use of stipends and bonuses for things such as extra duty assignments and teaching dual credit courses. Each school board establishes the salary schedule that will be used in their district, usually based on teacher rank, but it can include the bonuses and stipends a district may use to incentivize different duty assignments. Dr. Flynn said Fayette County was particularly creative in their hiring practices to address teacher shortages. Dr. Cochran said there are opportunities to get more pay through stipends, but that comes with extra work. In order to increase pay across the board, there needs to be more base-line funding for districts.

In response to questions from Representative Brenda, Mr. Lee agreed the need for substitute teachers is even more critical than that for classroom teachers. Dr. Flynn said it is important to look at the ways to incentivize education and make it as easy as possible to get qualified, well-trained educators. Refining the pathways to certification and personalizing the education of those coming into the classroom from non-traditional pathways was strongly encouraged by the panel. Dr. Cochran also shared that her district has offered scholarship opportunities to encourage those with emergency certification to further their teaching education.

Responding to questions from Representative Hart, Dr. Flynn agreed that letting the teachers teach and relieving regulations and high stakes assessments would help teachers as well as improving the learning environment for students. He shared that it is important to teach students where they are, but policies currently in place may have an unintended consequence of undermining teachers and preventing them from reaching that goal of teaching the whole child.

Chair Wise spoke briefly about the impact of Senate Bill 1 from the 2017 Regular Session which was a 'let teachers teach' bill, and is still being implemented. As a result of its implementation, some of the issues raised today may already be improving. We just need more time to see the impact of that legislation. He reminded members that the next meeting of the committee will be October 2, 2019, at 1 p.m. in Annex Room 149. With no further business to come before the committee, the meeting adjourned at 3:10 p.m.

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

**Minutes of the 4th Meeting of the 2019 Interim**

September 12, 2019

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, September 12, 2019, at 3:00 PM, in Room 154 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Tommy Turner, Co-Chair; Senators Perry B. Clark, Rick Girdler, Ernie Harris, Alice Forgy Kerr, Reginald Thomas, and Max Wise; Representatives Lynn Bechler, Terri Branham Clark, Jeffery Donohue, Deanna Frazier, Chris Freeland, Chris Fugate, Robert Goforth, Jim Gooch Jr., David Hale, Richard Heath, Kim King, Bobby McCool, Michael Meredith, Charles Miller, Ruth Ann Palumbo, Brandon Reed, Steve Sheldon, Maria Sorolis, Cherlynn Stevenson, Ashley Tackett Laferty, Rob Wiederstein, and Les Yates.

Guests: Senator Whitney Westerfield and Kristina Joyce, State Director, Kentucky Small Business Development Center

LRC Staff: Andrew Manno, Chip Smith, Candice Messer, and Sasche Allen

**Security of Connected Devices and Telecommunications Location Data Legislation**

Senator Whitney Westerfield explained that laws pertaining to cyber security are limited and have not caught up with the technological advancements of today's society. The only data related laws in the Commonwealth relate to private and public sector data breach notifications, but there are no time limits on when an individual should be notified about a breach of their information. The European Union enacted the General Data Protection Regulation (GDPR) in 2018 that governs every company and digital service in the EU even if it is not based in the EU. It gives the citizens of the EU a right to delete information and provides privacy regulations. Vermont passed data broker opt-out legislation in 2018. In 2019 Connecticut created a task force to study what data should be protected, and Illinois restricted the use of DNA information acquired through companies such as 23andMe and AncestryDNA. In addition, California's Consumer Privacy Act goes into effect in 2020 that creates some of the same rights as the GDPR.

Senate Bill 195 from the 2019 Regular Session deals with the security of connected devices and the "internet of things". The "internet of things" is the interconnection of computing devices via the internet that are embedded in everyday technological devices which are enabled to send and receive information. There will be about 30 billion connected devices by 2020. These internet connected devices include computers, phones, televisions, thermostats, refrigerators, medical equipment, transportation systems, and countless others. The manufacturers of these devices collect all of a person's data and information whether the user realizes it or not. This is important to note because Kentucky has no laws governing who stores and controls consumer data collected; the security level or length of time the data is stored; or what types of companies can buy and sell consumer data.

Senator Westerfield said he was motived to file Senate Bill 243 in the 2019 Regular Session after learning that wireless carriers were collecting location data about their users and then selling that information to third parties, arguably without the consent of the consumer. He gave the example of a free online site that allows anyone to look up every internet router that has ever been mapped anywhere that is still active. This would make it fairly simple to identify a person based strictly on their router usage. Senator Westfield said these bills may not address all areas of the security of connected devices or telecommunications location data, but these are two issues that need to be governed for the privacy and safety of the citizens of the Commonwealth.

Responding to Co-Chair Danny Carroll, Senator Whitney Westerfield said that at the federal level there are guidelines for companies but no regulations or statutes that an organization must abide by. He also said he is not aware of anything that the Federal Communications Commission or the Federal Trade Commission has done to address these issues. There should not be a hindrance of technological innovation, but there should be regulations that protect consumers.

Representative Kim King gave the example of talking about a specific product while her cell phone was nearby and then receiving advertisements on her phone's applications about that same product. Senator Westerfield said that although his two bills would not address that type of issue, instances such as that should be discussed from a policy and regulation standpoint.

Replying to Senator Ernie Harris, Senator Westerfield explained that state boundaries would not be an issue. A company would have to abide by whatever regulations or statutes Kentucky has adopted.

Addressing Representative Steve Sheldon, Senator Westerfield stated that data mining in the healthcare industry does exist. He also said that there are not necessarily any companies that he knows of that being intentionally nefarious, but they are taking advantage of the fact there are not any concrete regulations pertaining to the security of devices, location data, or other related issues.

Representative Terri Branham Clark gave an example similar to Representative Kim King's and said that legislators should use caution around their devices due to the nature of their work.

**Kentucky Small Business Development Center**

The Kentucky Small Business Development Center (KSBDC) is funded in part through a cooperative agreement with the U.S. Small Business Administration and is hosted by the University of Kentucky College of Agriculture, Food, and Environment. The organization is a cash match program and funds that are invested are leveraged with additional resources to establish centers. As of October 1, there will only be nine locations throughout the state. The KSBDC helps small businesses start, grow, and succeed through technical assistance, training, education, and referrals. KSBDC will assess a business's needs and chart a plan of action. It also offers entrepreneurs help with business plans, assistance with applying for a loan, market research, or connections with additional small business resources. From 2015 to 2018 the KSBDC's economic impact included almost 500 new business starts, 3,400 created jobs, and clients have received over $2 million in capital infusion. Current partners that aid the KSBDC include Morehead State University, Southeast Kentucky Community and Technical College, and Northern Kentucky University. Due to decreases in funding, after September 2019, Northern Kentucky University and Western Kentucky University's contracts will end.

As a relatively new director of the KSBDC, Ms. Joyce created a strategic plan for the KSBDC that included increasing relevancy, promoting value, maximizing resources, and strengthening network sustainability. The increased presence and relevancy of the KSBDC across the state is needed to advance business success. The organization needs to be positioned as the leading source of valued guidance for entrepreneurs and businesses. The KSBDC will continue to effectively utilize resources, tools, and technology to maximize client success. Lastly, the organization plans to grow and expand collaborative relationships with key stakeholders such as additional educational institutions, economic development partners, and chambers of commerce to strengthen and diversify funding. Ms. Joyce concluded her presentation by showing a video about one of KSBDC's clients.

Responding to Co-Chair Danny Carroll, Ms. Joyce said she is impressed by the resources available for small businesses in Kentucky, but she thinks there needs to be increased communication between small business providers. There are opportunities that can be cultivated in areas across the state that have faced challenges that can be small business driven.

Answering a question from Representative Kim King, Ms. Joyce said the KSBDC was able to assist the client in the video that was shown, Tree of the Field, by helping with a strategic plan, a business plan, a pitch for investors, and connected her with other resources.

There being no further business, the meeting adjourned at 4:25 p.m.

## INTERIM JOINT COMMITTEE ON JUDICIARY

**Minutes of the 4th Meeting of the 2019 Interim**

September 13, 2019

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint

Committee on Judiciary was held on Friday, September 13, 2019, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Jason Petrie, Co-Chair; Senators Danny Carroll, John Schickel, Dan "Malano" Seum, Robert Stivers II, Robin L. Webb, Stephen West, and Phillip Wheeler; Representatives Kevin D. Bratcher, McKenzie Cantrell, Daniel Elliott, Angie Hatton, Joni L. Jenkins, Stan Lee, Derek Lewis, Chad McCoy, Reginald Meeks, Patti Minter, Kimberly Poore Moser, Jason Nemes, Brandon Reed, and Maria Sorolis.

Guests: Chief Justice John D. Minton, Jr., Kentucky Supreme Court; Deputy Chief Justice Lisabeth Hughes, Kentucky Supreme Court; Laurie Dudgeon, Director of the Administrative Office of the Courts; John Meyers, Executive Director of the Kentucky Bar Association; Chris Cohron, Commonwealth's Attorney for the 8th Judicial Circuit; Rob Sanders, Commonwealth's Attorney for the 16th Judicial Circuit; Martin Hatfield, Pulaski County Attorney; Damon Preston, Public Advocate for the Department of Public Advocacy; Rebecca Ballard DiLoreto, Legislative Agent for the Kentucky Association of Criminal Defense Lawyers.

LRC Staff: Katie Comstock, Alice Lyon, Chandani Kemper, Dale Hardy, Matt Trebelhorn, Raleigh Dixon, and Yvonne Beghtol.

**Approval of the Minutes**

Senator Schickel made a motion to approve the August 23, 2019 minutes, seconded by Representative Petrie, and passed by voice vote.

**State of the Judiciary**

Chief Justice John D. Minton, Jr. of the Kentucky Supreme Court presented the 2019 State of the Judiciary Address. The Supreme Court adopted the Civil Justice Reform Commission's recommendation for a Business Court Docket pilot to begin in Jefferson County. A Business Court Docket Advisory Committee was created to develop eligibility criteria and to draft a set of rules. The Business Court Docket is expected to be up and running on January 1, 2020. Chief Justice Minton highlighted the Supreme Court's civil justice reform initiative to address concerns regarding the cost, delay, and complexity of civil litigation.

The Civil Justice Reform Commission has also focused on case triage and case management. The goal of case triage is to move less complex cases through the system quickly. Case management emphasizes the judge's role in moving cases forward rather than attorneys and other parties. The Civil Justice Reform Commission recommended a limited pilot project that would focus on a case triage and case management system that would provide for mandatory use of a uniform civil case cover sheet to allow for early identification of case types, use of a streamlined case management approach for simple contract disputes, use of separate docket calls for streamlined cases, and use of telephonic scheduling and status conferences.

Chief Justice Minton noted that the Court Efficiency Committee began meeting in 2018 to address and identify issues that lead to court delays. The committee has met with Laura Sudkamp, director of the Kentucky State Police Forensic Laboratory System, to discuss delays in processing toxicology and forensic lab reports. The committee has also reviewed internal procedures for notifying judges of their pending cases relevant to the 90-day submission rule, the Court of Appeals and Supreme Court pending case reports and time frames for disposition, and the 48-hour presentation rule in criminal cases.

Judicial redistricting continues in preparation of the caseload study to be performed in 2020. To ensure that proposals for judicial redistricting or reallocation are based on current data, the study is to be conducted every eight years. In January of 2019, the Judicial Workload Assessment Committee held their first meeting and requested that "Delphi" meetings be held to provide a qualitative assessment of the results of the judicial time study. The National Center for State Courts will facilitate the Delphi meeting in October of 2019. Results will determine if a new judicial time study is needed, or if the time study conducted in 2015 can be used. If determined necessary, recommendations will be made to the General Assembly before the 2021 legislative session.

Chief Justice Minton highlighted that a community engagement listening session was held in Jefferson County and that the Jefferson County Racial Fairness Commission has issued four reports since its inception: sentencing, bail, jury selection, and courtroom environment. While group surveys indicate a favorable perception of the Jefferson County judicial system, African Americans believe both race and financial status affect how parties are treated. Following the lead of the National Center and building upon conversations started by the Racial Fairness Commission, a public listening session was held in Jefferson County on May 16, followed by a series of focus groups on bail and incarceration, evictions, Family Court, Drug Court and expungements.

Chief Justice Minton noted the move to electronic records. KYeCourts launched KY3 this year in eight pilot counties in an effort to improve court operations through updated technology. KY3 allows clerks to scan and store documents digitally. The Electronic Court Record Committee was created to produce new rules to govern the creation and availability of electronic court records to availability while protecting the privacy of the personal information contained within.

The Administrative Office of the Courts (AOC) Department of Family & Juvenile Services is administering the Open Courts Pilot Project, which opens child protection cases to the public from 2018-2021 in selected counties. The first annual report from AOC was released in September of 2018. The second phase of this pilot project will start this fall in Fayette Family Court.

Chief Justice Minton highlighted the court system's effort to help mitigate Kentucky's drug epidemic. A three-year Regional Judicial Opioid Initiative (RJOI) addresses the need for education, resources, and services. The first year focused on best practices, child welfare, prescription drug monitoring, treatment capacity, and research. The second year produced resources for judges when evaluating treatment options. The third year will include the implementation of teleservices and other online resources for judges.

Responsive Education to Support Treatment in Opioid Recovery Efforts (RESTORE) was created in 2019 to provide evidence-based information on best court practices to support the treatment of opioid use disorders for court-involved individuals and their families. Through RESTORE, AOC is offering two one-day summits; one in the summer and one in the fall, in seven locations throughout the state. The summits help court officials understand substance use disorders.

The Drug Court experiment began in 1996, serving only high-risk, high-need individuals who had been convicted of a non-violent felony and entered Drug Court through a plea agreement or referral. The current model is not designed to support the influx of people coming into the courts with lesser charges. These court-involved individuals, their families, and their communities would benefit from access to case management resources and treatment providers at every level of the court system. The Kentucky Supreme Court is working on a budget request to address these issues.

Chief Justice Minton agrees that the court system needs to be at the table when addressing solutions to the overcrowding of jails and bail reform.

Chief Justice Minton informed the committee that Kentucky still lags behind most states in judicial salaries, and believes this affects attracting and retaining a well-qualified bench.

In response to the recent audit, AOC implemented a new organizational structure that took effect in May of 2019. An Audit Oversight Committee is also being created to review internal audits and authorize annual internal audit plans.

In response to Chairman Westerfield, Chief Justice Minton said that Judge John McCarty handles DUI Court in Hancock, Butler, Ohio, and Edmonson counties through a federal grant, which is about to expire.

In response to Chairman Westerfield's question on behalf of Senator Schroder, Laurie Dudgeon, Director of the Administrative Office of the Courts, said Jefferson County had a court process in which judges would take calls on emergency custody orders. The process has been changed to issue those as an electronic warrant, with an electronically signed affidavit, presented to judges from cabinet workers, and returned to the cabinet.

In response to Representative Bratcher, Chief Justice Minton said that Kentucky's law schools operate on their own. The Supreme Court is responsible for the credentialing of lawyers, administering the bar examination, and coordinate with the law schools on the topics that will be tested.

In response to Senator Wheeler, Chief Justice Minton said there are many qualified candidates applying for judicial openings, which helps keep Kentucky competitive with other states.

In response to Representative Nemes, Chief Justice Minton stated that because budget reductions led to the removal of Family Drug Courts, he plans to submit a budget request to expand Family Drug Courts across the state.

In response to Senator Stivers, Chief Justice Minton stated that the Supreme Court has obligations under the constitution for the credentialing of lawyers. The Kentucky Bar Association (KBA) is responsible for lawyer discipline but the Supreme Court has the ultimate authority to disbar the lawyer. The Kentucky Lawyer Assistance Program is in place to protect the public by maintaining the integrity of the profession. John Meyers, Executive Director of the KBA, stated that the KBA will receive the complaint and investigate without it being public knowledge until it reaches a higher level charge authorized by the KBA's Inquiry Commission. That hearing may lead to public discipline. Deputy Chief Justice Lisabeth Hughes added that there is a temporary suspension rule for instances that contain a level of emergency. Mr. Meyers stated that a complaint can come from different sources.

Regarding Senator Stivers question on the number and cost of drug court cases, Chief Justice Minton verified that there are approximately 2,500 cases per year and the cost has been funded by federal grants and the state budget. Ms. Dudgeon added that looking at a different funding model may be necessary. There is also a need for probation services for District Court clients.

In response to Chairman Westerfield, Ms. Dudgeon stated that approximately 2,400 of the 2,500 participants throughout all the specialty courts are in drug court.

In response to Representative Cantrell, Chief Justice Minton stated that the jury selection procedure is being reviewed to make sure there is a random selection of peers.

**Prosecutorial Issues and Concerns: Commonwealth's Attorneys**

Chris Cohron, Commonwealth's Attorney for the 8th Judicial Circuit, announced the approval of the FY19 Rocket Docket report. Money allocated to the Rocket Docket Program in FY19 allows for 41 circuits to create their own program. Since the inception of the Rocket Docket Program in 2015, there has been a cost savings of $100 million and cases are being evaluated to find an alternative to incarceration while still ensuring public safety. Mr. Cohron stated that the goal in Warren County is to have a treatment plan for the individual by the time of the preliminary hearing, which moves cases through the system more quickly, lowering jail costs and increasing public safety. He would like to see the program codified as a part of the unified prosecutorial system, allowing the program to expand to all 57 circuits.

Rob Sanders, Commonwealth's Attorney for the 16th Judicial Circuit, spoke about the Rocket Docket Program in Kenton County. The Heroin Expedited Addiction Recovery and Treatment (HEART) Program was established in an effort to move defendants out of jail custody and into drug treatment as quickly as possible. Defendants held on possession of a controlled substance are released on their own recognizance if they agree to go into recommended treatment. Public transportation picks them up from the jail and transfers them to drug treatment. The Rocket Docket Program is now servicing the cases of 8,000 defendants per year across the state.

Mr. Cohron added that the deferred prosecution statute needs amending as there is no meaningful supervision at the District Court level. In addition, drug intervention at the Juvenile Court level is so important.

In response to Chairman Petrie, Mr. Sanders assured the committee that Rocket Docket funding is revoked or denied to programs that do not meet grant requirements. Mr. Cohron added that the Rocket Docket grant requires constant reporting to ensure the program is not being used as a means of leverage for plea bargains. Mr. Sanders noted that Rocket Docket funds only pay one employee salary for data collection, making it difficult to meet all data requests.

In response to Senator Webb, Mr. Cohron agrees that some plea deals may be revoked if the person does not participate in Rocket Docket, but it is a voluntary program. Mr. Sanders added that each circuit is different and there are ways to work around some of those situations.

In response to Representative Moser, Mr. Sanders stated there is no meaningful supervision for deferred prosecution for misdemeanors and that those on probation are not sent back to prison without due cause.

In response to Senator West, Mr. Sanders stated that the qualifications to be a law enforcement officer in Kentucky are not very high. Therefore, Mr. Sanders is hesitant to allow officers to make the determination as to whether treatment or incarceration should be allowed. Looking at other states, such as Ohio, that offer treatment in lieu of prosecution is recommended. Mr. Cohron added that there is not enough data to start such a program. The liability to those officers would be exponential.

Mr. Cohron highlighted an article discussing individuals in the criminal justice system that are incompetent to stand trial but not committable. He noted that defendants found barely competent to stand trial end up going to prison when they need to be in a mental health facility. He stated that this loophole needs to be closed. Mr. Sanders stated he is handling a similar case right now.

In response to Senator Carroll, Mr. Cohron suggests turning a Department of Corrections institution into a small lockdown in-patient treatment center. Senator Carroll offered any assistance needed to help remedy this situation.

**Prosecutorial Issues and Concerns: County Attorneys**

Martin Hatfield, Pulaski County Attorney, addressed the needs of District Courts in regards to pretrial release, search warrants in DUI investigations, child support guidelines and budgeting, and County Attorney lawsuits. More cases are seen at a District Court level than the Circuit Court level. Mr. Hatfield pushed for funding at the District Court level, which would lessen the burden on Circuit Courts. He also noted that the County Attorney Association supported the Ignition Interlock legislation. However, the association would like to see the search warrant language that was removed in the House passed this session. Mr. Hatfield also gave testimony on a lawsuit where he and other county officials are being sued and the state is not providing a defense. He recommended amending KRS 65.2005 to provide representation for officials who are sued due to performing prosecutorial duties, when there is no insurance coverage.

In response to Senator Carroll, Mr. Hatfield stated that the association is not aware of any issues regarding criminal records being brought before juries in misdemeanor trials, so they have not taken any action on the topic, but he will check into it.

**Criminal Defense Issues and Concerns: Department of Public Advocacy**

Damon Preston, Public Advocate, provided members with the Department of Public Advocacy's 2019 FY Annual Report for them to review. Mr. Preston stated that Department of Public Advocacy (DPA) continues to help with the expungement clinics throughout the state. Though Criminal Justice Reform is discussed, he noted that 31 legislative changes in 2019 added crimes, increased penalties, or expanded the elements of crimes. In addition, the strangulation bill data from June 27, 2019 to September 6, 2019 shows that DPA has already handled 84 charges.

Mr. Preston believes that trials help the system. Only one out of 300 DPA cases go to trial, largely due to the high risk for the defendant. Mr. Preston noted that those who are innocent and convicted will serve more time than if a person is guilty and admits his or her guilt.

Mr. Preston advocated for a bill that would allow juries upon convicting a defendant of a class D felony, to reduce the Class D felony to a Class A misdemeanor if a felony conviction would be "unduly harsh." He also advocated for the passage of bills like 2019 HB 388, 389, and 390.

In response to Chairman Westerfield, Mr. Preston clarified that a jury could reduce an offense, even if given an instruction on a lesser included offense, because they had already been found guilty of a Class D felony and had just come back for sentencing.

In response to Senator Carroll, Mr. Preston confirmed that a public defender can be called upon arrest, without the court appointing the public defender, because the individual has the right to counsel at that time.

**Criminal Defense Issues and Concerns: Kentucky Association of Criminal Defense Lawyers**

Rebecca Ballard DiLoreto, Legislative Agent for the Kentucky Association of Criminal Defense Lawyers (KACDL), stated that pretrial release exists to protect the individual against the power of the state. Studies show that those incarcerated at pretrial are more likely to be found guilty, because they are locked up. This leads to collateral consequences such as loss of jobs and families. Ms. DiLoreto suggested three remedies to be considered by the committee: 1) guide courts not to use cash bail as a means to keep people incarcerated when they can be safely released and will return; 2) implement a clear and convincing evidence standard; and 3) a fast and speedy trial right.

Ms. DiLoreto highlighted several other concerns such as the need for guidance from the legislature that Probation and Parole are to consider what the conviction was, not all of the offender's prior allegations. In addition, District Courts do not have the resources they need to supervise those on probation and possession of marijuana needs to be regulated but not criminalized. Further, she noted that those incarcerated between the ages of 18-25 should not be treated the same as the adult population and that KACDL would like to see the death penalty applications reduced, if not abolished. In addition, the application of civil asset forfeiture needs to be reviewed.

In response to Senator Carroll, Ms. DiLoreto believes that focusing on the 18-25 age group is a moral imperative. She stated that we have a duty to help them turn their lives around. Since they are of the age to procreate, this will also have a positive effect on the next generation.

**Adjournment**

Chairman Westerfield reminded members of the October 4th meeting. There being no further business the meeting adjourned at 1:00 pm.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Transportation

### Minutes of the 5th Meeting of the 2019 Interim

October 1, 2019

**Call to Order and Roll Call**

The fifth meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, October 1, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Senators Christian McDaniel and Robin L. Webb; Representatives Chris Fugate, Thomas Huff, John Sims Jr, and Ken Upchurch.

Guests: Heather Stout, Executive Director, Office of Information Technology, KY Transportation Cabinet (KYTC); John Eiler, Project Manager, KAVIS System, KYTC; Jon Wilcoxson, Assistant State Highway Engineer, KYTC; John Chilton, State Budget Director, Office of State Budget Director (OSBD); Janice Tomes, Deputy State Budget Director, OSBD; and, Andrew McNeill, Director, Americans for Prosperity.

LRC Staff: Justin Perry and Spring Emerson.

**KAVIS System**

Heather Stout and John Eiler provided a brief presentation and update of the Kentucky Automated Vehicle Information System (KAVIS).

In response to a question from Chair Higdon, Ms. Stout said there is an upcharge when drivers' licenses are paid for with credit cards.

In response to a question from Senator McDaniel regarding the possibility of removing the Real ID system from the county clerks' offices, Ms. Stout said they will provide that information to the committee at a later date. There is a plan to extend the KAVIS team to become the drivers' license replacement team, as well as to replace the mainframe system, which will provide more flexibility with how those systems are handled in the future. The Department of Homeland Security does not currently permit the function of uploading documents directly to the Real ID system, but that could change. Chair Higdon commented that passport renewals can be done online, even though the initial application for a passport cannot.

In response to a question from Representative Sims, Mr. Eiler said the KYTC has visited county clerks' offices in almost every county in the state to observe the transition to the Real ID system. There are other ways to engage county clerks, such as the working groups that come to Frankfort for training and hands-on experience with the system that provide feedback.

In response to questions from Senator Webb, Ms. Stout said no extra costs to agencies are anticipated, and due to the streamlining functions, they may realize a savings, or at least remain neutral. With the new system having five years of data rather than only one year, it may help identify the occurrence of tax fraud and help eliminate the use of fraudulent temporary tags. Communication and data sharing with other agencies could carry over to criminal investigations, as well as assist car dealers with sales transactions.

In response to a question from Representative Huff regarding liens on vehicles and the necessary paperwork involved, Ms. Stout said the new system has resulted in a reduction of the time required to process the documentation so that it takes days instead of weeks.

In response to a question from Chair Higdon regarding the scan code on the drivers' license, Mr. Eiler said the barcode is linked to only the secure information that is found on the front of the card. Chair Higdon commented that citizens need to be properly informed in order to prevent panic. Ms. Stout said issues with the new system will be worked out before the October 2020 federal deadline.

**Road Fund Appropriations**

John Chilton, State Budget Director, OSBD, and Janice Tomes, Deputy State Budget Director, OSBD, presented information outlining Road Fund appropriations within the state biennial budget.

In response to a question from Senator McDaniel, Mr. Chilton agreed to provide information to the committee at a later date regarding the percent of the Kentucky State Police agency budget in the Road Fund, as well as how much in the Road Fund is spent on AMUs and pension payments.

In response to a question from Senator Webb regarding the generation of revenue, Mr. Chilton said the Consensus Forecasting Group (CFG) will produce an official revenue estimate in December. He added that the OSBD is currently working on a tax expenditure report for release in November.

**Highway Maintenance**

Jon Wilcoxson, Assistant State Highway Engineer, KYTC, provided an overview of the Department of Highways, Maintenance Department.

In response to questions from Chair Higdon, Mr. Wilcoxson said there are no retirement costs for contractors. He said he cannot attempt to predict the winter forecast. Chair Higdon complimented the Elizabethtown highway district for their quick response to a bridge closure on the Bluegrass Parkway and the necessary diversion of traffic through Bardstown. Mr. Wilcoxson said District 4 personnel did an impressive job.

In response to a request from Senator Webb regarding rest areas, Mr. Wilcoxson agreed to provide more information at a later date, including a breakdown of their status, as well as what is needed to eliminate the truck parking issue at Mt. Sterling. In response to a question from Chair Higdon regarding corporate sponsorship at rest areas and welcome centers, Mr. Wilcoxson said they may be able to generate some revenue, but not as much as one might expect.

In response to questions from Chair Higdon regarding guard rails, Mr. Wilcoxson said in some cases, federal guidelines require the replacement of an entire section, rather than just a portion of it.

**Adjournment**

There being no further business before the subcommittee, a motion for adjournment was made by Representative Upchurch, seconded by Senator Webb, and the meeting was adjourned at 11:39 AM.

## INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

### Budget Review Subcommittee on Human Resources

### Minutes of the 3rd Meeting of the 2019 Interim

September 10, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations and Revenue was held on Tuesday, September 10, 2019, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Matt Castlen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Matt Castlen, Co-Chair; Representative Danny Bentley, Co-Chair; Senators Morgan McGarvey and Stephen Meredith; Representatives Adam Bowling, Kimberly Poore Moser, Melinda Gibbons Prunty, Russell Webber, and Susan Westrom.

Guests: Shannon Gadd, Commissioner, Department for Aging and Independent Living (DAIL), Cabinet for Health and Family Services (CHFS); Janet Hall, Director, Division of Operations and Support, DAIL, CHFS; Tonia Wells, Director, Division of Guardianship, DAIL, CHFS; Brad Nunn, Vice President, Kentucky Pediatric Cancer Research Trust Fund; Dr. Eric Durbin, Director, Kentucky Cancer Registry; Dr. John D'Orazio, Chief of Pediatric Hematology and Oncology, University of Kentucky Health Care; Dr. Ashok Raj, Chief of Pediatric Hematology and Oncology, University of Louisville Novak Center for Children's Health; Ryan Womack, Pediatric Cancer Survivor; and Evan Jones, Pediatric Cancer Survivor.

LRC Staff: Miriam Fordham, Kevin Newton, and Benjamin Thompson

**Update on Status of Guardianship Program Caseloads and Funding**

Commissioner Gadd presented an update on the Guardianship Program and its funding.

In response to questions from Representative Westrom, Commissioner Gadd stated that the 2018 RS HB 200 provided funding for ten additional social workers in the Department for Aging and Independent Living (DAIL). Commissioner Gadd noted that to achieve the recommended ratio of one social worker to twenty cases, DAIL would need around 240 additional social workers. Ms. Wells stated that of the ten additional social workers that were hired, two of them have a bachelors or master's degree in social work. Commissioner Gadd noted that DAIL does not hire private contractors to work guardianship cases because DAIL doesn't have the financial resources to pay them.

In response to questions from Representative Gibbons Prunty, Ms. Hall stated that a reasonable ratio for fiduciary benefit caseloads would be one to one hundred.

In response to questions from Co-Chair Bentley, Commissioner Gadd said her two goals for DAIL are to improve the culture among workers and to increase partnerships with communities.

In response to questions from Representative Moser, Commissioner Gadd stated that guardianship case workers do much outside of the normal scope of a social worker.

In response to questions from Senator Meredith, Commissioner Gadd noted that general research supports the idea that increasing the number of social workers, therefore reducing caseloads, would lead to overall cost reductions for the state.

In response to questions from Chair Castlen, Commissioner Gadd said that DAIL has an open door policy, with no way to decline guardianship of an individual who has had his or her rights removed by the courts.

In response to a question from Representative Westrom, Ms. Wells stated that although DAIL utilizes realtors when an individual under guardianship has property to be sold, case workers are responsible for any preparatory work to be done on the property prior to sale.

**Approval of Minutes**

Representative Gibbons Prunty made the motion to approve the minutes from the August 20, 2019 meeting, seconded by Representative Moser, and the minutes were approved without objection.

**Funding for Pediatric Cancer Research**

Mr. Nunn, along with Dr. Durbin, Dr. D'Orazio, and Dr. Raj provided information on pediatric cancer rates in Kentucky, and the studies being done to improve treatment and outcomes for those suffering from pediatric cancer.

In response to questions from Co-Chair Bentley, Dr. D'Orazio noted that it takes several hours for mithramycin to be fully metabolized.

There being no further business before the subcommittee, the meeting was adjourned at 11:19 AM.

## INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

**Minutes of the 5th Meeting of the 2019 Interim**

October 1, 2019

**Call to Order and Roll Call**

The 5th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Tuesday, October 1, 2019, at 3:00 PM, in Room 154 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., John Schickel, Reginald Thomas, Johnny Ray Turner, Robin L. Webb, and Phillip Wheeler; Representatives Charles Booker, Adam Bowling, R. Travis Brenda, Randy Bridges, Chris Fugate, Derek Lewis, Suzanne Miles, Josie Raymond, Cherlynn Stevenson, and Rob Wiederstein.

Guests: Charles Snavely, Secretary, Energy and Environment Cabinet (EEC); and Dennis Hatfield, Director, Division of Oil and Gas, EEC.

LRC Staff: Stefan Kasacavage, Janine Coy-Geeslin, Tanya Monsanto, and Susan Spoonamore.

**Update on the Implementation of 2019 HB 199 Relating to the Cleanup of Orphan Wells and Abandoned Storage Tanks**

Dennis Hatfield stated since 1990, the Division of Oil and Gas (DOG) has operated a well plugging program for orphaned wells that prioritized well closures based on their environmental and safety impact. DOG had limited funding and created a state bid program.

Charles Snavely stated 2019 HB 199 created the Kentucky Abandoned Storage Tank and Orphan Well Reclamation Program (KASTOW) and authorized the use of existing EEC funds for cleanup.

Mr. Hatfield estimated the financial liability for plugging of orphan wells is approximately $72 million and the financial liability to remove and cleanup abandoned storage tanks is unknown. KASTOW will require reauthorization of funding through the biennial budget process and will need a minimum of $1.5 million a year.

The degradation of abandoned storage tanks results in leaks of crude oil, bottom sludge, and produced brine water from the site. The leaks cause contamination of soil and water. The abandoned sites reduce property values, limit the use of the land, and impact agriculture.

KASTOW is to be completed in two phases. The first phase involves cleanup of 10 pilot project sites to develop site scope templates for varying tank facility layouts and to gain experience in procedures. The second phase involves grouping cleanups by region.

Mr. Hatfield described the process of tank site reclamation and provided a brief overview of the 10 pilot site projects. The focus of the first year was the cleanup of abandoned storage tanks, and there are plans to expand the orphan well cleanup in the second year if funding is provided in the biennial budget.

In response to a question from Representative Miles, Secretary Snavely stated the funding for the projects came from the Equipment Revolving Loan Program within the Division of Conservation. Mr. Hatfield stated the sites are considered abandoned, because there is no identified responsible party. There is a provision for cost-recovery if a responsible party is identified. 2015 SB 186 specified the scope of work for reclamation, but no funding mechanism was provided.

In response to a question from Senator Wheeler, Secretary Snavely stated there are many abandoned storage tanks that predate oil and gas well drilling regulations. The oil and gas rights were leased by individuals with mineral rights and not large land holding companies. The oil and gas rights were not severed in the same way as coal rights.

Representative Gooch stated there is a difference in opinion regarding the unmined mineral tax in western Kentucky. The small landowners have mineral rights, but the land may never be mined.

There being no further business, the meeting was adjourned.

## TASK FORCE ON ELECTRONIC RECORDING OF OFFICIAL DOCUMENTS BY COUNTY CLERKS

**Minutes of the 3rd Meeting of the 2019 Interim**

October 2, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Task Force on Electronic Recording of Official Documents by

County Clerks was held on Wednesday, October 2, 2019, at 11:00 AM, in Room 171 of the Capitol Annex. Representative Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Joseph M. Fischer, Co-Chair; Senator Stephen West; Representatives Angie Hatton and Brandon Reed; Don Blevins, Michael Chodos (via audio), Debbie Donnelly, Brent Eisele, Russell Ford, Erica Galyon, Branden Gross, Mark Ladd (via audio), John McGarvey, Stephanie Schumacher, Debra Stamper, Gabrielle Summe, Pam Thompson, Barry Tuemler, and Tim Vaughan.

Guests:

LRC Staff: Dale Hardy, Katie Comstock, and Yvonne Beghtol

**Approval of the Minutes**

Tim Vaughan made a motion to approve the September 10, 2019 minutes, seconded by Don Blevins, approved by voice vote.

**Kentucky Bankers Association**

Debra Stamper, Kentucky Bankers Association, announced that 48 states have some form of e-recording. Simplifile, CSC, Nationwide, and EPN are working with county clerk's offices to accept these filings. Because some counties and banks may never accept e-filings, availability remains on a voluntary basis.

John McGarvey, Kentucky Bankers Association, addressed benefits and concerns to be considered in implementing e-filings. Mr. McGarvey stated that e-filings will bring Kentucky into the digital world by providing e-recordings of documents. Establishing bright-line standards is necessary to ensure ease of compliance. Making Kentucky reasonably consistent with other states would benefit the process. At a local level, there needs to be some consistency between counties. Requiring multiple vendors to provide services would be beneficial and desired. Mr. McGarvey suggests looking into the future as to the type of digital technology to pursue for recording, filing, and record retention.

In response to Chairman Fischer, Ms. Stamper has studied the regulations of surrounding states and will share that information with the committee. Some county clerks expect to offer e-filing and e-recording on January 1, 2020. Chairman Fischer noted that the law requires regulations to be in place before implementing the electronic procedures. Mr. McGarvey added that an estimation on the percentage of transactions that will take place in the counties that will be ready is another factor to consider. Don Blevins, Fayette County Clerk, stated that, while he does not believe many counties will be ready to go live by January 1, 2010, the bill passed in Session 2019 allows clerks to paper out an electronic filing. Mr. Blevins also mentioned that smaller counties may be ready before larger counties due to having software that already has the capability to accept e-filings.

**Mortgage Bankers Association of Kentucky**

Tim Vaughan, Mortgage Bankers Association of Kentucky, informed that the Mortgage Bankers Association of Kentucky is comprised of over 100 diverse members throughout the state.

Pam Thompson, Mortgage Bankers Association of Kentucky, stated that uniformity is critical to the success of implementation. One of the biggest concerns for members of the Mortgage Bankers Association of Kentucky, is knowing how to maneuver within the system; such as how to make corrections, the correction process, and who is responsible to make corrections. It would be beneficial to have a list from other states of issues that needed to be addressed once the procedures were put in place. Making sure the bankers and title institutions have the necessary information is critical in executing correctly. Ms. Thompson also noted that record retention and back-up is vital. Not all lenders will accept electronic transactions. Having a list of who the Mortgage Bankers Association of Kentucky can conduct business with would be helpful. Ms. Thompson believes the electronic transaction will be used more than remote.

In response to Chairman Fischer, Ms. Thompson feels the papering out option was critical in getting the bill passed and important to continue business in the state. By allowing clerks to paper out, setting the level of uniformity will not be as much of an issue. Ms. Summe, Kenton County Clerk, stated that setting the details will be the most difficult part and asked if the Property Records Industry Association (PRIA) standards are set in the regulations or by the association. Ms. Galyon, Assistant Secretary of State, said that their office is focusing on notary regulations, not e-recording. The Secretary of State does not have authority under SB 114 to issue regulations on e-recording. Ms. Summe noted that who writes the regulations as they relate to e-recording will need to be addressed. Ms. Galyon stated that the Secretary of State office is working on draft regulations and should have a copy for review by the next task force meeting. Ms. Stamper advised that the burden should be on the filer to ensure the current regulations are followed, whether papered out or sent electronically to a county clerk. Mr. Blevins added that there is no authority to dictate what the margin requirements are at this time. The County Clerk Association will most likely adopt PRIA as is, and then promulgate that to the filers. There are no statues or regulations to enforce so it will be used from a practical standpoint. The paper size is regulated, but not the margins. Ms. Stamper added that she thinks Library and Archives has a margin standard. Another issue Mr. Blevins would like to address is the proposed standard for rejection language, as proposed by PRIA. Branden Gross, Bingham, Greenebaum, Doll, suggested having a proposed bill for the 2020 Session to outline the margins and other concerns. Mr. McGarvey suggested that the Secretary of State's office write regulation that relates to real estate transactions in Kentucky. Ms. Summe would like to consider the practical standards from PRIA and adopt those before working on regulations and statutes. Ms. Stamper stated that a county clerk may refuse to accept a document because it is not consistent with PRIA standards, and a filer may file a lawsuit because it is not a statutory requirement. Mr. Blevins believes this would tie up the document for six months, so it is not likely to happen. Mr. Blevins stated that issues within the first six months can be addressed before the following year. Ms. Summe stated that the more consistency that can be obtained, the less confusing the process will be.

In response to Mr. Gross, Mark Ladd, Vanguard, stated that practitioners can work with one or more vendors and will be charged per transaction. In response to Chairman Fischer, the retail cost is $5 per transaction or less, depending on volume.

Brent Eisele, Foundation Title & Escrow, asked how to handle a document that starts with the correct margins but, in the transferring process, gets changed by the time it reaches the county clerk. Mr. Eisele also believes that remote online will be used more than some may think due to the convenience of not having to be physically present to sign documents.

Senator West mentioned that he is Co-Chair for the Administrative Regulation Review Committee and suggests focusing on the regulations as they pertain to this statute and address other issues in a separate statute for the upcoming session. Chairman Fischer agrees that the committee needs to focus on how to implement e-recording and e-notarization. However, this statute is not limited to e-recording and e-notarization, and there are other technology related issues to consider. Therefore, the Secretary of State is limited by what is in the statute.

**Adjournment**

Chairman Fischer reminded members of the November 20th meeting. There being no further business, the meeting adjourned at 11:38 AM.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the September Meeting

September 16, 2019

**Call to Order and Roll Call**

The September meeting of the Administrative Regulation Review Subcommittee was held on Monday, September 16, 2019, at 10:00 AM, in Room 149 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Rosemary Holbrook, Personnel Cabinet; Todd Renner, Department of Revenue; Ryan Barrow, Office of Financial Management; Anthony Grey, Larry Hadley, Board of Pharmacy, Marc Manley, Board of Cosmetology; David Trimble, Board of Embalmers and Funeral Directors; Ron Brooks, Brent McCarty, Steven Phillips, Paul Wikes, Karen Waldrop, Department of Fish and Wildlife Resources; Jason Glass, Clint Quarles, Department of Agriculture; Sean Alteri, Amanda LeFevre, Department of Environmental Protection; Amy Barker, Brandon Lynch, Department of Corrections; William Codell, Lori Bradbury-Robinson; Tamara Hart, Elise Marti, Department of Juvenile Justice; Todd Allen, Steve Lyles, Department of Education; Michael Nemes, Bridget Papalia, Brooken Smith, Education and Workforce Development Cabinet; Joe Donohue, Department of Financial Institutions; Erica Brakefield, Julie Brooks, Leanna Caven, Frank Jackson, Devon McFadden, Department for Public Health; Stephanie Brammer-Barnes, Steven Davis, Office Inspector General; Jonathan Scott, Department for Medicaid Services; Shannon Gadd, Jessica Wayne, Tonia Wells, Department for Aging and Independent Living; Erika Bauford, Laura Begin, Kristy Kidd, Department for Community Based Services; Shawn Cox, William Dolan, Jon Dougherty, Ankur Gopal, Betsy Johnson, Joe Jurgensen, Marc Wilson, Ron Wolf.

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

The Administrative Regulation Review Subcommittee met on Monday, September 16, 2019, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

PERSONNEL CABINET: Classified

101 KAR 2:102. Classified leave general requirements. Mary Elizabeth Bailey, commissioner, and Rosemary Holbrook, general counsel, represented the cabinet.

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

Unclassified

101 KAR 3:015. Leave requirements for unclassified service.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Sales and Use Tax; Registration and Collection

103 KAR 25:131. Current month accelerated payment of sales and use taxes by larger taxpayers. Todd Renner, executive director, Office of Tax Policy and Regulation, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Sales and Use Tax; Service and Professional Occupations

103 KAR 26:070. Contractors.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 26:090. Veterinarians and pet care providers.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1 through 4, 7, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Sales and Use Tax; Miscellaneous Retailer Occupations

103 KAR 27:180. Vending machines.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1, 2, and 4 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Sales and Use Tax; Miscellaneous Retail Transactions

103 KAR 28:010. Admissions.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 through 4 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.

Sales and Use Tax; General Exemptions

103 KAR 30:170. Containers, wrapping, and packing materials.

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

Selective Excise Tax; Cigarettes

103 KAR 41:220. Applications, stamp orders, returns, reports, and statements to be filed electronically – waiver.

In response to a question by Co-Chair Hale, Mr. Renner stated that this administrative regulation did not adjust the cigarette tax. This administrative regulation required cigarette vendors to report tax information electronically in order to improve efficiency.

Office of Financial Management: State

Investment Commission

200 KAR 14:201. Repeal of 200 KAR 014:200. Ryan Barrow, executive director, represented the commission.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:165. Transfer of prescription information. Anthony Gray, general counsel, and Larry Hadley, executive director, represented the board.

Board of Cosmetology

201 KAR 12:030. Licensing, permits, and examinations. Marc Manley, counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph, Sections 9 through 11 and 20, and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 14 to authorize a designee of the board inspector and board administrator to conduct an inspection of a school. Without objection, and with agreement of the agency, the amendments were approved.

Board of Embalmers and Funeral Directors

201 KAR 15:010. Definitions. David Trimble, general counsel, represented the board.

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

201 KAR 15:015. Per Diem compensation of board members.

201 KAR 15:030. Fees.

In response to questions by Representative Marzian, Mr. Trimble stated that fee increases applied to licensees and funeral establishments. Fee increases ranged from twenty-five (25) dollars to fifty (50) dollars yearly, which raised fees to the statutory caps.

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

201 KAR 15:040. Examination.

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

201 KAR 15:050. Apprenticeship and supervision requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 4, and 6 and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 15:080. Complaints.

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

201 KAR 15:110. Funeral establishment criteria.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph; Sections 1 through 3, 5, 7, 10, and 11; and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 15:120. Requirements for applicants holding a license in another state.

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

201 KAR 15:125. Surface Transportation Permit.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 through 3 and 5; and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A; and (2) to add a section to establish a renewal process and renewal fee for a Surface Transportation Permit. 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 1:185. Pay lakes. Ron Brooks, director, Fisheries Division; Brent McCarty, branch manager, Recruitment, Retention, and Reactivation Branch; Steven Phillips, staff attorney; and Karen Waldrop, deputy commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to make technical changes to the agency contact information. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 1:201. Taking of fish by traditional fishing methods.

A motion was made and seconded to approve the following amendments: to make technical changes to the agency contact information. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 1:410. Taking of fish by nontraditional fishing methods.

A motion was made and seconded to approve the following amendments: to make technical changes to the agency contact information. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT: Department of Agriculture: Kentucky Grain Insurance and Grain Dealers

302 KAR 34:011. Repeal of 302 KAR 034:010, 302 KAR 034:020, 302 KAR 034:030, 302 KAR 034:040, 302 KAR 034:050, and 302 KAR 034:060. Jason Glass, director, and Clint Quarles, staff attorney, represented the department.

Grain Storage

302 KAR 35:011. Repeal of 302 KAR 035:020, 302 KAR 035:030, 302 KAR 035:040, 302 KAR 035:050, 302 KAR 035:060, and 302 KAR 035:070.

Bond and Grain Fund Distribution

302 KAR 36:011. Repeal of 302 KAR 036:010.

Regulation and Inspection; Packaging and Labeling

302 KAR 75:130. Packaging and labeling.

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

Regulation and Inspection; Method of Sale

302 KAR 76:100. Method of sale.

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

Regulation and Inspection; Scanner

302 KAR 80:010. Examination procedure for price verification.

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

Regulation and Inspection; Commercial Weighing and Measuring Devices

302 KAR 81:010. Technical requirements for commercial weighing and measuring devices.

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

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:010. Operation of wastewater systems by certified operators. Sean Alteri, deputy commissioner, and Amanda LeFevre, director, represented the division.

Water Quality Certification

401 KAR 8:030. Water treatment plant and water distribution system classification and staffing.

401 KAR 8:050. Drinking water program fees.

Certified Operators

401 KAR 11:001. Definitions for 401 KAR Chapter 011.

401 KAR 11:030. Wastewater treatment and collection system operators; classification and qualifications.

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

401 KAR 11:040. Water treatment and distribution system operators; classification and qualifications.

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

401 KAR 11:050. Operator and training provider certification.

401 KAR 11:060. Operator and training provider certification fees.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:110. Roederer Correctional Complex. Amy Barker, assistant general counsel, and Brandon Lynch, program administrator, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1 and Policy 16-01-01 to revise inmate visiting procedures, including: (1) establishing a two (2) hour limit for permanent inmates; (2) specifying that accepting additional visitors shall not restart the time limit; (3) prohibiting visitor movement during count times; (4) increasing the number of night-visit inmates from fifteen (15) to twenty-one (21); and (5) replacing a set time for night visits with a posted time. Without objection, and with agreement of the agency, the amendments were approved.

Department of Juvenile Justice: Child Welfare

505 KAR 1:160. Department of Juvenile Justice Policy and Procedures Manual: juvenile sexual offender treatment program. William Codell, attorney; Lori Bradbury – Robinson, licensed psychologist and program administrator; Tamara Hart, licensed psychological associate; and Elise Marti, staff attorney, represented the department.

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

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Chief State School Officer

701 KAR 5:090. Teacher disciplinary hearings. Todd Allen, deputy general counsel, represented the office.

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

Office of District Support Services: School Administration and Finance

702 KAR 3:130. Internal accounting.

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

Apprenticeship Standards

787 KAR 3:010. Registration of apprenticeship programs. Michael Nemes, deputy secretary; Bridget Papalia, general counsel; and Brooken Smith, chief of staff, represented the department. Shawn Cox, director of external affairs, Ion Apex Electric; Jon Dougherty, education director, AMTECK; Ankur Gopal, CEO, Interapt LLC; Marc Wilson, Top Shelf Lobby, LLC and Associated Builders and Contractors; and Ron Wolf, director of external relations, AGC of Kentucky, appeared in support of this administrative regulation.

In response to a question by Co-Chair Hale, Mr. Nemes stated that changes applied to the Registered Apprenticeship Program only. This did not affect licensing policy and was a superior training program. Businesses were having difficulty finding skilled workforces, especially in the areas of electrical work, carpentry, and plumbing. Kentucky apprenticeship requirements were burdensome and hindered developing the needed skilled workforces. The Registered Apprenticeship Program established safe and efficient training.

In response to a question by Co-Chair Hale, Mr. Smith stated that these changes adjusted journeyworker to apprentice ratio requirements. The proposed baseline ratio would be one (1) apprentice per journeyworker and authorized a second apprentice once the first had over 2,000 on-the job experience hours. Only low and medium-risk occupations were eligible for the ratio modifications. Changes did not impact more stringent employer requirements or collective bargaining agreements that established different ratios.

In response to a question by Co-Chair Hale, Mr. Gopal stated that the Registered Apprenticeship Program was a successful model for developing a workforce with the needed aptitude. This model allowed Interapt LLC to remain in Louisville, rather than the company seeking a workforce elsewhere.

In response to a question by Co-Chair Hale, Mr. Wilson stated that Top Shelf Lobby, LLC, supported the Registered Apprenticeship Program because this was the exact remedy needed to solve Kentucky's workforce crisis.

In response to a question by Co-Chair Hale, Mr. Cox stated that Ion Apex Electric supported the Registered Apprenticeship Program because the shortage of skilled workers in the trades was becoming more pronounced. This was a step forward to alleviate the shortage and provide quality career paths.

In response to a question by Co-Chair Hale, Mr. Wolf stated that AGC of Kentucky supported the Registered Apprenticeship Program because American economic leadership depended on a skilled workforce, especially in the commercial construction industry.

In response to a question by Co-Chair Hale, Mr. Dougherty stated that AMTECK was concerned that Kentucky law allowed, except for prevailing wage or state-funded projects, an unrestricted number of unlicensed electrical workers as long as there was at least one (1) licensed electrician. The Registered Apprenticeship Program would incentivize companies to more appropriately train employees.

Representative Frazier stated that she fully supported the Registered Apprenticeship Program.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1, 2, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Financial Institutions: Administration

808 KAR 1:170. Licensing and registration. Joe Donohue, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1 through 4, 8, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Check Cashing

808 KAR 9:050. Licensee change of control.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Public Health Protection and Safety: Public Accommodations

902 KAR 7:010. Hotel and motel code. Erica Brakefield, section supervisor; Julie Brooks, regulation coordinator; and Leanna Caven, program evaluator, represented the division.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 4 through 9, 14, 16 through 18, 20, and 22 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Public Health: Division of Prevention and Quality Improvement: Programs for the Underserved

902 KAR 21:020. Kentucky Colon Screening Program. Julie Brooks, regulation coordinator, Devon McFadden, director, represented the division.

Division of Public Health Protection and Safety: Milk and Products

902 KAR 50:003. Repeal of 902 KAR 050:002. Julie Brooks, regulation coordinator, and Frank Jackson, program evaluator, represented the division.

902 KAR 50:005. Milk Advisory Committee.

Office of Inspector General: Division of Audits and Investigations: Controlled Substances

902 KAR 55:120. Disposal of prescription controlled substances. Stephanie Brammer – Barnes, regulation coordinator; Steve Davis, inspector general; and Jill Lee, pharmacist consultant, represented the division.

Department for Medicaid Services: Division of Fiscal Management: Hospital Service Coverage and Reimbursement

907 KAR 10:830 & E. Acute care inpatient hospital reimbursement. Jonathan Scott, regulatory and legislative advisor, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 2, and 7 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 7 to clarify that Worksheet B is part of the CMS 2552 cost report; and (3) to amend Sections 2 and 7 to require, effective beginning May 10, 2019, pursuant to federal approval, that the department shall make the annual IME payment to state university teaching hospitals and provide a supplemental DGME payment for the direct costs of graduate medical education incurred by eligible in-state hospitals. Without objection, and with agreement of the agency, the amendments were approved.

Department for Aging and Independent Living: Division of Guardianship

910 KAR 2:040. Service provisions for adult guardianship. Shannon Gadd, commissioner; Jessica Wayne, assistant director; and Tonia Wells, director, represented the division. William Dolan, attorney, Kentucky Protection and Advocacy, appeared in opposition to this administrative regulation.

In response to a question by Representative Frazier, Ms. Wells stated that DNR orders and end-of-life decisions were person centered and physician directed. Family were notified and given an opportunity to provide feedback. If there was a conflict, guardianship procedures were discussed. At least two (2) physicians were included in the process.

In response to a question by Co-Chair Hale, Mr. Dolan stated that Kentucky Protection and Advocacy was concerned that guardian visits were going from four (4) required visits to just one (1). Guardians previously were required to procure services, while the new provisions were more of a sign off on case manager decisions. Kentucky Protection and Advocacy also had concerns regarding birth control provisions. Only one (1), rather the previous two (2) physicians, was required for a DNR situation.

In response to a question by Co-Chair Hale, Ms. Gadd stated that the change in guardian visit requirements was for the purposes of adding flexibility. Individuals under guardianship were under a wide variety of situations. The securing of services component was for compliance with the nationally recognized Uniform Act. Ms. Wells stated that birth control was a medical decision and medical decisions were made by guardians. These were physician based for various health reasons. Ms. Gadd and Ms. Wells stated that the change in the number of physicians required for a DNR was an access issue, especially in rural areas where it was difficult to timely consult two (2) physicians.

Co-Chair Hale encouraged the agency to continue dialogue with Mr. Dolan.

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

Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:470. Central registry. Erika Bauford, section supervisor; Laura Begin, regulation coordinator; and Kristy Kidd, adoption specialist, represented the division.

Child Welfare

922 KAR 1:560. Putative father registry and operating procedures.

A motion was made and seconded to approve the following amendments: to amend material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

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

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

The following administrative regulations were deferred or removed from the September 16, 2019, subcommittee agenda:

COUNCIL ON POST SECONDARY EDUCATION: Nonpublic Colleges

13 KAR 1:020. Private college licensing.

STATE BOARD OF ELECTIONS: Forms and Procedures

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

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

102 KAR 1:032. Bona Fide Retirement.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:095. Pharmacist interns.

Board of Dentistry

201 KAR 8:540. Dental practices and prescription writing.

Real Estate Authority: Real Estate Commission

201 KAR 11:002. Repeal of 201 KAR 011:030, 201 KAR 011:045, 201 KAR 011:062, 201 KAR 011:090, 201 KAR 011:095, 201 KAR 011:100, 201 KAR 011:110, 201 KAR 011:115, 201 KAR 011:135, 201 KAR 011:145, 201 KAR 011:147, 201 KAR 011:175, 201 KAR 011:180, 201 KAR 011:195, 201 KAR 011:215, 201 KAR 011:225, 201 KAR 011:230, 201 KAR 011:232, 201 KAR 011:235, 201 KAR 011:240, 201 KAR 011:245, 201 KAR 011:250, 201 KAR 011:300, 201 KAR 011:350, 201 KAR 011:400, 201 KAR 011:410, 201 KAR 011:440, 201 KAR 011:450, and 201 KAR 011:460.

Real Estate Commission

201 KAR 11:011. Definitions for 201 KAR Chapter 011.

201 KAR 11:105. Advertising.

201 KAR 11:121. Standards of professional conduct.

201 KAR 11:170. Education provider requirements.

201 KAR 11:190. Consumer and administrative complaints; discipline; administrative hearings.

201 KAR 11:210. Licensing, education, and testing requirements.

201 KAR 11:220. Errors and omissions insurance requirements.

201 KAR 11:461. Repeal of 201 KAR 011:420.

Real Estate Appraisers

201 KAR 30:130. Education provider, instructor, and course. Tony Cotto, executive advisor, Public Protection Cabinet, and Marc Manley, acting general counsel, represented the board.

In response to a question by Co-Chair Hale, Mr. Manley requested that this administrative regulation be deferred to the October meeting of the subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred.

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

301 KAR 2:185. Hunter education. Ron Brooks, director, Fisheries Division; Brent McCarty, branch manager, Recruitment, Retention, and Reactivation Branch; Steven Phillips, staff attorney; and Karen Waldrop, deputy commissioner, represented the department.

In response to questions by Representative Turner, Mr. McCarty stated that twenty-two (22) other states authorized hunter certification without an in-person course or range day. The department reached out to those states and, of those who responded, data indicated an increased number of certified hunters and a decrease in adverse hunting-related incidents. This administrative regulation would allow hunters to become certified via on-line courses. Because on-line certification would be convenient, previously exempt landowners hunting on their own property and born on or after January 1, 2002, would be required to be certified. Live-fire training for hunter certification would be optional, rather than mandatory.

Representative Turner stated that he was opposed to this policy because, during a time of debate regarding gun violence in America, the department might be taking away the one (1) chance many youth would have for live-fire training pertaining to firearm safety. In response, Ms. Waldrop stated that many in-person course and range days provided little in-depth firearm handling. For example, firing an air rifle at a state fair would qualify for hunter certification. Often a youth would only handle a firearm once or twice at an in-person course or range day. The department intended to establish a more rigorous in-person course or range day for those hunters who so opted. Hunters could bring their personal firearms in order to gain better training regarding the circumstances they might encounter. Courses could be made better if there were fewer of them. Representative Turner stated that the department seemed to be suggesting that a hunter could be more acclimated to firearms through an on-line experience, rather than an in-person course or range day. In response, Ms. Waldrop stated that the on-line course was focused on firearm safety and other hunter safety issues, rather than firearm handling. Representative Turner stated that it seemed almost superfluous to require hunter certification at all without the live-fire handling component.

In response to a question by Representative Turner, Ms. Waldrop stated that the department was not making this proposal in order to procure federal matching funds, rather to remove barriers to hunter certification. Travel, time, and cost had become barriers to attaining hunter certification. An in-person course or range day would still be available for those who opted to attend. These courses would be more rigorous than many current events. Representative

Turner stated that the live-fire requirement could save lives. In response, Mr. McCarty stated that, based on data that indicated that on-line courses reduced adverse hunting-related incidents, the failure to remove the requirement could itself result in adverse hunting-related incidents. Indiana had been implementing a similar policy since 2004 and had a decrease in adverse hunting-related incidents. The choice was between firearm training and quality firearm training. Ms. Waldrop stated that it was the goal of the department to properly train hunters and increase hunting opportunities.

In response to questions by Representative Frazier, Mr. McCarty stated that initially the department expected to lose money as a result of this policy because federal matching funds were not available for donated courses. The NRA had donated a free on-line course. Since that time, it was determined that federal matching funds could be used for donated courses. Ms. Waldrop stated that the department expected funding levels pursuant to this policy to be similar to previous levels and funding was not a component in the department's decisions regarding this policy. The department expected the policy to encourage more people to become hunter certified. Mr. McCarty stated that the other states that had implemented this policy initially experienced an upsurge in certifications due to noncompliant hunters opting to become certified due to the added convenience. The uptick was not necessarily due to new hunters. Typically, fifty (50) percent of hunters seeking certification still opted to take the in-person course or range day.

In response to questions by Co-Chair West, Ms. Waldrop stated that landowners hunting on their own property were previously exempt from hunter certification requirements. This policy change would require hunter certification for landowners hunting on their own land; however, it would only apply to those born on or after January 1, 2002. Mr. McCarty stated that these policy changes had significant support from stakeholders. Data indicated that on-line hunter certification resulted in more certified hunters and fewer adverse hunting-related incidents. Typically, most states experienced about a fifty (50) percent decrease in attendance of the in-person courses or range days. Ms. Waldrop stated that in-person courses and range days would still be available and would be more rigorous than in the past.

In response to a question by Representative Turner, Ms. Waldrop stated that, when she testified that federal matching funds were not an issue, the intention of the statement was that federal matching funds were not an issue in the policy-making decision. The department did expect federal matching funds. Mr. McCarty stated that the decision was based on increasing safety, even to the point when the department expected to lose money, although that was not now the case.

Representative Turner stated that it was important for every youth to have as much training in hunter safety as possible, especially with the level of gun violence in America. This policy would undermine youth hunter safety training. Representative Turner stated that, in good conscience, he could not support this policy. Many youth did not have mentoring regarding firearm safety. It was troubling that an agency would be insensitive to concerns regarding youth safety pertaining to firearms.

Representative Turner made a motion, seconded by Senator Raque Adams, to find this administrative regulation deficient. In response to a question by Co-Chair Hale, Ms. Waldrop requested that this administrative regulation be deferred to the October meeting of the subcommittee and asked the grounds for the finding of deficiency. Representative Turner withdrew the motion to find this administrative regulation deficient and stated that KRS 13A.030(2)(a) authorized the subcommittee to make a nonbinding determination of deficiency and, in this case, the basis was safety concerns. In response to a question by Representative Turner, Ms. Waldrop stated that the commission and sportsmen would need to know the safety concerns basis for a nonbinding determination of deficiency. A motion was made and seconded to defer consideration of this administrative regulation to the October subcommittee meeting. Without objection, and with agreement of the agency, this administrative regulation was deferred.

Co-Chair Hale stated that, while not questioning the department's motive, the perception of this policy seemed unappealing at this time. In response to a question by Senator Clark, staff stated that, if this administrative regulation was deemed deficient by this subcommittee, the Governor would be contacted in accordance with KRS 13A.330. The second committee that would consider this administrative regulation was expected to be the Natural Resources and Energy Committee. Co-Chair West stated that public perception and timing were concerns regarding this administrative regulation. Any administrative regulation should represent the intent of the General Assembly, and the intent of the General Assembly seemed to be, generally, toward more, rather than less firearm education.

A motion was made and seconded to approve the following amendments: to make technical changes to the agency contact information. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Wells

401 KAR 6:001 & E. Definitions for 401 KAR Chapter 006.

401 KAR 6:211. Repeal of 401 KAR 006:200.

401 KAR 6:310 & E. Water supply well construction practices and standards.

401 KAR 6:320 & E. Certification of water well drillers and water well driller assistants.

401 KAR 6:350 & E. Monitoring well construction practices and standards.

Water Quality Standards

401 KAR 10:001. Definitions for 401 KAR Chapter 010.

401 KAR 10:026. Designation of uses of surface waters.

401 KAR 10:029. General provisions.

401 KAR 10:030. Antidegradation policy implementation methodology.

401 KAR 10:031. Surface water standards.

Division for Air Quality: Attainment and Maintenance of the National Ambient Air Quality Standards

401 KAR 51:010. Attainment status designations.

JUSTICE AND PUBLIC SAFETY CABINET: Asset Forfeiture

500 KAR 9:011. Repeal of 500 KAR 009:010, 500 KAR 009:020, 500 KAR 009:030, and 500 KAR 009:040.

Motorcycle Safety Education Commission

500 KAR 15:010 & E. Motorcycle safety education program.

Office of the Secretary

501 KAR 6:060. Northpoint Training Center.

501 KAR 6:140. Bell County Forestry Camp.

TRANSPORTATION CABINET: Department of Vehicle Licensing: Driver Improvement

601 KAR 13:090. Medical Review Board; basis for examination, evaluation, tests.

601 KAR 13:100. Medical standards for operators of motor vehicles.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Oil and Gas

805 KAR 1:001. Definitions for 805 KAR Chapter 001.

805 KAR 1:020. Protection of fresh water zones.

805 KAR 1:030. Well location and as-drilled location plat, preparation, form and contents.

805 KAR 1:050. Bonds, requirements, cancellation.

805 KAR 1:060. Plugging wells.

805 KAR 1:080. Gas storage reservoirs; drilling, plugging in vicinity.

805 KAR 1:110. Underground injection control.

805 KAR 1:120. Operating or deepening existing wells and drilling deeper than the permitted depth.

805 KAR 1:140. Directional and horizontal wells.

Division of Oil and Gas

805 KAR 1:170. Content of the operations and reclamation plan.

805 KAR 1:180. Production reporting.

805 KAR 1:190. Gathering lines.

805 KAR 1:200. General information associated with oil and gas permits.

Sanctions and Penalties

805 KAR 9:011. Repeal of 805 KAR Chapter 009.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:020. False or deceptive names, titles, prohibited.

806 KAR 9:030. Adjuster licensing restrictions.

806 KAR 9:061. Repeal of 806 KAR 009:060.

806 KAR 9:070. Examinations.

806 KAR 9:110. Agent's rights after contract termination.

806 KAR 9:190. Disclosure requirements for financial institutions authorized to engage in insurance agency activities.

806 KAR 9:200. Volume of insurance agent exchange of business.

806 KAR 9:310. Life settlement licenses.

806 KAR 9:321. Repeal of 806 KAR 009:320.

806 KAR 9:341. Repeal of 806 KAR 009:341.

806 KAR 9:350. Recognition of financial planning certification and designation for receipt of fees and commissions.

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

902 KAR 20:036. Operation and services; personal care homes. Stephanie Brammer – Barnes, regulation coordinator; Kara Daniel, division director; Steven Davis, inspector general; and Wendy Morris, commissioner, represented the division. Betsy Johnson, president, and Joe Jurgensen, administrator, Kentucky Association of Health Care Facilities/Kentucky Center for Assisted Living, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair Hale, Mr. Davis stated that the Office of Inspector General was the oversight agency within the cabinet and licensed child care and health care facilities, including Personal Care Homes (PCHs.) This administrative regulation was the result of a settlement agreement made by the cabinet for which the Office of Inspector General was the enforcement agency; however, the Office of Inspector General did not directly initiate this overall policy. There were two (2) primary types of PCHs, freestanding facilities that served clients with Severe Mental Illness (SMI), which received minimal federal funding, and assisted living-type facilities, which may charge a much higher amount. The cabinet was continuing to develop and reorganize PCH requirements. PCHs were not being expected to provide occupational, physical, or speech therapies. PCHs were expected to provide basic assistance with individuals who were transitioning out of facilities.

In response to questions by Co-Chair Hale, Ms. Morris stated that many initial concerns of stakeholders had been remedied by the Amended After Comments version of this administrative regulation. Required Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs) would be provided by existing provider employees and should require minimum burden. The agency planned to record instruction for the convenience of providers and was developing a comprehensive curriculum for training purposes. Reimbursement rates were always an ongoing concern. There were many stakeholders who commented during the public comment period. The agency also worked with Protection and Advocacy to ensure that these requirements and the training curriculum complied with the settlement agreement.

In response to a question by Co-Chair West, Ms. Morris stated that this administrative regulation was narrowly tailored to comply with the settlement agreement, which was an agreement to avoid litigation. The cabinet entered into a settlement agreement with Kentucky Protection and Advocacy based on the Olmstead decision of 1999. In accordance with the Olmstead decision, states were obligated to ensure that clients who did not wish to live in a congregate living system had ample services and supports in the community. The decision did not require the state to move people out, but to ensure that states were not relying exclusively on congregate living systems.

In response to a question by Co-Chair Hale, Ms. Johnson stated that Kentucky Association of Health Care Facilities/Kentucky Center for Assisted Living was opposed to this administrative regulation because the settlement agreement with Kentucky Protection and Advocacy prohibited the cabinet from developing its own policy. Although the terms of the settlement agreement negatively impacted private licensed PCHs and their clients, neither group were included in the settlement agreement process. Public policy should not be developed without all stakeholders having input, and the settlement agreement circumvented KRS Chapter 13A because agency decisions were held captive by the settlement agreement, which lacked judicial review. This administrative regulation exacerbated the already severe underfunding of PCHs by subverting limited resources to a small group of residents to whom the settlement agreement applied. KRS 13A.270 and 13A.280 established a right for all stakeholders to have the opportunity to comment in a meaningful way regarding proposed administrative regulations. The promulgating agency then issues a Statement of Consideration. The settlement agreement, by limiting the agency's decision-making process, negated meaningful comments and responses pursuant to KRS 13A.270 and 13A.280. Additionally, the agency did not submit the required cost estimate required as part of the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT. PCHs received forty (40) dollars and forty-seven (47) cents per day, per client and could not afford this unfunded mandate.

In response to a question by Co-Chair Hale, Mr. Jurgensen stated that many of Kentucky's most vulnerable citizens were entrusted into the care of specialized PCHs. For many of these residents with SMIs, no amount of community supports would allow them to live safely independent of a congregate living system. Funding for PCHs was grossly inadequate. PCHs received no more than forty (40) dollars and forty-seven (47) cents per day, per client, but were required to provide client care, quality meals, hygiene products, sponsored activities, assistance with physician services and medication, and assistance with the clients' financial management needs. The daily reimbursement had not been increased since 2006. The average reimbursement was seventeen (17) dollars per day, per client. PCHs operate in a highly regulated environment with low margins. Additional requirements would burden PCHs, which might be forced to close. The estimated cost increase to implement these policy changes was four (4) dollars per day, per client. Most PCHs would be required to add additional staff. Staff were not equipped for these new requirements, and adverse incidents might result. Stakeholders were not included in the settlement agreement.

In response to a question by Co-Chair West, Mr. Jurgensen stated that there were approximately eighty-eight (88) PCHs, including both types. It was likely if this administrative regulation became effective at these rates, that many PCHs would go out of business. Ms. Johnson stated that it would be preferable for the agency to remove the requirements pertaining to ADLs and IADLs. All stakeholders should be included in policy decisions surrounding the settlement agreement. PCHs could not continue to operate on forty (40) dollars and forty-seven (47) cents per day, per client.

In response to a question by Representative Marzian, Mr. Jurgensen stated that the number of clients varied among PCHs. Forty (40) to sixty (60) clients per PCH might be the state average.

In response to questions by Co-Chair Hale, Mr. Davis stated that the cabinet was aware of some of the challenges PCHs were facing. The cabinet was working toward streamlining and reorganizing requirements. The reimbursements came from the General Fund. There were also inherent legal obstacles to funding. The cabinet did not believe that changes would add significant expenses to PCHs. The ADLs and IADLs were very simple in nature and were not expected to require additional staffing. Ms. Morris stated that there was a 2012 LRC study done regarding PCHs. Unfortunately, there were adverse outcomes for some clients within PCHs and after transitioning out. PCHs sometimes closed because of quality of care problems as well as funding problems. Some other states had similar settlement agreement issues and problems. The number of clients transitioning was very small per facility. Comprehensive training existed outside of this administrative regulation.

In response to questions by Co-Chair West, Mr. Davis said that the streamlining process would take approximately nine (9) months for development. Many of the issues of concern would remain but would be more isolated. Rehabilitation should be a primary goal for these facilities. The settlement agreement needed to move forward; therefore, removing the requirements of concern for consideration at the 2020 Regular Session of the General Assembly was not preferable to the agency. Ms. Morris stated that these requirements were a small step toward making PCHs more rehabilitative for clients.

Representative Frazier stated that there were concerns about many aspects of this administrative regulation.

In response to a question by Representative Marzian, Ms. Morris stated that the agency expected to ask for increased funding for these and other related programs through DCBS. Mr. Nemes stated that the agency was the enforcement arm of the program, not the budgeting arm.

In response to a question by Co-Chair Hale, the agency agreed to defer consideration of this administrative regulation to the October meeting of the subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 through 4 and 7; and the SMI Screening Form to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 20:370. Operations and services; private duty nursing agencies.

902 KAR 20:430 & E. Facilities specifications, operation and services; behavioral health services organizations for mental health treatment.

Department for Public Health: Division of Audits and Investigations: Controlled Substances

902 KAR 55:070. Emergency medication kits in long-term care facilities.

Department for Medicaid Services: Payments and Services

907 KAR 3:170 & E. Telehealth service coverage and reimbursements.

Division of Policy and Operations: Behavioral Health

907 KAR 15:005 & E. Definitions for 907 KAR Chapter 015.

907 KAR 15:010 & E. Coverage provisions and requirements regarding behavioral health services provided by individual approved behavioral health practitioners, behavioral health provider groups, and behavioral health multi-specialty groups.

907 KAR 15:015 & E. Reimbursement provisions and requirements for behavioral health services provided by individual approved behavioral health practitioners, behavioral health provider groups or behavioral health multi-specialty groups.

907 KAR 15:020 & E. Coverage provisions and requirements regarding services provided by behavioral health services organizations for mental health treatment.

907 KAR 15:022 & E. Coverage provisions and requirements regarding services provided by behavioral health services organizations for substance use disorder treatment and co-occurring disorders.

907 KAR 15:025 & E. Reimbursement provisions and requirements regarding behavioral health services provided by behavioral health services organizations.

Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:320 & E. Service appeals.

The subcommittee adjourned at 12:50 p.m. The next meeting of the subcommittee is tentatively scheduled for October 8, 2019, at 1 p.m.

## INTERIM JOINT COMMITTEE ON JUDICIARY

**Minutes of the 5th Meeting of the 2019 Interim**

October 4, 2019

**Call to Order and Roll Call**

The 5th meeting of the Interim Joint Committee on Judiciary was held on Friday, October 4, 2019, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Jason Petrie, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Jason Petrie, Co-Chair; Senators Danny Carroll, Alice Forgy Kerr, Gerald A. Neal, John Schickel, Wil Schroder, Dan "Malano" Seum, Stephen West, and Phillip Wheeler; Representatives Charles Booker, Kevin D. Bratcher, McKenzie Cantrell, Joseph M. Fischer, Angie Hatton, Jeff Hoover, Joni L. Jenkins, Nima Kulkarni, Stan Lee, Derek Lewis, Savannah Maddox, C. Ed Massey, Chad McCoy, Reginald Meeks, Patti Minter, Kimberly Poore Moser, Jason Nemes, Brandon Reed, and Maria Sorolis.

Guests: Commissioner Bryan Hubbard, Cabinet for Health and Family Services; Dr. Jane Venohr, Center for Policy Research; Stacy Tapke, Kenton County Attorney; Galen Myers, Kenton County Attorney's Office; Brian Ulrich, National Parents Organization; Jennifer Warawa, Licensed Clinical Social Worker; Dr. Jonathan Warawa, University Professor.

LRC Staff: Dale Hardy, Matt Trebelhorn, Raleigh Dixon, and Yvonne Beghtol.

**Approval of the Minutes**

Representative Reed made a motion to approve the September 13, 2019 minutes, seconded by Senator Schickel, and passed by voice vote.

**Child Support Guidelines**

Commissioner Hubbard, Department for Income Support, reviewed the state child support guidelines, as required quadrennially by federal law, the goal and objectives of the review, and the Child Support Guidelines Review Commission membership. Commissioner Hubbard presented the federal requirements for guidelines issued in 1989 and additional requirements added in 2016. Kentucky is compliant with all federal requirements, with the exception of the consideration of a parent's basic subsistence needs.

Chairman Petrie reviewed the basics of how child support is calculated, and distributed the worksheet and table used for calculation.

Commissioner Hubbard continued by comparing the existing child support table, the proposed table, and guidelines from other states. In review of the economic studies of child-rearing expenditures, Commission Hubbard noted that Kentucky's table was based on a study from 1984, and announced that the proposed changes are based on the most current Betson-Rothbarth table, published in 2010. Graphs illustrating the combined monthly support obligation by both parents, and comparisons of monthly child support between Kentucky and the seven surrounding states for one, two, and three children were offered. The Cabinet for Health and Family Services (CHFS) recommends providing a self-support reserve (SSR) to consider the basic subsistence needs of the noncustodial parent, and at the state's discretion, the custodial parent and children. Based on the federal poverty rate in Kentucky, CHFS proposes $915 per month for SSR. A minimum child support order of $60 per month would apply if income is below the SSR. Commissioner Hubbard reviewed the process of phasing in and out of the guidelines based on adjustment of income, as well as the expected impacts of implementing the proposed SSR.

CHFS also recommends a shared parenting-time formula to take into consideration shared expenses. Commissioner Hubbard advised that 38 states currently provide a shared parenting formula, and reviewed policies, advantages, and disadvantages for Kentucky, and the proposed formula for Kentucky. An illustration was presented showing the projected decrease of monthly child support based on the timesharing threshold. After speaking with the director of the Oregon Child Support Enforcement Program, Commissioner Hubbard reported that there has been a significant reduction in litigation related to child support between parents as a result of the application of this formula, and there has not been a significant adverse effect on the collections of the Oregon Child Support Enforcement Agency. In fact, Oregon's director reports that collections have increased since the formula has been implemented. A table representing the percentage of adjustment made to child support based on the number of overnights spent with the obligor was presented. Equal income with equal timesharing results in zero child support. A chart representing the major considerations for determining which formula to use was presented. A graph illustrating the change of obligation from one parent to the other based on the different formulas considered was presented.

Commission Hubbard concluded by stating the Kentucky Child Support Guidelines Commission would like to recommend updating the child support table, provide a self-support reserve, and provide a shared parenting-time formula.

In response to Representative Hatton, Commissioner Hubbard confirmed that the shared parenting-time formula would adjust the amount owed by a parent who has custody of their child 3 nights per week.

Representative Massey commended Commissioner Hubbard for the increase on the child support guidelines for higher monthly incomes.

In response to Chairman Petrie, Commissioner Hubbard verified that the consideration of parent's basic subsistence needs would be addressed in the recommendations being made by the Kentucky Child Support Guidelines Commission.

In response to Chairman Westerfield, Dr. Jane Venohr, Center for Policy Research, stated that the recommended table is based on the fourth Betson-Rothbarth study, which is more current than the 1972/1973 consumer expenditure report that is currently in use.

In response to Representative Cantrell, Commissioner Hubbard believes there will be a short term increase in litigation due to obligors wanting the new formulas to be taken into consideration.

In response to Senator Wheeler, Commissioner Hubbard confirmed that currently when a child support adjustment results in more than a 15% variation one party may go to the court and ask for adjustment.

Chairman Petrie clarified that the 15% stays in effect, deterring individuals from taking up court time for a minimal amount. Commissioner Hubbard confirmed that if the recommendations made today are implemented trial attorneys should be able to look at the guidelines and be able to determine the amount without having to go through litigation.

**Child Support Enforcement**

Stacy Tapke, Kenton County Attorney, and Galen Myers, Child Support Division Director, gave a presentation regarding child support enforcement. Ms. Tapke began by clarifying that child support is not an obligation of the Attorney General's Office and is not funded through the Prosecutor's Advisory Council. Funding for child support enforcement comes through contract agreements with the Cabinet for Health and Family Services. During FY19, county attorneys handled 269,076 cases, resulting in the collection of $364 million. Ms. Tapke presented a chart showing the number of cases and amounts collected in each of the 25 counties with the highest caseloads, and the correlation between the population and number of cases. Ms. Tapke stated that Kentucky's return of $6.33 for every dollar spent on enforcement ranks Kentucky as 11th in the nation as far as return on investment. The tools used to enforce child support on administrative and judicial levels were presented. Ms. Tapke agrees with Commissioner Hubbard on the reasons why the child support guidelines need to be updated. In agreement with Chairman Petrie, Ms. Tapke stated that having set guidelines keeps individuals from preferring one judge or one county over another. In regards to shared parenting, there has already been an increase in custody orders mandating shared parenting and county attorneys expect continued increases. Not having guidance on adjustments to the guidelines based on shared parenting has presented challenges for attorneys dealing with child support. Ms. Tapke reminded members that daycare and healthcare costs are important factors to consider. Chairman Petrie noted that these factors are included on the Child Support Guidelines and worksheet he distributed. Ms. Tapke ended by stating that updates to the guidelines are absolutely needed and needs to be a priority for Kentucky's children.

In response to Senator Seum, Commissioner Hubbard stated that the central office for the Division of Income Support in Frankfort oversees the 120 county child support collection offices, which are run by 113 individual county attorneys, and are funded through state and federal dollars. Kentucky contributes 34% of the child support cost, and the federal government contributes 66%. Ms. Tapke stated that the county attorney can handle a prosecutorial case as a felony or misdemeanor non-support case if necessary. A public defender is not automatically assigned, but the defendant may qualify for a public defender.

In response to Senator Carroll, Ms. Tapke clarified that the split parenting formula is currently used to determine the child support amount, but shared parenting is more structured and appears to factor in more of an equal parenting situation. Chairman Petrie added that the current guidelines were set up assuming one parent would have the child only on weekends and specific holidays, and would have to go to court to ask for a deviation from the guidelines if they actually have more time with child. Shared parenting allows the time with the child to be considered from the beginning. Ms. Tapke stated that, if the custody schedule changes, the proposed shared parenting formula would not require a modification of the custody agreement before modifying the child support. Senator Carroll noted that there is a presumption that 50/50 shared custody is what the judge has to start with. The judge has the authority to make adjustments based on circumstances.

Senator Wheeler commented that, in his opinion, county attorneys are willing to work toward an equitable resolution, when dealing with an individual who is going through a sickness or hard time. Their goal is not to place people in jail, but to make sure the child receives the support needed.

In response to Representative Massey, Commissioner Hubbard stated that there is nothing in CHFS' proposals that require a judge to mandate child support if both parties agree that no child support is necessary.

In response to Chairman Petrie, Ms. Tapke has found that Indiana has gone to private collection agencies for collection of child support owed to the state. Private agencies have had success in getting a portion of what is owed, with a percentage going to the collection agency. She will continue to look into other methods that Kentucky may find beneficial.

**National Parents Organization**

Brian Ulrich, National Parents Organization, stated that the federal tax code contains a mini child support system pertaining to the filing of year end taxes. The custodial parent can claim head of household, providing them with a higher deduction. They also qualify for the federal earned income credit, and can claim a child tax credit. A chart depicting the disposable income, after federal taxes, for the recipient of the credits compared with the payer of child support was presented. Based on equal income, the recipient of the credits or deductions has approximately $4,000 more disposable income yearly.

In response to Chairman Petrie, Mr. Ulrich stated that the head of household standard deduction and the earned income credit are in law and assigned based on having custody of a child. The child tax credit can be allocated between the two parties.

In response to Representative Hatton, Mr. Ulrich confirmed that taking turns with filing for the allowable credits would fix the situation, if it is agreed upon. Chairman Petrie stated that, although Kentucky regularly includes this procedure in court orders, it would be beneficial to include it in statute. Representative Hatton added that if one particular parent would receive a high credit, then both parents can share, in the best interest of the children. Chairman Petrie added a parent who is behind in child support forfeits the credit to the other parent, which encourages payment of child support.

Mr. Ulrich addressed self-support reserve and ability to pay. Minnesota has 120% of federal poverty level as their SSR calculation. Minnesota is considering raising the SSR to 200%. Following other states is not resulting in a reasonable SSR. Mr. Ulrich urged the committee to reconsider what a reasonable level is to be able to provide a subsistence existence, and recognize that many non-custodial parents have significant time with their children.

Mr. Ulrich addressed parenting time off set for support obligations and agrees that it needs to be put into law. While the Oregon model offers a good relief offset for shared parenting time, the NPO proposes proportionate parenting time offset as the parenting time increases. This method would go from no offset with 0 parenting time to a full offset at equal shared parenting.

In response to Senator Seum, Mr. Ulrich is not aware of any penalties in other states to be enforced when a party makes a false claim.

Representative Nemes mentioned that there needs to be a statute with severe punishment for a parent who makes inappropriate claims in court. Jennifer Warawa, Licensed Clinical Social Worker and Clinical Director of Family Preservation with the NPO, advised that addressing false allegations is a major aspect that needs to be addressed. Chairman Petrie added that false allegations and parental alienation that takes place inside custody agreements needs to be punished.

Senator Wheeler advised of a situation where a woman claimed a man as the father. He paid child support for 14 years before it was determined to be a false claim. There was no recourse for him to take in reclaiming the $76,000 he paid. Senator Wheeler would like to have this addressed in statute.

In response to Chairman Petrie, Commissioner Hubbard advised that the commission members were in consensus that the SSR be proposed. Raising the SSR minimum would be acceptable. Dr. Venohr referred to the Oregon formula, and advised that the proposed 45˚ curve in the timesharing formula suggested by Mr. Ulrich would increase the percentages, which may increase litigation. Dr. Venohr added that the SSR can be applied to both parents when there is equal custody.

Ms. Warawa concluded by stating that getting full credit for custody contributions is fair. The offset for shared parenting addresses this and makes it fair for both parents.

Dr. Jonathan Warawa, University Professor, commended the Oregon model for having no offset with no shared parenting, 50/50 if equally shared, and adjustments for those areas in between.

**Adjournment**

There being no further business the meeting adjourned at 11:40 AM.

## INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

**Minutes of the 5th Meeting of the 2019 Interim**

October 3, 2019

**Call to Order and Roll Call**

The fifth meeting of the Interim Joint Committee on Local Government was held on Thursday, October 3, 2019, at 8:00 AM, in Room 149 of the Capitol Annex. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Robby Mills, Albert Robinson, Damon Thayer, and Johnny Ray Turner; Representatives Danny Bentley, George Brown Jr, Jeffery Donohue, Deanna Frazier, Joe Graviss, Cluster Howard, Kim King, Adam Koenig, Russ A. Meyer, Jerry T. Miller, Brandon Reed, Rob Rothenburger, John Sims Jr, and Ashley Tackett Laferty.

Guests: Tammy Vernon, Chris Musgrave, and Greg Ladd, Department for Local Government; Larry Potter, Michael Kurtsinger, and Chuck Bonta, Kentucky Fire Commission; Ron Wolf, Associated General Contractors of Kentucky; and Sara Beth Gregory, Auditor of Public Accounts Office.

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

**Approval of Minutes**

Upon the motion of Representative Reed, seconded by Senator Thayer, the minutes of the September 12, 2019 meeting were approved.

**Special Purpose Governmental Entity Reports**

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

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

The SPGE compliance report submitted to LRC includes data as of September 25, 2019. The data is unaudited as of the report date, and compliant and noncompliant figures can fluctuate due to reporting due dates. The compliance percentages may move up or down depending on the status of the SPGE at the time of report. There are approximately 11,580 individual records, six records for most SPGEs, and compliance is organized by fiscal year. The compliance report percentage for FY 2015 is 99%; 99% for FY 2016; 97% for FY 2017; 94% for FY 2018; 55% for FY 2019; and 73% for FY 2020.

The reasons for the fluctuation in numbers for FY 2019 is related to different populations' reporting dates arising from recent legislation. Limitations with the current computer program can affect data collection.

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

In response to a question from Senator McDaniel, Ms. Vernon said that the notation in FY 2015 as reported in 2018 and 2019 is a snapshot of what changed since DLG reported to the committee last year. Compliance rates can change from year to year with entities coming into compliance, or perhaps from an audit conducted by DLG later over the data submitted completed by the SPGEs that shows that data submitted at the time turned out to be incomplete. The total number of SPGEs can change over the reported time due to mergers and dissolution, and that those changes can happen after the original data collection time by a few years. In addition, the total numbers of entities that were classified as an SPGE can change over time. Certain fire departments now report to the Fire Commission, so they have been removed from the totals. Other entities that were once considered an SPGE may have been misclassified and then were determined to not be an SPGE, such as one that is a department of a city, and thereby exempt from reporting, further lowering the number.

In response to a question from Representative Koenig, Ms. Vernon replied that districts that are in compliance have provided a registration form and made payment of the registration fee. Districts in non-compliance have not fulfilled the full reporting requirements as mandated by statute.

In response to another question from Representative Koenig, Ms. Vernon said districts are required to provide an audit by statute, and failure to provide an audit is part of determining non-compliance. The present system makes tracking this difficult.

In response to a final question from Representative Koenig, Ms. Vernon stated that all funds from the state are withheld as punishment for non-compliance, and a newspaper publication is made in the local paper detailing the issue of noncompliance. Mr. Greg Ladd, General Counsel for DLG, added that DLG sends a stop payment notice to the Finance Cabinet which follows through with that notification.

In response to a question from Representative Meredith, Mr. Chris Musgrave, DLG Chief of Staff, replied that the automated system for SPGE reporting should be instituted by next year. Representative Meredith encouraged the Department to move as fast as possible.

In response to a question from Representative Graviss, Ms. Vernon said a new found record is an entity that has just been created or discovered as having previously been not reporting as such.

In response to a question from Senator Schroder, Mr. Musgrave stated that the timeline for the development of the software includes developing an entirely new website for DLG and for representing the data on-line for the automated system. DLG is actively getting quotes from vendors for the actual reporting portal which should not take long.

Mr. Michael Kurtsinger, Legislative Director for the Kentucky Fire Commission, presented the Fire Commission's report and stated that as of September 24, 2019, 84 out of 499 fire departments were non-compliant for FY 19 year end actuals. As of the day before the meeting, the numbers were 59 non-compliant out of 487 for an 83% compliance rate. Nine fire departments were recorded as merged, one became a county fire department, and one became a city fire department. For FY 18, 458 out of 460 fire departments complied with reporting. For FY 19, 88% are compliant.

Mr. Kurtsinger closed by referring to a chart of fire departments sorted by income in the packets made available to the committee.

In response to a question from Senator Schroder, Mr. Kurtsinger said that non-compliant fire departments are at risk of losing the ability to participate in the commission's grant programs, and, if they are a volunteer fire department, risk losing 11,000 dollars of grant money which can almost put them out of existence.

In response to a question from Senator McDaniel, Mr. Kurtsinger said there are four different kinds of fire departments set out in the KRS: city, county, Chapter 75 which are taxing districts and report to DLG or the Fire Commission depending on income and spending levels, and Chapter 273, which report exclusively to the Fire Commission. Some Chapter 75 fire districts charge a tax, but contract for the provision of fire prevention services in their area.

Representative Meredith noted that Chapter 273 fire departments do not have taxing authority, and Chapter 75 fire departments do have taxing authority. Chapter 75 fire departments only have a fund raising ability that is optional for the residents to pay.

In response to a question from Representative Rothenburger, Mr. Kurtsinger stated that the Fire Commission notifies the Chapter 75 fire departments that report over 100,000 dollars in revenues for two years in a row to report to DLG.

In response to a question from Representative Graviss, Mr. Kurtsinger said that recruitment and retention and volunteers is a major issue. Programs have been started, such as junior fire camps, to help with recruitment. Grants have been issued for volunteer fire departments. Exit interviews to determine reasons individuals are leaving the fire services are not conducted by the Fire Commission, but they would be willing to examine the possibility of doing so.

The next meeting of the committee will be held November 21, 2019 at 8:00 a.m. There being no further business, the meeting was adjourned at 8:52 a.m.

## INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

**Minutes of the 5th Meeting of the 2019 Interim**

October 3, 2019

**Call to Order and Roll Call**

The 5th meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, October 3, 2019, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Russell Webber, Co-Chair; Senators Perry B. Clark, Rick Girdler, Denise Harper Angel, Ernie Harris, Jimmy Higdon, Wil Schroder, Mike Wilson, and Max Wise; Representatives Lynn Bechler, Charles Booker, Adam Bowling, R. Travis Brenda, McKenzie Cantrell, Al Gentry, Kathy Hinkle, Thomas Huff, Nima Kulkarni, Savannah Maddox, Jason Petrie, Ashley Tackett Laferty, and Buddy Wheatley.

Guests: Brooken Smith, Chief of Staff, Education and Workforce Development Cabinet; Stan Jones, Chief Development Officer, Dippin' Dots; Hannah Chretien, Executive Director, Ballard County Economic Development Board; Bob Wilson, Chairman, WAVE Agriculture Committee; Kenny Wilson, Judge Executive, Hickman County; Todd Cooper, Judge Executive Ballard County; David Rambo, Chairman, West Kentucky Regional Riverport Authority; Greg Terry, Judge Executive, Carlisle County; Steven Elder, Consultant, WAVE Agriculture Committee; and Commissioner Robert Swisher, Department of Workers' Claims.

LRC Staff: Andrew Manno, Chip Smith, Candice Messer, and Sasche Allen.

**Approval of Minutes**

A motion to approve the minutes of the September 12, 2019 meeting was made by Co-Chair Russell Webber, seconded by Representative Adam Bowling, and approved by voice vote.

**Consideration of Referred Administrative Regulation**

The following administrative regulation was placed on the agenda for consideration: **787 KAR 003:010** – Registration of apprenticeship programs.

Brooken Smith, Chief of Staff of the Education and Workforce Development Cabinet, was present to explain the administrative regulation.

In response to Representative Buddy Wheatley, Mr. Smith said that there are likely collective bargaining agreements that have higher ratios of the standard three to one, but the regulation specifically allows those collective bargaining agreements continue to remain in place and will not be impacted.

**Dippin' Dots**

In 1988, microbiologist Curt Jones used his knowledge of cryogenic technology to invent Dippin' Dots, which are the first ever cryogenically frozen beads of ice cream that are created using liquid nitrogen and must be kept at a constant temperature of -40 degrees. The first Dippin' Dots plant was located in Grand Chain, Illinois but eventually relocated to its present day location in Paducah, Kentucky. The current location is 185,000 square feet facility that includes the main plant, kiosk fabrication, loading, and shipping. There are 200 employees, 125 of which are Kentucky residents. Dippin' Dots ships to all 50 states and four countries by using dry ice for transport. Total retail sales within the state are $6,072,992; total retail sales nationwide are $365,254,166; and international sales are almost $3.5 million. Dippin' Dots has three instate franchisees, 120 franchisees nationwide, and have freezers in more than 12,000 convenience, drug, and grocery stores. In 2018, Dippin' Dots Cryogenics was created that supplies the specialized cryogenic pelleting equipment for pharmaceutical, nutraceutical, and feed industries. It also provides ultra-low temperature storage freezers. In order to expand this new business venture, a 6,000 square foot facility is being built in Paducah that will also provide contract manufacturing.

Dippin' Dots is working to overcome several challenges. One challenge is a maturing market that requires more overhead to accomplish and maintain growth. Another challenge has been trade barriers with the dairy tariff increasing with Canada by 277 percent. Other challenges include shipping and transportation costs, packaging, and staffing. The maturing market has been addressed by identifying new and less traditional markets like chain entertainment venues. The trade barrier may be overcome by utilizing global manufacturing sites. Shipping and transportation costs may be reduced by accessing regional manufacturing and distribution centers. Packaging may continue to pose an issue because compostable packing may not be sustainable. Dippin' Dots has tried to deal with staffing issues by increasing starting wages to $14 per hour and accommodating the schedules of its employees. Recruiting high school and college students and offering employment opportunities to those in a local rehabilitation center are also possible solutions to staffing problems.

Responding to Senator Wil Schroder, Stan Jones said relocating the company to Paducah from Illinois was a strategic move based on better distribution and products, but shipping has become an issue in recent years.

Addressing Representative Lynn Bechler, Mr. Jones explained that Dippin' Dots would not see any benefits from the United States-Mexico-Canada Agreement for at least 10 years.

Replying to Co-Chair Danny Carroll, Mr. Jones said that while some research and development is done in-house, investments will be made in 2020 for a new research and development area.

Answering questions from Representative Nima Kulkarni, Mr. Jones confirmed that Dippin' Dots does hold patents on its technology and machinery. He also further explained that the area in which there are workforce shortages are in manufacturing, utilities, production line work, and skilled maintenance. Dippin' Dots will offer training for manufacturing, utility, and production line positions but prefers to hire experienced maintenance workers.

**Western Kentucky Alliance for a Vibrant Economy**

The Western Kentucky Alliance for a Vibrant Economy (WAVE) is an economic development partnership between the Western Kentucky river counties of Ballard, Carlisle, Hickman, and Fulton. It was founded in 2015 and is made up of eight subcommittees that include Steering, Agriculture, Tourism, Entrepreneurship, Education, Infrastructure, Energy, and Port Authority. The most active subcommittees are the Agriculture Committee, Tourism Committee, and Port Authority. The Agriculture Committee has created the WAVE Ag Initiative that creates a bridge between agriculture and economic development, serves as a liaison to farmers, works to combat the Asian Carp crisis, and explores opportunities in the hemp industry. The Tourism Committee has established KYGRRO that has been further developing river bottoms in Ballard County, ATV trails in Carlisle County, agritourism and Columbus Belmont State Park in Hickman County, and the link between Kentucky and Tennessee in Fulton County. WAVE has formed the West Kentucky Regional Riverport Authority that is working on establishing a commercial port through a public private partnership. The location of these four counties offers unique economic possibilities due to being in close proximity to the Mississippi River, four surrounding states, major highways, and several local technical colleges and universities. The four judge executives, Todd Cooper of Ballard County, Greg Terry of Carlisle County, Kenny Wilson of Hickman County, and Jim Martin of Fulton County, hold monthly meetings and open conference calls every other week to discuss a proactive approach to increasing the economic vitality of their region.

**Department of Workers' Claims Update**

The National Council on Compensation Insurance (NCCI) serves as the licensed rating and statistical advisory organization for the Commonwealth and 36 other states by gathering data from participating insurance carriers with respect to how much is paid during a given year in income and medical benefits in workers' compensation claims. After performing statistical analysis, NCCI comes up with a number which they consider to be the loss cost for each of the 535 different class codes. The loss cost is essentially how much premium a workers' compensation insurance carrier has to collect to pay the projected income and medical benefits for all claims during a policy year. The overall average voluntary loss cost level change submitted by NCCI to the Department of Insurance that went into effect October 1, 2019 is -9 percent. This marks the fourteenth consecutive year that the loss cost filing has seen a decrease. However, there was a 6.2 percent increase for surface coal mining and a 5.5 percent increase for underground coal mining.

The Special Fund is an account from which benefits are paid to individuals who had work related injuries or developed occupational diseases prior to December 12, 1996. The Special Fund has been closed to new claims for over 23 years and is now in runoff status, paying about $48 million in claims to about 4500 claimants. The Special Fund Assessment is a surcharge on workers' compensation premiums to fund the Special Fund, the Uninsured Employers Fund, and the operation of the Labor Cabinet. The 2020 assessment rate is 6.41 percent with no additional assessment on coal employers or severed coal. There was an assessment rate of 6.41 percent for 2019 with an additional 2 percent assessment for coal employers and $0.02 per ton of severed coal. There was an assessment rate of 6.29 percent in 2018 and 2017 with additional an additional 14 percent for coal employers and $0.15 per ton of severed coal. The additional assessment on coal went to fund the Coal Workers' Pneumoconiosis Fund which was transferred to Kentucky Employers' Mutual Insurance (KEMI) in 2017 pursuant to HB 377 of the 2017 Regular Session. The Workers' Compensation Funding Commission and KEMI has determined that at the end of the second quarter of 2019, there is enough money in the Coal Workers' Pneumoconiosis Fund to eliminate the assessment.

Through August 31, 2019, the Department of Workers' Claims has had 2,602 claim filings. Of those claims, 2,303 were due to injury; 24 were due to occupational disease; 108 were Coal Workers' Pneumoconiosis claims; and 167 were due to hearing loss. There are projected to be a total of 3,903 claim filings by the end of 2019 compared to 4,047 in 2018. Commissioner Robert Swisher said that the decrease in workers' compensation claim filings has been a national trend that could possibly be attributed to the increased emphasis on workplace safety across the country.

The passing of HB 2 in the 2018 Regular Session made changes to the pharmaceutical formulary used, medical treatment guidelines, and the Coal Workers' Pneumoconiosis evaluation program. The Official Disability Guidelines (ODG) formulary was adopted and became effective July 1, 2019 for post-2018 injuries and January 1, 2020 for pre-2019 injuries. The ODG formulary is the most widely used set of guidelines in the country. The ODG treatment guidelines were also adopted with a proposed effective date of July 1, 2020. The Department of Workers' Claims has contracted with two qualified physicians to perform Coal Workers' Pneumoconiosis evaluations required by KRS 342.316. Other areas that the Department of Workers' Claims still needs to address include hearing site relocations, the pharmacy fee schedule, telecommunication regulations, and the 2020 physician fee schedule.

In response to Representative Ashley Tackett Laferty, Commissioner Robert Swisher confirmed that both Coal Workers' Pneumoconiosis evaluation sites are in Lexington. Answering another question, the Commissioner clarified that after planned hearing site relocations, hearing sites will be decreased from nine to five sites eventually. He also explained that although there is a three year statute of limitation on filing a claim, there is also a statute of repose of five years.

Co-Chair Danny Carroll announced that the next meeting of the Interim Joint Committee on Economic Development and Workforce Investment will be November 21, 2019 at 1:00 in the Capitol Annex.

There being no further business, the meeting adjourned at 3:02 p.m.

## INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

**Minutes of the 4th Meeting of the 2019 Interim**

October 2, 2019

**Call to Order and Roll Call**

The 4th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Wednesday, October 2, 2019, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Adam Koenig, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Julian M. Carroll, Denise Harper Angel, Christian McDaniel, Dan "Malano" Seum, Damon Thayer, and Reginald Thomas; Representatives Al Gentry, Thomas Huff, Matthew Koch, Nima Kulkarni, C. Ed Massey, Chad McCoy, Jerry T. Miller, Kimberly Poore Moser, Ruth Ann Palumbo, Phillip Pratt, and Buddy Wheatley.

Guests: Carson Kerr and Joseph T. Fawns, Kentucky Public Protection Cabinet; Jason P. Smith and Cindy Stinnett, Kentucky Boxing and Wrestling Commission; Douglas Keefe, Kentucky Speech-Language Pathology & Audiology Board; Eric Russ, Kentucky Psychological Association; Patrick Cummings, Thoroughbred Idea Foundation; Adam Haley, Casey Roof, and Russ Romine, Kentucky Academy of Audiology.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Melissa McQueen, and Lisa W. Moore.

**Minutes**

The minutes from September 11, 2019, meeting were approved without objection.

**Interstate Compact on Audiology and Speech-Language Pathology**

Walker Thomas, State Representative, said Kentucky House of Representatives Speaker David Osborne is interested in Kentucky creating interstate compacts in audiology, speech-language pathology, and psychology. Representative Thomas' daughter graduated from the University of Kentucky with a master's degree in speech pathology and confronted numerous barriers when marrying a man in the military and moving across state lines. Every time she moves to another state there are different requirements for her to practice. The goal is to obtain the license in your home state, but be able to practice in any state within the compact agreement. There is an effort to get ten states to agree to the compact and then fees and by-laws can be established.

Douglas Keefe, M.S., explained the Audiology & Speech-Language Pathology Interstate Compact (ASLP-IC) facilitates the practice of audiology and speech-language pathology by securing a privilege to practice in a member state or through telehealth. He is a member of the Board of Speech-Language Pathology & Audiology and the board's charge is to protect the consumer by ensuring the people who have speech pathology and audiology licenses have taken relevant professional development to keep their license renewed. Consumers should take solace in the fact that participants still have to get their license in their home state and meet all acceptable standards of practice.

Mr. Keefe said the purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language services. ACLP-IC is operational when ten states enact the legislation for the compact. This compact will emulate and function similar to occupational licensure compacts for nursing, psychology, medicine, physical therapy and emergency medical services.

Mr. Keefe said audiologists and speech-language pathologists licensed in their home state would apply for a privilege to practice under the ASLP-IC. ASLP-IC states will communicate and exchange information including verification of licensure and disciplinary sanctions. They retain the ability to regulate practice in their states. This increases access to client, patient, and student care, and facilitates the continuity of care when clients, patients, and students relocate, or travel. It also promotes cooperation between ASLP-IC states in the areas of licensure and regulation, and offers a higher degree of consumer protection across states lines.

Responding to a question from Chairman Koenig, Representative Thomas said the ASLP-IC draft was written in conjunction with the Council of State Governments (CSG). There are currently seven compacts nationwide, and he said this one is in the infancy stage and Kentucky can help set the guidelines by being in the forefront. Chairman Koenig said Kentucky is finding ways to remove barriers to employment and allowing military personnel and spouses to more easily maintain their profession when relocating. This helps provide services to populations currently underserved or geographically isolated.

Senator Carroll commended the committee for honoring Kentucky citizens married or traveling in military families, as well as meeting the needs of the seven states bordering Kentucky. All compacts are beneficial and serve valuable purposes. Representative Thomas noted that they are still bound by their home state license rules, and it is a privilege to practice in the other compact states.

Representative Moser said reciprocity across states is a good thing because it removes licensure barriers, and the nursing compact has been very successful. She would like to see an interstate compact for social workers in the future.

**Interstate Compact on Psychology**

Kentucky State Representative Lisa Willner, Ph.D., Executive Director, Kentucky Psychological Association, said as a licensed psychologist in the Kentucky General Assembly, she is happy to partner with Representative Walker Thomas on bringing forth the Psychology Interjurisdictional Compact (PSYPACT). This is an interstate compact that facilitates the practice of psychology using telecommunications technologies (telepsychology) and/or temporary in-person, face-to-face psychological practice.

Representative Willner said the PSYPACT provides both pros and cons for providers. One pro is that providers who take advantage of the compact can expand their practice, while it also increases competition. There is a severe shortage of licensed psychologists across Kentucky, and the interstate compact can really address client/patient access to care. Many members do not have a single, licensed psychologist in their counties, and this is a huge problem.

Eric Russ, Ph.D., President, Kentucky Psychological Association, said one in four individuals will experience some mental health issue in their lifetime. Licensed psychologists bring years of experience and are experts in diagnosing and treating mental illness.

Psychologists work in a multitude of settings including psychiatric hospitals, the VA, community mental health clinics, schools and colleges, healthcare settings, and in private practice.

Dr. Russ said the PSYPACT is an interstate compact that provides a mechanism for the ethical and legal practice of telepsychology. It reduces regulatory barriers and provides for client or patient protection. As people begin to understand more about mental health issues and the need to treat them, there has been an increase in those seeking psychologist services across Kentucky. Unfortunately, like so many other health professionals, psychologists are not always available in underserved areas, including rural regions. Increasingly, psychologists are using telehealth as a means of responding to the demands for services. Psychology is uniquely suited to take advantage of telehealth services as the key intervention is talking and does not require additional equipment, like some medical specialties.

Dr. Russ said mental health treatments are just as effective for patients through a live video link in telehealth as an actual office visit. Recent changes in legislation in Medicaid and insurance reimbursement have made telepsychology within Kentucky a more available option. PSYPACT would be particularly helpful in expanding access to care when patients travel out-of-state and minimize disruptions in patients who move frequently, such as family of military personnel. Finally, a PSYPACT psychologist living near bordering states would be able to more easily serve those in their geographic region.

Dr. Russ said PSYPACT provides protection to the public by certifying that psychologists have met acceptable standards of practice, and provides compact states with a mechanism to address disciplinary issues that occur across state lines. It increases access to mental healthcare when care is not readily available, while also providing continuity of care for an increasing mobile society. PSYPACT legislation has already been passed in twelve states, and four more have legislation pending. Kentucky, as a psychology compact state, affords fellow Kentuckians with more opportunities to receive the highest level of mental health services from doctorate and licensed psychologists.

**Boxing and Wrestling Commission**

Joseph Fawns, Legislative Liaison, Public Protection Cabinet, said their legislative request is to amend KRS 229.260 to allow the Medical Advisory Panel to designate one or more of its physician members to assist the Executive Director of the commission in the review of physical exams and other medical records that are submitted at the time of licensure, and to compensate that physician $500 per month of service. This amendment would assist in the recruitment and retention of experienced and qualified physicians. Moreover, it will help the commission continue to emphasize and promote the standards for the health and safety of all combat sports participants.

Mr. Fawns said the Kentucky Boxing and Wrestling Commission (KBWC) Medical Advisory Panel consists of three to five physicians appointed by the Secretary of the Kentucky Public Protection Cabinet. Each physician must be licensed to practice medicine in Kentucky and knowledgeable in one or more medical fields related to the kinds and types of injuries or conditions likely to be the result of unarmed combat. He noted at least one of the panel members must be a neurologist.

Mr. Fawns said the panel is responsible for advising the Commission on issues relating to the health and safety of combat sports participants. It was created in 2008 as part of a lawsuit settlement.

Mr. Fawns said challenges included panel members being asked to review physicals, often on a daily basis. Members devote a significant amount of time reviewing records outside of their regular practice, and they are not compensated for this valuable service. Members are only compensated for in-person meetings of the panel. Also, recruiting and retaining individuals to serve on the panel has been difficult. Between 2008 and 2016, the panel was vacant. In 2016, four members were appointed and sworn, and seated at once. Since 2016, all members have resigned prior to the expiration of their term. One physician sits on the panel.

Mr. Fawns summarized that the legislative request is to allow the medical advisory panel to designate one or more of its physicians to assist in the review of medical records and be compensated $500 per month of service. This change will assist in the recruitment and retention of panel members. It also allows the commission to continue to prioritize the health and safety of combat sports participants.

Responding to a question from Senator Seum, Mr. Fawns said the panel would be responsible for all combat sports include boxing, wrestling, mixed martial arts, and kick boxing. Ms. Stinnett clarified it is amateur mixed martial arts, professional wrestling, professional boxing, and professional kick boxing.

Responding to Representative Moser, Mr. Fawns said members of the panel are currently compensated $100 per meeting, but they do not necessarily meet to review these every day. Ideally, the panel would have one member that would review the physicals for one month and then that person would be compensated $500. Representative Koenig suggested that the language be amended to say "up to" $500.

**Fixed Odds Wagering on Horse Races**

Patrick Cummings, Executive Director, Thoroughbred Idea Foundation, said Kentucky can set an example for the rest of the country in horse wagering. He thanked Chairman Koenig for his leadership related to the thoroughbred industry in Kentucky. The thoroughbred industry is thriving and as a horse owner he said incentives to buy Kentucky breeds and race in Kentucky is strong. He said hopefully Kentucky will also catch up to the rest of the country in allowing sports wagering, and modernizing horse wagering.

Mr. Cummings said horse racing does not have to be only pari-mutuel, and can also include fixed odds wagering. Customers want the opportunity for fixed odds as they know what to expect in return. There are many benefits of amending horse wagering laws to include fixed odds It will modernize a struggling industry, which provides a tremendous amount of jobs, and has a substantial economic impact. It will domesticate a business which American racing operators, including some in Kentucky, are already tapping into internationally. Finally, it will serve as a legal volley against the growing, illicit, off-shore operators who are poaching customers in Kentucky, and hurting horse people in the industry nationwide.

Mr. Cummings said the Thoroughbred Idea Foundation was launched a year ago and is a privately funded think tank for thoroughbred racing. Its purpose is improve the thoroughbred racing industry for all stakeholders, especially its primary customers, gamblers and owners, through the exchange, curation, and advocacy of sound, data-driven ideas, shared with and implemented by the sport's existing entities.

Mr. Cummings said there are some bright spots in the horse racing industry, but the overall financial metrics of racing are down. The foal crop is at its lowest point since 1965, and wagering on the sport across America is down 50 percent over the last 15 years, after adjusting for inflation. Revenue from wagering is a key driver of prize money, and is the most significant incentive for owners to continue participating in the sport. Fixed odds wagering can help by allowing customers to know exactly their return if the bet is successful. The odds can change, but only to future customers. In Nevada, and other states, customers are enjoying the opportunity to make these fixed odds wager either on a single game, a set of games, or future bets.

Kentucky Derby wagering is open for only ten days currently, but marketing would thrive if the public could wager for ten months on the premier race. The American market for sports betting is widely estimated to be between $80 and $150 billion a year, all of it on fixed odds bets. He said to combine fixed odds wagering in horse racing, Kentucky would need a new business model, different pricing to customers, and presenting the sport to modern audiences in a way in which the market is already meeting their expectations with other sports. Bill Knauf, Vice President of Business Operations, Monmouth Park in New Jersey, sees the combination of fixed odds and horse racing as a potential new revenue stream, and they will push the issue during the next year. He believes there is a massive audience out there that bets sports but has never tried to bet horse racing, and they want to engage that customer.

Mr. Cummings said off-shore entities are attempting to cash in on the growth in fixed odds betting overall. One site, Betusracing, based in Costa Rica, actively recruits and markets to American horse players by hiring several award winning racing journalists to produce content for their platform. These sites allow fixed odds wagering on big races, such as the Kentucky Derby, and can allow American and European customers to make wagers up to ten months prior to a race. This can put TVG and TwinSpires at a disadvantage as the laws do not allow them to offer fixed odds wagering, and they need to be on a level playing field.

Mr. Cummings said Kentucky has the opportunity to modernize horse betting and make a home grown industry. On behalf of the Thoroughbred Idea Foundation and the greater horse racing industry, he asked the committee to remember horse racing when considering any potential bill on legalizing sports betting, or amending existing regulations that limit racing to pari-mutuel wagering. His foundation is privately funded by individuals and not supported financially through Kentucky racetracks.

Responding to a question from Senator McDaniel, Mr. Cummings said Keeneland is supportive of the marketing and business aspect of the measure, while Churchill Downs has not made a public comment. He noted that Churchill Down's silence does not mean it is not supportive of the measure.

Chairman Koenig recognized House Speaker David Osborne and Jay Hartz, Director, Legislative Research Commission, for being in attendance at the meeting.

Senator Thayer said he is supportive of fixed odds wagering and would like the language included in Chairman Koenig's sports wagering bill. He would like Kentucky to lead the way on this issue and the horse industry to be included in the growing popularity of sports wagering being implemented across the country.

Responding to a question from Senator Thayer, Mr. Cummings said regardless of Keeneland and Churchill Downs taking a wait and see approach, this approach could be implemented on a track by track basis. The horse racing sport has been losing fans and not modernizing at the pace it should be, and this offers wagering in a more straightforward, simple fashion. Senator Thayer says horse racing should be innovative to attract new customers to the sport.

Responding to Representative Wheatley, Mr. Cummings said language is very broad in other states that have passed legislation to regulate fixed odds betting. Representative Wheatley said he needs more technical details on fixed odds wagering. He noted pari-mutuel wagering allows for weather and horse cancellations. Mr. Cummings said Australia is a great example as its horse tracks allow for a combination of wagering, two-thirds fixed odds, and one-third pari-mutuel. He noted Australia's horse industry started out as primarily pari-mutuel betting only. The minority of money is on single horse wagers right now in the tote system, which is win, place, or show. Most fixed odds bets on racing are going to be focused on the performance of one horse, not trifectas, or superfectas. One of the concerns that has been suggested for a very long time is that there would be accountability in existing tote pools. It has not been the case that this type of wagering hampers growth and eats into the existing tote pool, and there is a robust 20-year time period to support this position. Fixed odds would not harm the exotic wagers, which account for the majority of the tote handle. Bookmakers do not want to take on the liability of paying out of $100,000 superfecta in the Kentucky Derby fixed odds where someone hit it multiple times. It does require careful management and there are third parties that can provide those services. It is not a skill that horse track operators would have to possess as there are many firms globally that can manage it.

Responding to a question from Representative Miller, Mr. Cummings said he has no opinion on how to get this legislation passed, or whether it requires a constitutional amendment. He will defer to the committee and their expertise on the best way to get the legislation passed. Representative Miller stated he also supports casino gaming.

Representative Koenig said his non-attorney legal opinion on whether or not this change requires a constitutional amendment, is that fixed odds wagering falls under the same umbrella as sports betting. He indicated that he will have a legal expert coming to testify at a special called December meeting of the committee. He hopes all members can attend this important discussion on the legalities of sports wagering.

Responding to a question from Senator Seum, Mr. Cummings said several tracks have implemented an open-door policy and it makes it very difficult to track attendance. Mr. Cummings said the horse racing sport has had an issue with attracting young customers, and fixed odds wagering may attract young people and help the future of the sport. They want to know the exact return of their bet. Senator Seum said he cannot imagine horse tracks not using turnstiles to track attendance, and he is concerned about the survival of the horse industry long-term. He has been supportive and in favor of sports wagering for several years.

Responding to a question from Senator Carroll, Mr. Cummings said the tax rate in Kentucky on pari-mutuel wagering is clear, with a percentage appropriated in an established, clear manner to the horsemen and to the state. He said to determine tax percentages for fixed odds racing, the state is starting from scratch. There are examples to follow, and in general on the current pari-mutuel bets, the total takeout paid to the track, is about 20 percent. In Nevada, which has a very efficient sports betting market, the average hold on a sports bet is five percent. There is no expectation that racing would be able to charge five percent even though the customer would love it, it is not a realistic scenario. Racing is funded through wagering, which makes the funding model for players, racetrack operators, and licensees, a higher percentage of tax. It has to be determined how much the percentage is and what piece do the horsemen get to fund purses and prize money. He expects the percentage numbers to be around 10 to 11 percent, although racetracks would probably like it higher. This funding model is completely different, and will require a fresh look. He noted there are international experts who can be engaged to discuss common pitfalls and suggestions for successful tax structures.

Responding to Senator Thomas, Mr. Cummings said the European bookkeepers have an agreement with the American track operators, and are sharing revenue back to the tracks. This is a legitimate business model and would make it difficult to know if there was an infringement on something offshore. It has been estimated that the market for American fixed odds betting by European customers on American races is roughly $1 billion pounds annually, which is about $1.4 billion United States dollars, or roughly 10 to 15 percent of total American turnover on racing, which is a significant number. He said there is a wide swath of European countries participating in this betting, as well as Australia, South Africa, and Asia. Asia has the largest overall hold on horse racing. Globally, over $106 billion is wagered on horse racing through pari-mutuel betting, while $60 billion is waged on fixed odds betting. The Asian markets are exclusively pari-mutuel, and they are easily the largest markets in the world.

Responding to questions from Representative Gentry, Mr. Cummings said New Jersey's fixed odds wagering amount is a very low percentage of the total handle. New Jersey has only used this wagering around their biggest races, such as the Haskell Invitational. He noted $21,000 was handled in fixed odds wagering in the Haskell Invitational at Monmouth Park last year. Representative Gentry said it is a very low percentage, because this type of wagering is so new to the United States, but the potential is very good for higher amounts in the future. Mr. Cummings said a track operator or a bookmaking manager would approach fixed odds wagering liabilities the same way as a sports bet and a racing bet. In many other parts of the world, where fixed odds betting is allowed, sports and racing are intertwined. He said for the sake of the horse racing industry, hopefully Kentucky can get on board with this model. Representative Gentry agreed, but cautioned that moving forward, if Kentucky primarily utilizes fixed odds betting, there is a situation where the outcome could affect the benefit of a license holder; the structure is critical to get correct. He would never be in favor of fixed odds wagering replacing the pari-mutuel wagering completely, but utilizing it as a supplement.

Responding to a question from Representative McCoy, Mr. Cummings said the English funding model has been atrocious, and Kentucky does need to get purse money increased. It is important for horsemen to be involved in all discussions involving purse monies in the horse industry. The International Horse Racing Act from 1978 required the horsemen be involved in selling the rights to the product that they provide and supply. He said obtaining their buy-in, and ensuring their understanding that this concept benefits prize money, is key to its success. He does not know what the exact percentage number should be at this time, and does not currently have a recommendation. The Australian model is a good example, but Americans should want no part of the British model.

Responding to a question from Senator Harper Angel, Mr. Cummings said there is a concern among those who are against this idea that operators could lose control.  He said the success completely depends on how Kentucky structures the funding model, and enables free market behavior. Kentucky has a unique opportunity to set an example for the rest of the country in the wagering and horseman side of the issue for states who have not yet legalized this type of wagering.

Senator Thayer enjoyed the discussion and noted that Mr. Cummings is a former member of the Hong Kong Jockey Club, and has great experience as a horse owner. He is a wonderful resource for the committee on a variety of horse racing issues and is now a Kentucky thoroughbred horse owner. He emphasized Kentucky is leading the way in the horse industry and has seen an increase in purse sizes due to the addition of the historical horse racing. He said fixed odds wagering is a great supplement to pari-mutuel wagering.

Senator Thayer said operators, the state, and the horsemen/purses must be considered when enacting a taxation plan. He said pari-mutuel wagering contributes to our state's general fund each year, and purse sizes will continue to be of increased importance to all parties. He said Chairman Koenig's sports betting bill has a tax rate of 10 percent for brick and mortar buildings and a 14 percent tax rate for online mobile bets. Kentucky may want to look at a similar model for fixed odds wagering. The tax rates also have to be kept at a competitive level, or customers will not wager on it. The competition are people doing this illegally, so the tax rate must be at a level that the customer will want to wager on the products, and the operator will invest in it appropriately to attract people who are currently making the wagers illegally. Again, he hopes to see this component added into Chairman Koenig's sports wagering bill and pass out of next year's 2020 Kentucky General Assembly.

**Kentucky Academy of Audiology**

Adam Haley, Director of Public Policy, Kentucky Academy of Audiology (KAA), said Kentucky is one of seven states that still require audiologists to hold both an audiology license and a license to dispense hearing aids. He introduced Russ Romine, the newly appointed Executive Director, KAA. He deferred to Dr. Roof to discuss the qualifications and background of audiologists.

Dr. Casey Rutledge Roof, President, Kentucky Academy of Audiology, said the Commonwealth of Kentucky has 916,000 residents with hearing loss, representing more than 20 percent of the population. Meanwhile, there are approximately 200 licensed audiologists in the state to serve them. The KAA and its members are dedicated to delivering evidence-based diagnostic and treatment services, including hearing aid dispensing and fitting services that ensure optimal patient outcomes. Unfortunately, archaic regulations impose significant barriers for audiologists seeking to practice in Kentucky.

Dr. Roof discussed the statutes that require licensed audiologists to also hold two separate duplicative licenses for hearing loss treatment and rehabilitative services. KAA recognizes the importance of licensure for professionals involved in fitting and dispensing hearing aids as a means of consumer protection. However, requiring audiologists to hold two licenses for the same services offers no additional protection to the consumer.  In fact, subjecting audiologists to the authority of a licensing board, comprised largely of competitors, creates opportunities for unchecked anticompetitive behavior. Additionally, as the education and training requirements for audiologists are substantially more advanced than those of hearing aid specialists, they are unqualified to provide oversight of the licensure for audiologists as it related to the dispensing of hearing aids or any other service within an audiologist's scope of practice. Therefore, the appropriate licensure requirements for the practice of audiology are universally and singularly contained under the Kentucky licensure statute for Audiology, KRS 334A.

Mr. Haley said audiology has undergone many changed in the past few years. He noted eliminating dual licensure requirements will make it easier for consumers to access the hearing health services they need by removing the anti-competitive regulatory framework, as well as the financial penalties tied to the second license for licensed audiologists who are committed to serving them. KAA believes that addressing these unnecessary barriers to practice will help address the shortage of providers in Kentucky's health professional shortage areas and bring much-needed updates to Kentucky's licensure laws. He noted that KAA will be offering language for an amendment this upcoming 2020 Kentucky General Assembly Session to change that requirement, and bring parity to audiology. There were no questions from members.

With no further business before the committee, the meeting adjourned at 11:30 a.m.

## MILEAGE BASED TRANSPORTATION FUNDING TASK FORCE

### Minutes of the 3rd Meeting of the 2019 Interim

September 30, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Mileage Based Transportation Funding Task Force was held on Monday, September 30, 2019, at 1:30 PM, in Room 171 of the Capitol Annex. Representative Ken Upchurch, Chair, called the meeting to order, and the secretary called the roll. The minutes from the Committee's September 9, 2019 meeting were approved.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Gerald A. Neal and Albert Robinson; Representative Terri Branham Clark and; Jim Oliver, Jason Siwula, and Bryan Sunderland.

Guests: Roger Cohen, Senior Policy Analyst to the Secretary, Pennsylvania Department of Transportation (via teleconference)

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

**A presentation from the I-95 Corridor Coalition regarding interstate interoperability**

Roger Cohen, Senior Policy Analyst to the Secretary, Pennsylvania Department of Transportation gave a brief presentation regarding interstate interoperability as well as the Mileage Based User Fee (MBUF) pilot project that is being conducted by the I-95 corridor Coalition. Funding for United States roads and bridges has been primarily sourced through motor fuels taxes since 1919, when the first motor fuels tax was implemented in Oregon. It has been an effective way to raise and collect funds. In recent years, it has increasingly shown itself to be an inadequate source of funding for transportation infrastructure mainly due to inflation. The purchasing power of the federal gas tax has declined by over 40% since it was last increased in 1993. In 2013, the Pennsylvania Legislature passed "Act 89" which greatly increased the state's motor fuels tax, giving Pennsylvania the highest motor fuels tax rate. Then a couple of months ago, California became the state with the highest motor fuels tax. Even with the increased motor fuels tax in Pennsylvania, a buying power erosion of up to $100 million was realized annually since that enactment.

Mr. Cohen stated another reason motor fuels tax has become inadequate is due to the increased fuel economy of the fleet. With increased fuel economy comes decreased fuel consumption, leading to a decline in motor fuels tax collected.

Vehicle electrification has also become a main reason motor fuels tax is becoming an insufficient way of funding transportation infrastructure. The projection of market penetration from the U.S. Energy Information Administration posts three scenarios, a low, middle, and high scenario until 2040 given the increasing emergency of the climate crisis. It was determined that at least in Pennsylvania, the projection will lean towards the high side. A large increase in electric vehicles is projected. Revenues from gas taxes have been on the decline, particularly relative to GDP.

The Congressional Budget Office projects within the next decade indicate that the Highway Trust Fund will be deep into insolvency. A chart was provided to the committee to showcase the projections.

Mr. Cohen stated with the enactment of the FAST ACT, a provision was provided called the Surface Transportation System Funding Alternatives Program. The objective of the Surface Transportation System Funding Alternatives Program was to develop and research revenue generation structures for the long-term replacement of motor fuels taxes. The U.S. Department of Transportation provided research grants between $15 million to $20 million for five years through FY 2020 to complete the necessary research. The objective is to demonstrate user based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Highway Trust Fund.

Mr. Cohen stated that the MBUF pilot's purpose is for research, not policymaking. Most MBUF research has been conducted in the western most states. California, Washington, Colorado, and Minnesota have conducted a MBUF pilot program. Oregon has an on-going MBUF program. A total of 14 states have taken part of MBUF studies through their Road User Charge (RUC) West membership.

The I-95 Corridor Coalition was formed to conduce a MBUF study that brings in the east coast perspective. The goals of the study include identifying technical issues and the feasibility of technology needed and used, identifying challenges of multi-state travel patterns, and studying interoperability with toll collection systems. The study is also meant to research public awareness of motor-fuels tax insufficiency and road user fee alternatives. Finally, the study is to research freight impacts, and user acceptance and concerns.

Mr. Cohen stated that a plug-in tracking device called Azuga has been utilized in order to complete various studies in the MBUF pilot. It is a device that the participants of the pilot program plug in under their steering column. A mileage rate was established that was roughly equivalent to the fuel tax rate per state and at the end of each month, the mileage is tracked and the participant would receive a simulated bill in the mail that would reflect on the vehicle miles traveled.

Phase one of the pilot project took place in Delaware and Pennsylvania in 2018. There were 155 participants with 459,000 miles logged over three months' time. One fifth of those miles were traveled out-of-state. Key findings from phase one included that privacy concerns were reduced by almost half, 31% of participants over-estimate the fuel tax load, users like the battery and car health features that the Azuga device provides, and 94% of participants stated they would continue participating in the research.

Phase two of the pilot project included a multi-state truck pilot. Partners of the truck pilot include the American Truckers Association; American Automobile Association; U.S. Chamber of Commerce; International Bridge, Tunnel, and Turnpike Association; National Governors Association on-governmental agencies; and the Port Authority of New York and New Jersey. The project included 55 vehicles that over the course of the first six months of the program have traveled to or through 27 states, and logged 1.4 million miles. The preliminary finding is that the technology may work with the tracking devices already used in trucks that integrate with the International Fuel Tax Agreement as well as the International Registration Plan reporting. The fuel efficiency penalty is amplified due to the intensity of use. There were 880 participants from 15 states overall in phase two. The majority of participants were from Pennsylvania and Delaware. Monthly statements from phase two were adjusted and used for education purposes.

Mr. Cohen listed some issues, complexities, and concerns with the MBUF program. One issue is the technology that is being used to track the mileage is not user friendly. Participants have issues finding the port, or being able to plug it in the port. They are also having issues with going in and registering the device online. As a result of this, discussions have been had with the provider of the technology, and they are making some changes in the user registration.

Another concern is the large administrative costs associated with the program. Rural inequities and perverse outcomes, such as the system rewarding drivers of fuel efficient vehicles, are also concerns. Lastly, data privacy and security concerns along with a gap in public understanding is a complex issue that must be addressed. Support from state leaders is essential in the MBUF program. Recruitment to partake in the program was challenging and a key lesson that was learned was that enrollment in the program needs to be easier and faster. More information could be obtained through the website www.i95colaitionmbuf.org.

In response to a question asked by Chairman Upchurch concerning the administrative costs of the program, Mr. Cohen stated he would get that information to the Committee as soon as possible.

In response to a question asked by Senator Jimmy Higdon concerning looking at other ways to collect funds, Mr. Cohen stated they have explored other possibilities such as moving towards higher registration feeds or reducing administration costs by going by an odometer based reading at registration.

Senator Higdon stated that the rural inequities come from people in rural communities are more likely to drive less fuel efficient vehicles, therefore it may benefit them to have a MBUF system.

In response to a question asked by Senator Higdon, Mr. Cohen stated the RUC West program is also looking into a MBUF system.

A motion was made and seconded directing staff of LRC to draft a summarization memo that the Task Force could go over in their next meeting. The motion was approved by voice vote. With no further business to come before the meeting, the meeting was adjourned at 2:05 P.M.

## INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

### Minutes of the 3rd Meeting of the 2019 Interim

October 2, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Interim Joint Committee on Banking and Insurance was held on Wednesday, October 2, 2019, at 3:00 PM, in Room 154 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 Bart Rowland, Co-Chair; Senators Rick Girdler, Dennis Parrett, Albert Robinson, John Schickel, Brandon Smith, and Reginald Thomas; Representatives Terri Branham Clark, Joseph M. Fischer, Deanna Frazier, Jim Gooch Jr., Kathy Hinkle, Adam Koenig, Stan Lee, Derek Lewis, Michael Meredith, Wilson Stone, Ken Upchurch, and Rob Wiederstein.

Guests: Chuck Piacentini, Vice President, Insurance Regulation and Associate General Counsel; Jan Graeber, ASA, MAAA, Senior Health Actuary; and Jana Lee Pruitt, Regional Vice President, State Relations, American Council of Life Insurers. Patrick O'Connor, II, Deputy Commissioner of Policy, Kentucky Department of Insurance; Dave Dillon, FSA, MAAA, Senior Vice President and Principal, Lewis & Ellis, Inc.; Bart Baldwin, Executive Director, ABA Advocates; Anne Gregory, and Becky Nastally, PhD, BCBA-D, LBA, Owner/Executive Director, Bloom Behavior Therapy.

LRC Staff: Jessica Sharpe, Breanna Miller, and Dawn Johnson

**Minutes**

A motion by Senator Schickel and second by Representative Lewis to approve the minutes of the September 11, 2019, meeting carried by voice vote.

**Long-Term Care Insurance**

Jana Lee Pruitt, Regional Vice President of State Relations, American Council of Life Insurers (ACLI) explained they are a national trade association representing 290 member life insurance companies who write the majority of life insurance annuity and long-term care insurance premiums in the country. Ms. Pruitt introduced Mr. Piacentini and Ms. Graeber.

Mr. Piacentini explained that long-term care needs are increasing as more Americans age. Approximately 13 million people are receiving long-term care services, with the number projected to increase to 27 million by 2050. It is important that consumers have access to meaningful solutions to protect themselves and their retirement assets should the need for long-term care services arise. Long-term care (LTC) insurance is not medical insurance. It is coverage designed to help individuals who lose the ability to perform daily activities, either through a disabling event or just through the aging process. Typically, benefits are paid directly to the consumer and will often be redirected to a care provider. Benefits enable an individual to seek care in the home, an assisted living facility, or a nursing home. Based on the policy, LTC benefits would cover a certain amount per day. If purchased, inflation protection would automatically increase benefits each year to keep up with increases in cost of care. Benefits may not begin immediately and may not cover the entire disability, depending on the policy. Some earlier policies provided lifetime benefits.

Jan Graeber, Senior Health Actuary, American Council of Life Insurers explained the dynamics of pricing a long-term care policy. Pricing is based on various assumptions, like the probability of death before benefits are received, the probability the insured will stop paying premiums before they receive benefits, and the probability the insured will be eligible to receive benefits and for how long. LTC insurance was designed to be a level premium product. Premiums generally should be collected for many years before claims are made. Premiums are used for policy administration, shareholders, taxes, and commissions, but the bulk goes to reserve funds for future benefits—the net premium. Net premiums are deposited similar to interest earning savings accounts. The scheduled deposit amount is determined initially based on estimates of benefit payments and interest earned. If the estimates are incorrect, the account may not have enough to cover future withdrawals. The amount of funds withdrawn depends on the number of people who keep their policies, the number of those who will use benefits, and the amount that is paid out to people who use benefits. When LTC insurance is priced, future net premiums plus the reserve fund must balance. They become out of balance when expected future withdrawals outweigh the deposit schedule. Rate increases are needed to restore balance.

Mr. Piacentini said LTC insurance is a relatively new product developed in the 1970s and 1980s. Cost projection assumptions have been wrong. Over time, as insurers became more experienced and evaluated the need for sufficient premiums to cover claims it was determined there was a gap. The industry has been working with insurance departments to ensure a collective understanding of what level of premium is necessary to ensure that consumers have the benefits within their contracts. Although these were projected as level premiums, they were structured as guaranteed renewable, meaning premium rates cannot be raised on individual consumers. However, if the entire program is insufficient, premiums can be raised across the board to address existing shortfalls. He said the industry needs to do a better job explaining the need for rate increases to consumers.

Mr. Piacentini stated that the next generation of LTC insurance options for consumers is critically important. New options include life insurance hybrid or combo products that combine LTC benefits with a life insurance or annuity policy. These products are much less risky because insurers know that benefits are going to be paid out either as LTC or death benefits. He recommended exploring financing options for LTC benefit plans. The industry is advocating for increased consumer access to tax preferred funds to reduce the cost of LTC premiums. Mr. Piacentini said ACLI works to ensure the sanctity of the state guaranty association system, which provides a level of protection should there be an insolvency. In the next generation of LTC products, ACLI will consider how to address LTC risk to ensure greater premium certainty for customers. The importance of rate increases is to stabilize the market to enable additional carriers to get into the next generation of LTC, which ensures consumers have access to meaningful products to protect themselves and their families.

Responding to Representative Stone's question about premiums that have been collected but not dispersed due to lapse of payment or death, Ms. Graeber said the net premium goes into a reserve fund. LTC generally does not provide a non-forfeiture benefit. Most companies will offer a contingent non-forfeiture benefit in the event of a lapse, which is a return of your premium, similar to life insurance. Ms. Graeber said when the model was developed, it was assumed that a higher number of people would lapse their policies, however, more people than projected held on to their policies. Mr. Piacentini said this is why there is growth in the hybrid plans because those plans have a guaranteed payout. In the case of a policyholder who is unable to pay due to a rate increase, there may be some mitigation offered through a paid-up policy. If an individual meets the LTC triggers, typically their premiums are no longer payable under most policies.

In response to Senator Parrett's question about whether there have been insolvencies in Kentucky, Mr. Piacentini said two insurers in Kentucky were associated with the Penn Treaty insolvency. The Kentucky Guaranty Association would have picked up the coverage for that, up to the guarantee limits of $300,000.

Patrick O'Connor, Deputy Commissioner of Policy, Kentucky Department of Insurance (KDOI) said the department receives a number of complaints from LTC insurance policy holders about rate increases. The KDOI does not "rubber stamp" rate increase requests. There is a thorough review process and not all requested amounts are approved. Another common complaint from policy holders is their belief that companies are not allowed to increase rates. A provision of Kentucky law, and language included within the policy, allows rate increases. Since 2016, KDOI has received 206 rate increase request filings from 45 different insurance companies. Because there is a maximum 90 day period to review the requests, some agencies are asked to refile if more time is needed. Resubmitted applications are included in the total number. The Department has approved 123 rate increase requests. The average increase requested was 49 percent. Increases requested range from 5 percent to 231 percent. The average approved increase was 24 percent. Increases approved range from one percent to 126 percent. Many rate increases are for "closed block" plans that are not for sale anymore. Rate filings beginning with 2018 are public record and available online.

Deputy Commissioner O'Connor explained that rate increase requests are filed electronically. The application includes basic filing information and a detailed actuarial memorandum supporting the request. Rate filings are subject to independent actuarial review. Factors considered include lifetime projections of earned premium and incurred claims, comparison to new product premiums, if applicable, impact to various subsets of policyholders, state-by-state comparisons, and prior period premium review and projection. If a policyholder will be subject to a rate increase, the KDOI wants to see ways the company can mitigate its impact. This includes multi-year phase-ins and decreasing benefits to mitigate premium increases. The department also reviews and approves correspondence provided to policyholders. Deputy Commissioner O'Connor said LTC insurance rate increase requests are a significant concern for the KDOI. They are collaborating with other states to devise solutions. The KDOI tries to balance financial solvency concerns of insurers with consumer interests and is focusing on improving the review process to become more timely and efficient.

Dave Dillon, Senior Vice President and Principal, Lewis & Ellis, Inc. is a health actuary that has been engaged by the KDOI since 2012 to review and make recommendations on provider rate increase requests. He is the health actuary for ten other states. Mr. Dillon said that while the life insurance industry is fairly consistent, the LTC insurance industry, which is relatively new, is not. There are many considerations when looking at reasons for insufficient premium amounts. Losses are difficult to overcome. When plan products were first priced in the 1970s and 1980s, they were priced primarily like annuity products, with similar assumptions. Lapse rates were overestimated by three to four percent. Over an extended period of time, large rate increases were the result. Mr. Dillon said many key players have exited recently. There are not many new policies. He said the Genworth/China Oceanwide transaction is very important. Genworth has had some financial difficulties and has filed for many rate increases. They are in the process of being purchased, but have faced a lot of regulatory issues from different entities. There have not been many transactions nor have there been many people buying and selling blocks for investment purposes for different reasons. This may be about to change. Mr. Dillon said life and annuity hybrid products account for 85 percent of new sales which is good because life insurance is more stable. Pairing a highly volatile product with a more stable product is good. Growth has been mainly in affluent markets so there are still a lot of opportunities in the middle market. Mr. Dillon reviewed provider data on actual-to-expected covered lives and actual-to-expected claims. He also stated that LTC insurance rate increases are a nationwide issue. Prior to 2000, the regulatory approach resulted in many and large rate increases resulting in a lot of complaints. From 2000 to 2014, there was rate stabilization because regulators required insurers to make more conservative assumptions on the front end. The current model, promulgated by the National Association of Insurance Commissioners (NAIC) and adopted by a few states, is a variation of the previous approach of being more diligent on the front end.

Mr. Dillon said there is a lot of variation among state approaches to LTC rate increase requests, mainly due to recoupment of past losses and delays in seeking the increase. Mr. Dillon discussed the approaches used in other states and said that Kentucky tries to keep in line with other states. Mr. Dillon said rate increases and rate stabilization regulation is helping to mitigate the problem. He also reviewed data on closed rate filings since 2010 in Kentucky and several other states.

Senator Schickel introduced constituents Marie and Wayne Enstice to share their experiences with LTC insurance rate increases. Mr. Enstice said for the past two years, he and his wife have sought answers as to why their LTC insurance payment increased so drastically. Mr. Enstice said he e-mailed a set of solutions he and his wife suggest to approach the problem to committee members. The Enstices purchased policies in 2007. In 2017, their rate increased 45 percent in each of their premiums. While they were aware they would face rate increases, the magnitude was the problem. After researching LTC insurance rate increases, they realized it is a national problem. They found initial assumptions were wildly inaccurate. He noted the KDOI's motto of making sure Kentuckians are treated fairly in the marketplace. The Enstices were given two months to decide whether to pay the increased rate or let their policies lapse. They filed a complaint. Mr. Enstice said they were diligent and did much research before purchasing their policy. It was obviously something they were going to keep unless something catastrophic happened. Their policy has cost approximately $70,000, so they were not going to lightly reduce their coverage. They experienced a sudden increase of $3,400 out of their budget. They contacted their insurance carrier to find out what the insurance company was doing to shoulder some of the burden. The insurers should be held responsible since the product was so faulty to begin with. The Enstices received a pro forma response from the KDOI when they were actually looking for some help in terms of long range planning within the KDOI in handling issues like this. The only response they received was that no laws were broken. While they knew to expect rate increases, they had no forewarning of the size of the increase. Through an open records request, they found their insurance company was given the option of spreading the increase over two years, however, the company chose one. When they asked the KDOI why this was, they were told there was no historical record. Mr. Enstice said they feel no more fairly treated in the marketplace today than they did two years ago. Through their research, they found many states would not allow such a significant rate increase at one time. They asked several times to speak to the Commissioner and were told she was not available. The Enstices suggested Kentucky pass increase caps or spread rate increases over several years if there was a pressing need based on actuarial assumptions. There is an insurance compact in Kentucky. They can be arbiters for requests that exceed a cap. He said policyholders in Ohio paid a lower rate increase for the exact same policy. The whole rate structure and process needs to be more transparent. The Enstices said they are vulnerable. If they receive another sizeable rate increase, they will be in crisis mode. He asked that the committee and legislature pass measures to achieve a corrective balance.

Chairman Carpenter expressed the committee's appreciation to the Enstices for their testimony and sharing the consumer side of the issue. Senator Schickel said he has been working with the Enstices for two years and will continue to try to make some headway.

Responding to Senator Thomas' question, Deputy Commissioner O'Connor said LTC insurance policies do not exclude specific conditions, including Alzheimer's and dementia. The policy pays based on a lack of ability to perform daily activities, regardless of the reason. Mr. Dillon agreed, saying someone with any specific type of condition will not get a rate increase based on it.

Representative Gooch said members are sympathetic to the issue. Guaranteed renewable plans were sold decades ago that were not actuarially sound, but they are now closed, which means no new premium dollars are going into these particular plans. As rates increase, younger and healthier people find cheaper plans. Those left in the plan may be older and sicker and using the policy. At some point, it appears that every closed plan will collapse. By mitigating rate increases, you are encouraging people to stay in the plan and pay premiums. It is not likely that insurance companies want a huge rate increase where everyone drops out except a few. Deputy Commissioner O'Connor said Representative Gooch's comments highlight the heart of the issue. The KDOI is in an extremely difficult position. They must consider the financial solvency of LTC insurance companies against the interests of longtime policyholders to find a landing spot where companies can remain in business and policyholders can continue to have the most affordable policy possible considering the situation. Mr. Dillon said when reviewing a rate increase request, if a company has an open and a closed block, they consider those premium rates for the on-the-street rates and compare to the closed block rates. The struggle is there are many closed blocks for companies who no longer sell policies. That is where we get into landing spots and actuarially equivalent alternatives such that the consumer may choose a $200 benefit instead of a $300 benefit to mitigate a rate increase.

**Anthem Reimbursement Reduction for Providers of Services to Children with Autism**

Bart Baldwin, Executive Director of ABA Advocates said the General Assembly has been very supportive of autism-related issues with the passage of the 2010 health mandate relating to autism, as well as the 2018 update sponsored by Chairman Rowland. The concern now is an announced Anthem change in coding used by providers of services to children with autism. This change undermines the intent of the legislation.

Dr. Becky Nastally, Owner and Executive Director of Bloom Behavior Therapy said there is a grave access to treatment problem for children with autism in Kentucky and worldwide. Dr. Nastally said she is a doctorate level board certified applied behavior analysis (ABA) therapist providing ABA therapy. ABA therapy is the most evidence-based treatment for autism. It is approved by the Surgeon General, the American Medical Association, and the American Association of Pediatrics. It is best when delivered at the onset of diagnosis. Autism can be identified as early as 18 months of age. It is best when it is delivered intensively. There is a shortage of providers in the state. Only recently has licensure existed in Kentucky. Dr. Nastally said therapists are constantly fighting a battle for funding. The insurance mandate requires insurance companies to provide medically necessary treatment for children with autism. There are loopholes in the mandate with huge out-of-pocket costs that families still have to incur because of deductibles, copays, and reaching out-of-pocket maximums. Service providers have experienced rate cuts, including the 25 percent reimbursement reduction by Anthem. Without the necessary treatment, symptoms of autism increase. Dr. Nastally asked the committee to help prevent insurance companies from further restricting access to treatment for children with autism, who represent one of the most vulnerable populations within society.

Anne Gregory, advocate and parent of a child with autism, said during the 2010 Legislative Session, she was the lead parent volunteer and Kentucky liaison for Autism Speaks in its push for autism insurance reform across the country. Her son was 10 years old at the time. Ms. Gregory discussed the significant impact ABA therapy and other services have on the future of children with autism. ABA therapy is crucial to long-term prognosis. She never thought she would be back before the legislature but she cannot allow insurance companies to undermine the benefits of all their hard work and create hardships for families across the state. Ms. Gregory explained the learning progression of her son in an ABA therapy program. Anthem's 25 percent rate cut would be devastating to providers of ABA therapy and would revert more financial burden onto family members of those with autism. Anthem's actions would be devastating, even more so if other insurers follow suit.

Responding to Representative Gooch's question, Dr. Nastally said the 25 percent reduction is an across the board cut. Every ABA provider that utilizes that particular code which is used for the primary area of practice will have their reimbursement rate cut by 25 percent. Mr. Baldwin said ABA therapy has a variety of Current Procedural Terminology (CPT) codes. The one CPT code primarily used in billing is the one being targeted. Representative Gooch said he would like clarification because he had been told something somewhat different.

Senator Girdler asked if anyone had met with Anthem. Mr. Baldwin answered yes. Senator Girdler said he understood there are different codes for ABA therapy. He suggested they try to resolve the issue with an Anthem representative since the proposed change would go into effect November 1. Mr. Baldwin said there are different codes for licensed behavior analyst and a behavior technician who implements the treatment plan as designed by the analyst. Dr. Nastally explained that a Board Certified Behavior Analyst, someone with a master's degree or PhD, would at times also use that code in question to provide direct therapy. She said Anthem does not use modifiers, as some companies do, which ties the code to the provider type. Mr. Baldwin said they met with Anthem representatives in August and they plan to develop a workgroup to work on value-based contracting and some other approaches, but currently there is an immediate issue. He understood that the committee is limited in what it can do.

Chairman Carpenter said currently there is little the committee can do but he hoped representatives attending the meeting could work with them on this issue.

There being no further business the meeting adjourned at 4:55 PM.

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

**Minutes of the 5th Meeting of the 2019 Interim**

October 3, 2019

**Call to Order and Roll Call**

The 5th meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, October 3, 2019, at 3:00 PM, in Room 154 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representatives Phillip Pratt, Co-Chair, and Tommy Turner, Co-Chair; Senators Ernie Harris, Jimmy Higdon, Wil Schroder, Mike Wilson, and Max Wise; Representatives Lynn Bechler, Terri Branham Clark, George Brown Jr, Jeffery Donohue, Deanna Frazier, Chris Fugate, Robert Goforth, Jim Gooch Jr., David Hale, Richard Heath, Kim King, Bobby McCool, Charles Miller, Ruth Ann Palumbo, Josie Raymond, Brandon Reed, Steve Sheldon, Maria Sorolis, Cherlynn Stevenson, Ashley Tackett Laferty, Nancy Tate, Rob Wiederstein, and Les Yates.

Guests: Monica Bilak, Board of Directors Chair, Sprocket Inc.; Dr. Michael Ramage, Vice Chair, Sprocket Inc.; Hank Phillips, President and CEO, Kentucky Travel Industry Association; Paul Buta, Special Agent, United States Secret Service.

LRC Staff: Andrew Manno, Chip Smith, Candice Messer, and Sasche Allen.

**Approval of Minutes**

A motion to approve the minutes of the September 12, 2019 meeting was made by Representative Bobby McCool, seconded by Representative Deanna Frazier, and approved by voice vote.

**Sprocket Inc.**

Sprocket is a non-profit 501(c)(3) organization based in Paducah, Kentucky that develops innovative programs in education, entrepreneurship, and community learning to create talent pipelines mainly in the growing sector of technology. The original focus was the educational aspect in elementary through high school students but evolved over time to a possible solution to a workforce shortage in the technology field. Sprocket began offering cyber camps and entrepreneurial experiences to children to expand their knowledge of technology and running a business in the real world. Eventually adults took an interest in Sprocket which led to the organization crating partnerships with companies and individuals in the technology field to assist innovative entrepreneurs with new business ventures that could lead to potential job creation.

Sprocket has partnered with a company called Codefi that will provide funds and training to technology entrepreneurs to start their businesses partially through a grant from Codefi and the Economic Development Administration. Sprocket is working to construct an 8000 square foot co-work space and a 1500 square foot makerspace. Also being developed is a 20 week programming boot camp, a regional youth coding league, and a First $50,000 Startup Competition. Sprocket will be working along with local resources such as the library system and school system and envisions this footprint working in other smaller communities across the state.

In response to Representative Bobby

McCool, Dr. Ramage said that finding technology teachers is always a difficult task at any level. He also said that Sprocket would like to include certifications within their courses they plan to offer to youth participants to provide a clear pathway when they transition into postsecondary education.

**Kentucky Travel Industry Association**

Mr. Hank Phillips, President and CEO of the Kentucky Travel Industry Association, said it is often forgotten that the tourism industry is a major economic driver in the Commonwealth. The tourism industry bought 71.6 million visitors to the state in 2018 and had an economic impact of $11.2 billion. The industry also provides over 94,500 jobs and $787 million in local and state taxes. Three main categories of the tourism industry are service providers, experience providers, and destination marketing organizations. Service providers are businesses that supply the basic needs of travelers such as hotels, restaurants, and retail stores. Experience providers are those businesses and locations that are delivering the attractions such as the state's distilleries, museums, historical sites, and recreational sites. Destination marketing organizations are the promotors of the tourism industry such as the Kentucky Department of Tourism, the local tourism commissions, and local convention and visitors bureaus.

The Department of Tourism receives its administrative funding from the General Fund and receives funding for marketing from the one percent statewide transient room tax. The local tourism commissions across the state receive funding from the local transient room taxes, restaurant taxes in some smaller cities, and limited matching funds from the Department of Tourism. The tourism industry faces challenges such as workforce shortages, a backlog of needed repairs at some of the state parks, limited internet access in some areas, and, specific to the western part of the state, the Asian Carp crisis. However, there have recently been funds appropriated for the needed updates to some of the state parks, and there have also been new ways formulated to handle the Asian Carp crisis. Furthermore, tourism faces intense competition from other states and competition for industry legitimacy. There are unrealized economic activity, jobs, and tax revenue for Kentuckians due to insufficient traveler awareness of Kentucky tourism products. In addition, concerning possible tax reform, a reduction or redirection of existing funds will jeopardize existing benefits of the industry.

Representative George Brown Jr. thanked Mr. Phillips for his work and voiced that he believes the state has untapped tourism potential that should be taken advantage of.

Replying to Representative Robert Goforth, Mr. Phillips explained that independent auditors appointed by local officials perform annual financial audits of local tourism commissions. Conversely, these are not programming audits and what qualifies as a tourism expense can be subjective. Tourism commissions are special purpose government entities, therefore, their budgets and audits are public information.

Representative David Hale spoke briefly about the tourism in his district that contains a portion of Red River Gorge.

**Cyber Security**

The United States Secret Service is responsible for protecting financial infrastructure, and recently business email compromises and ransomware have become a larger area of concern. Business email compromise is a type of scam that targets companies or individuals that conduct wire transfers and work with entities or individuals in countries outside of the U.S. Ransomware is a type of malware designed to deny access to a computer or data until a ransom is paid. Mr. Paul Buta, a Special Agent with the U.S. Secret Service, said one of the most important tools that is used to combat business email compromise and ransomware is the financial fraud kill chain. The financial fraud kill chain is a series of events that must transpire very quickly in order for companies and individuals to have the best chance of recovering any lost funds and consists of cooperation between victims, law enforcement, and the victim's financial institutions. The best chance of regaining any lost funds is within the first 72 hours with the chances decreasing about 15 percent every 12 hours. There are three conditions that effectuate the financial fraud kill chain. The wire must be sent from a foreign financial institution; the wire must be more than $50,000; and the notification of the wire transfer to law enforcement must be made within the first 72 hours. Mr. Buta said his agency offers education to financial institutions, chambers of commerce, various civic groups, and businesses to increase awareness of these crimes.

Answering a question from Senator Wil Schroder, Mr. Buta said that public service announcements and education are ways to prevent these crimes from happening. One method to adopt is to trust but verify sources. He said that cyber security may not be taught in school but may be a way to educate the public. Word of mouth is a simple way to spread awareness along with investing money in security resources. There is more than likely not a legislative solution but the Secret Service does do educational outreach about business email compromises and ransomware.

Responding to Representative Steve Sheldon, Mr. Buta said that there are online resources that list malicious IP addresses and the location of origin can often be an indicator of potential criminal activity. Businesses can protect themselves through redundant backups.

Addressing concerns from Co-Chair Phillip Pratt, Mr. Buta explained that regular assessments of a business's cyber security can help to protect information and avoid business email compromises and ransomware. There are companies that will evaluate businesses' systems and suggest ways to improve security.

In response to Representative Lynn Bechler, Mr. Buta said that a series of events usually contributes to business email compromises and ransomware crimes. Generally, the easiest target of these crimes are individuals, but there are times that someone working for the financial institution may have made a mistake that leads to these crimes. He said that you can eliminate most threats by using a virtual private network (VPN) and two factor authentication.

Co-Chair Danny Carroll announced that the next meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology will be November 21, 2019 at 3:00 in the Capitol Annex.

There being no further business, the meeting adjourned at 4:51 p.m.

## INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

**Minutes of the 4th Meeting of the 2019 Interim**

October 3, 2019

**Call to Order and Roll Call**

The fourth meeting of the Interim Joint Committee on State Government was held on Thursday, October 3, 2019, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representatives Jerry T. Miller, Co-Chair, and Kevin D. Bratcher, Co-Chair; Senators Ralph

Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Robby Mills, Albert Robinson, Dan "Malano" Seum, and Damon Thayer; Representatives Tina Bojanowski, Tom Burch, McKenzie Cantrell, Jeffery Donohue, Jim DuPlessis, Joseph M. Fischer, Kelly Flood, Derrick Graham, Joe Graviss, Richard Heath, Scott Lewis, Mary Lou Marzian, Reginald Meeks, Patti Minter, Jason Nemes, Jason Petrie, Rick Rand, Steve Sheldon, Tommy Turner, Ken Upchurch, and Les Yates.

Guests: Thomas Stephens, and Jenny Goins, Personnel Cabinet; Colleen Huber, Aon Consulting; Laura Hendrix, Emily Dennis, and Judge Anthony Wilhoit, Kentucky Legislative Ethics Commission.

LRC Staff: Alisha Miller, Daniel Carter, Michael Callan, Kevin Devlin, Jennifer Hans, Roberta Kiser, Karen Powell, and Peggy Sciantarelli

**Approval of Minutes**

The minutes of the September 12 meeting were approved without objection, upon motion by Senator Thayer.

**2020 Kentucky Employees' Health Plan**

Guest speakers were Thomas Stephens, Personnel Cabinet Secretary; Jenny Goins, Commissioner, Department of Employee Insurance, Personnel Cabinet; and Colleen Huber, a credentialed actuary with Aon Consulting. They reviewed the Kentucky Employees' Health Plan (KEHP) for plan year 2020.

Secretary Stephens said that KEHP covers more than six percent of the state's population. The membership includes school boards (52%), early retirees (24%), state agencies (19%), and quasi-governmental groups (5%). The plan has been self-insured since 2006. It is the largest self-funded plan in the Commonwealth, with an annual spend of $1.9 billion. KEHP members include 180,040 active employees and pre-65 retirees, and the plan covers 292,703 lives.

Ms. Goins said the Personnel website provides a benefits analyzer tool, and the online Benefits Selection Guide includes helpful tools for choosing a plan. Premium increases are low for 2020. The highest premium increase is less than $20—in the LivingWell PPO family plan. There are small deductible and maximum out-of-pocket increases of $250. On the consumer driven health plans (CDHP) the maximum out-of-pocket and deductible are combined, but they accumulate separately on the PPO plans. The PPO pharmacy maximum out-of-pocket will not increase. The healthcare flexible spending account (FSA) maximum contribution is increased to $2,700. Members eligible for a waiver general purpose Health Reimbursement Arrangement (HRA) can receive $175/month ($2,100/year). The Cabinet continues to monitor usage of the waiver/HRA benefit and has made a concerted effort to educate members about that benefit. KEHP must hold HRA funds in reserve. To be fiscally responsible, the cap on the carryover balance from 2019 to 2020 was lowered to $6,000. The carryover from 2020 to 2021 will be lowered once again—to $5,000.

StayWell is the new well-being vendor for 2020, replacing Go365. Members will continue to earn rewards for engaging in health and wellness activities. There will be no changes to the LivingWell Promise. Planholders must complete a health assessment or biometric screening between January 1 and July 1, 2020, to receive the $480 annual premium discount incentive in 2021. Secretary Stephens said that StayWell is committed to help members improve their health through physical fitness and by better educating members in emotional, social, and financial areas.

Ms. Goins said that in 2019 KEHP began offering optional dental and vision benefits through Anthem. The new program has been a huge success, with 28,449 enrolled in the dental plan and 27,897 enrolled in the vision plan. School boards represent KEHP's largest population; 680 of the 690 Kentucky schools that KEHP services have participants in the dental plan, and 678 have participants in the vision plan. Through the Department of Employee Insurance, Commonwealth of Kentucky public employees are also provided $20,000 of basic life insurance coverage at no cost, with an option to purchase additional coverage on themselves, their spouses, and children. Secretary Stephens pointed out that the optional vision and dental benefits are offered by KEHP at no cost to the state.

Ms. Goins discussed the factors that determine each plan year's benefits, premiums, and deductibles. She said each plan year stands alone. KEHP looks at cost and claims trends, industry benchmarks, other states' health insurance plans, and works with the vendors in an effort to provide good benefits and affordable premiums. Health and wellbeing support is also critical for plan members.

Ms. Huber discussed claims trends, premium benchmarks, and pharmacy payments and rebates. As of June 2019, the total claims trend for both medical and pharmacy was 9.9 percent, compared to a projected trend of 8.5 percent. Pharmacy claims are driving the upward trend. KEHP's average employee and employer premium increase since 2015 has averaged one percent. Data from the Centers for Medicare and Medicaid Services, Office of the Actuary, National Health Statistics Group, indicates that nationally the employer contribution annual growth rate for both state and local government and private employer-sponsored health insurance is far greater than KEHP's spending increases per enrollee. Pharmacy rebates to KEHP in 2013 totaled about $38 million but grew to $130 million for plan year 2018. KEHP receives 100 percent of pharmacy rebates, which might not be the case in smaller employer-sponsored groups. In 2018, the net amount paid by the plan for pharmacy claims was $308 million.

Representative Miller asked which types of quasi-governmental groups are members of the health plan and whether they are non-P1 agencies. Ms. Goins said the quasi agencies include local, city, and county governments, fire departments, public libraries, and others. They must also be participants in one of the state's retirement systems. Secretary Stephens said that they could be referred to as non-P1, although KEHP no longer uses that language because P1s are no longer issued.

Representative Nemes said that KEHP is a stunningly successful program and is a tremendous benefit for state employees. It is his desire for Kentucky's public employees to understand how good their health plan is when compared to those in the private market. That information would not only increase morale but also improve recruitment of state employees. Secretary Stephens said the Cabinet works to spread the message about the program's benefits through its wellness program, webinars, and presentations to different groups around the state. He and other human resources executives serve on a national board that considers best practices. He said it would be helpful if KEHP had the opportunity to maintain reserve funds to carry over from one plan year to the next. Representative Nemes requested that the Personnel Cabinet provide him with information showing the amount of health insurance savings for state employees in various salary ranges when compared to health insurance in the private market. Ms. Goins said that they will work with Ms. Huber and her team to develop that information.

Responding to questions from Senator Seum, Ms. Goins explained health insurance options that are available to retirees through KEHP, the retirement systems, and Medicare. She said that the life insurance benefit can be carried forward after retirement, but the retiree would pay the full cost, and the premium would be much higher.

Representative Graham said he believes that employees understand that their health insurance is very good and also very reasonably priced. He asked what happens to HRA funds that exceed the carryover cap. Ms. Goins said that the employee would lose that money, and it would go into the health insurance trust fund. The Cabinet regularly communicates to members the importance of using HRA funds. KEHP also reaches out to individual planholders that have high HRA balances that are in danger of lapsing.

Senator McDaniel questioned whether the net pharmacy costs reflect increased utilization or spiking in drug prices. Ms. Huber said that more members are using high-cost prescriptions and specialty drugs. That is why the rebates are so important—they help reduce the overall cost impact. Senator McDaniel asked whether planholders and medical providers are encouraged to initially try lower-priced prescriptions. He also asked about insulin pricing. Ms. Huber said that KEHP always promotes usage of lower cost prescriptions before switching to more expensive or specialty drugs. Ms. Goins said the diabetes value benefit helps address the cost of insulin, diabetes medications, and supplies. Senator McDaniel questioned whether KEHP is absorbing a substantial increase in the cost of insulin. Some of the practices he has seen in other states' indicate that they are only covering the cost rather than taking steps to control it. Ms. Goins said she would need to research the impact of insulin cost on the health plan. She went on to say that one cost factor is that members are using their diabetes medications as directed. Senator McDaniel said he wants to make sure that the drug companies are not taking advantage of the Commonwealth. He hopes that drug pricing will be examined more in depth and become the topic of more conversation in the future.

Representative Upchurch asked whether the Cabinet could place a dollar value on the health insurance package, since it is a financial incentive that could be considered part of an individual's pay. Ms. Goins said they do not have that information with them today but can get it. She said the Cabinet has been making a concerted effort in the past few years to educate people about the value of the health insurance plan and its free and low-cost benefits. The state, as employer, pays 84 percent of employees' premium cost on average—somewhat more than that for a single plan and a little less than 84 percent for a family plan.

Secretary Stephens said the health insurance plan is an amazing benefit. The unemployment rate in the central Kentucky area is at an historical low, and the Cabinet has begun to rebrand state employee recruitment. There is an emphasis on coming for a job, staying for a career, and making a difference for a lifetime. The health plan is a major highlight in recruitment efforts.

Ms. Goins said that the small deductible increase in the new plan year will save KEHP $30 million, and the small premium increase will save $8 million. KEHP will save $6 million by cancelling Anthem's Enhanced Personal Healthcare Model, which was difficult to implement for a statewide plan that has more than 290,000 members. Reducing the waiver HRA cap to $5,000 will save $2 million. A market test by Aon to compare pharmacy pricing will save $24 million in the 2020 plan year.

Ms. Goins said KEHP began offering the free Rethink benefit in January 2019. It offers online and telephone assistance to support those who care for children and teenagers with learning or behavioral challenges, including autism. The Live Health Online-Medical benefit has had more than 31,000 visits and has realized cost savings of $6.6 million. Live Health Online-Behavioral Health is a free benefit that uses the Cabinet's Employee Assistance Program (EAP) as a resource. This online benefit has had 5,691 visits, with more than 60 percent of the patients seeing a therapist and 10 percent seeing a psychiatrist. A cost savings analysis for this benefit is not yet available. EAP Director Trina Koontz has indicated that Live Health Online-Behavioral is helpful to those who need more services than her team is able to provide.

SmartShopper is a benefit that helps KEHP and its members save money by choosing lower-cost providers for medical procedures. This benefit has realized total claims savings of $11.8 million. Members have received incentives of $2 million, and the average claims savings per incentive is $551.

Solera became administrator for the free Diabetes Prevention Program in September 2019. Since that time, 5,400 members have taken the quiz to see if they are at risk, and 4,030 have enrolled in the program. The Value Benefits Program now includes not only diabetes, but also COPD and asthma. This benefit provides reduced co-pays and co-insurance for most maintenance prescriptions or supplies, with no deductible.

Representative Petrie asked whether KEHP is aware of any lawsuits relating to its incentive plans. He said that in July 2019 a class-action lawsuit alleged that Yale University's employee wellness program uses financial incentives that violate the Americans with Disabilities Act and the Genetic Information Nondiscrimination Act. Ms. Goins said that KEHP continually monitors relevant regulations and legal actions, with help from legal counsel, Aon, and the wellness vendor. The requirement to complete the health assessment or biometric screening provides the plan with aggregate data on the number of people at risk and helps with plan design. She believes the health plan is doing the right thing by not judging whether a member is healthy or unhealthy but, instead, trying to make members aware of their health status. Representative Petrie requested that KEHP's counsel contact him to discuss this in more detail.

Representative Sheldon spoke of his own experience with a self-insured company that has 15,000 employees. He stated that self-insured plans provide greater flexibility, and he believes KEHP's structure lends itself to more advantageous negotiation methods.

Senator Alvarado applauded KEHP's management of its pharmacy benefit program and the savings of $24 million. Ms. Goins said that since becoming self-insured, it has proven beneficial for the health plan to have separate contracts for medical and pharmacy benefit management. Ms. Huber said the current arrangement with CVS Caremark is a transparent contract. The price of prescriptions at point of sale to the member is the same amount charged to the plan. Secretary Stephens stated that an audit by Aon earlier in 2019 to ensure transparency found 100 percent compliance statewide. Senator Alvarado suggested that an approach similar to KEHP's may be applicable to Kentucky's Medicaid program.

Responding to questions from Senator Alvarado Ms. Goins said she believes the plan pays $89 for a psychologist and $99 for a psychiatrist when members use the free online behavioral health benefit but that she would have to doublecheck those amounts. Regarding SmartShopper, she said quality should be a primary focus of the healthcare industry but that KEHP has received little feedback regarding the quality of providers' services. That benefit, however, has led some providers to lower their rates. Senator Alvarado commended KEHP and suggested that some of its programs could serve as a pilot or testing lab for implementation on a global basis.

Responding to Representative Miller, Secretary Stephens explained how to find mobile apps relating to the health plan. Ms. Goins said that most of the KEHP vendors have an app and that KEHP members like to use the online "chat" feature offered by vendors.

Senator Schroder said it is the sense of the General Assembly to bring more transparency to the cost of health care. He welcomed feedback and suggestions from the committee on ways to address cost and improve transparency. He also asked whether KEHP has done anything to market cost comparison of medical procedures for its members. Secretary Stephens said KEHP is preparing to launch a new program for that purpose in 2020. Ms. Goins said it is a SmartShopper program that utilizes quality scores based on data from CMS and from Quantros, a leading provider of healthcare data. This program will enable KEHP to marry quality and cost. The initial focus will be on hip and knee surgery.

Senator Thayer said it is a great accomplishment that KEHP has been able to keep costs low and continue to offer a high level of coverage, including the addition of dental and vision insurance. He also praised the plan's wellness initiatives.

Senator Thayer said that KEHP is the only state-funded plan in the nation that is required by statute to start each plan year with zero funding and no prior year carryover. He asked how it might benefit KEHP for the General Assembly to revisit that policy and change the law to allow a carry forward balance from year to year. Secretary Stephens said he believes the policy should be changed. Ms. Huber said Aon has surveyed all the states and that it is best practice to have some type of solvency reserve. Healthcare costs are increasing across the country. When facing a higher premium year, funds could be rolled forward to help offset the cost to members, employers, and all involved stakeholders. Savings could be used to help keep future costs at a manageable and predictable level. Ms. Goins said that it would cost too much for a plan the size of KEHP to have reinsurance. The plan needs to have flexibility to even out costs from year to year, but this is not possible when starting each plan year at zero. Senator Thayer suggested to Secretary Stephens that they develop language for possible legislation to address this issue and deliver it to Co-chairs Schroder and Miller for consideration during the 2020 legislative session.

Senator Schroder thanked the speakers for their presentation. He also announced that the next meeting of the committee would be on Thursday, November 21, at 10:00 a.m.

**Proposed Changes to the Legislative Branch Ethics Code**

Guest speakers from the Kentucky Legislative Ethics Commission (KLEC) were Laura Hendrix, Executive Director; Judge Anthony Wilhoit, Chairman of the Commission; and Emily Dennis, Counsel to the Commission. They presented five recommended changes to the Kentucky Code of Legislative Ethics that were approved by commission members in August 2019. They also submitted a draft of sample legislation for 2020.

Ms. Hendrix said the Commission believes the legislative ethics code works well. It is codified in statute and has been called one of the strongest ethics codes in the nation, due to both the strength of the code and the independent makeup of the commission. Portions of the current proposed recommendations were contained in HB 60, sponsored by Representative Kim Moser during the 2019 regular session. Representative Flood also worked on that bill with the commission and its former executive director John Schaaf. Several members of the State Government Committee also co-sponsored the legislation.

Ms. Hendrix reviewed the five recommended changes:_

*1. Create a comprehensive ethics prohibition against discrimination and harassment by legislators and legislative agents against legislative employees, legislators, or legislative agents. The recommendation would specifically define "discrimination," "workplace harassment," and "sexual harassment" as actions that violate either Kentucky or federal statutes, regulations, or case law relating to protected classifications; and define "legislative workplace complaint." It would prohibit legislators, legislative agents, and the LRC director from intentionally engaging in discrimination or workplace harassment against an employee of the legislative branch, legislator, or legislative agent, and provide that a violation is ethical misconduct.* Ms. Hendrix said that the Commission feels strongly that specifically defining harassment and discrimination is key to ensuring public confidence in the workings of the legislature. Alleged violations would necessitate filing of a formal complaint, signed and notarized under penalty of perjury. Complaints of one employee against another would be handled through LRC's human resources function. Anyone with a complaint regarding discrimination, sexual harassment, or harassment based on a protected characteristic would also have the choice of going directly to the state Senate or House, the Equal Employment Opportunity Commission, or the Kentucky Human Rights Commission, or the courts. The Legislative Ethics Commission feels that putting specific definitions in the law would help create a safety valve for employees and people who interact with each other in the legislative arena. It is also important to have a clear definition because, in the past, the definition issue has been raised by attorneys for complainants. Having a clear definition is also important for use in training.

*2. Add a requirement for ethics training for legislative staff and change the commission's current issues seminar to two hours. Require that the seminar and the orientation course for new legislators qualify for continuing legal education credit.*

*3. Authorize the commission to dismiss a complaint without prejudice via teleconference call, if the complaint or preliminary inquiry is publicly disclosed by the complainant, or the complainant comments publicly about the complaint.* Ms. Hendrix said that fairly often a preliminary inquiry reveals that a complaint does not rise to the level of an ethics complaint, might have no basis, or might be political in nature. Enabling the members to meet via teleconference instead of in person would give the commission another avenue to expeditiously resolve a complaint.

*4. Clarify that the Legislative Ethics Commission has authority to adjudicate a complaint filed against a legislator, even if the legislator leaves office after the complaint is filed, as long as the complaint is based upon action that occurred not more than a year prior to the separation from office. Clarify that the commission may adjudicate a complaint filed against a legislative agent up to a year after the agent is no longer a registered legislative agent.* Ms. Hendrix said the commission feels it is important and in the public interest to clarify its jurisdiction and its authority to act regarding ethics code violations.

*5. Clarify that any alleged violation of the Code of Legislative Ethics can be adjudicated by the commission as ethical misconduct, even if it is designated as a misdemeanor or a felony.*

Ms. Hendrix concluded her review, and Senator Thayer commended the recommended changes as a solid proposal. He said that shortening the annual training is a welcome step in the right direction. The recommendation to dismiss a specious claim via teleconference is long overdue, and he looks forward to supporting that recommendation. He said he has been subjected to a specious claim that was later dismissed as frivolous and that both political parties have inappropriately used the ethics commission as a weapon.

Representative Nemes asked whether the commission has the right to extend its investigation into others members of the legislature on the basis of information discovered when investigating a complaint. Ms. Hendrix said that the commission can only act on a sworn complaint, but there is a provision in the law to allow a commission member to file a sworn complaint. The commission also has the ability to issue both formal and informal opinions. Representative Nemes suggested that the commission should be able to investigate ethical violations by others that may be discovered during the course of an investigation of someone else without having to wait for the filing of a sworn complaint. Judge Wilhoit said that on occasion their investigators have filed a complaint against someone based on information that came to light while investigating another.

Senator Thayer said the recommendations are a solid plan overall but that not all of them may win passage. He also suggested that the issue raised by Representative Nemes could present a legal problem.

Representative Graham questioned how an inquiry would be affected if someone other than the complainant makes its existence public without authorization. Ms. Hendrix said that this could present a problem. The commission strives to maintain confidentiality and would look into any disclosure to clarify who made the disclosure and determine its effect.

There was no further discussion. Senator Schroder thanked the speakers and said the committee looks forward to working with them in the future. Business concluded, and the meeting was adjourned at 11:44 a.m.

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

**Minutes of the 2nd Meeting of the 2019 Interim**

October 4, 2019

**Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Friday, October 4, 2019, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Albert Robinson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Albert Robinson, Co-Chair; Senators Julian M. Carroll, C.B. Embry Jr., Denise Harper Angel, Ernie Harris, Jimmy Higdon, Dennis Parrett, Brandon Smith, Whitney Westerfield, and Mike Wilson; Representatives Mark Hart, Matthew Koch, C. Ed Massey, Rob Rothenburger, Walker Thomas, Susan Westrom, Buddy Wheatley, and Les Yates.

Guests: Stephen Hogan, Adjutant General, Kentucky National Guard; Senator Whitney Westerfield, Sue Swayze Liebel, State Police Director from Susan B. Anthony List in Washington D.C.

LRC Staff: Jessica Zeh, Jonathan Philpot, Elizabeth Hardy, Jamie Scowcroft

**Approval of August Minutes**

Senator Harris moved to approve August meeting minutes. Senator Embry seconded the motion. The minutes were approved.

**Kentucky National Guard**

Adjutant General, Stephen Hogan of the Kentucky National Guard was excited to report that the Kentucky Army National Guard stands at 101 percent strength in Kentucky, while the Kentucky Air National Guard stands at 103 percent. General Hogan discussed their strategic lines of effort. The goal is to obtain qualified, confident, and physically fit soldier and airmen. Preparing each unit in case there is a need for a domestic response and involvement with the community are also strategic efforts they strive to achieve.

The Kentucky Army National Guard has several capabilities including infantry, field artillery, aviation, engineering, military police, chemical, medical, sustainment, transportation, and maintenance. There are plans for future construction of a new Joint Force Headquarters building in Frankfort, Kentucky. They also hope to modernize several armories in Kentucky.

In response to Representative Rothenburger's question, General Hogan explained the only issue with immediate deployment to fight fires, is certification of the water bucket which can take several hours.

In response to Representative Thomas' question, General Hogan explained that Kentucky is embracing new technology. Drones are being used now and are used locally.

Senator Higdon stated that he is aware of and appreciates the effort to become the most military friendly state in the country. He explained that there are plans for legislation in the upcoming session to help Kentucky become the most military friendly state.

**Dignified Disposition of Fetal Remains**

Senator Westerfield spoke about an abortion provider in Indiana. The abortion provider had 2,246 fetuses in his home garage. Many women were upset and wondered whether their unborn child was among these. He went on to say that under Kentucky law, unborn children are considered medical waste. The United States Supreme Court upheld an Indiana law which required fetuses of miscarriages and abortions to be buried or cremated and concluded that parents should have a choice on what happens. There are hopes that because of this decision that it will create a pathway for other states to adopt a similar law.

Senator Westerfield introduced Sue Swayze Liebel, who is the state director of the Susan B. Anthony list, vice president of the Indiana Right to Life for 12 years, and who helped draft legislation regarding the disposition of fetal remains. She stated that before Indiana passed this law in 2016, it was important to gain an understanding of the current laws and regulations.

Babies under the age of 20 weeks are considered as medical waste, while babies older than 20 weeks were required to have a death certificate. Their goal with the new legislation was to dispose of fetal remains with dignity regardless of the age. She was also able to get the opinions from the Funeral Home Association and a person who manages a crematorium regarding the disposal of remains. There was a concern that they would have issues with the families of aborted children like many funeral homes do with families who experience miscarriages. However, it was explained that under current Indiana law, only the mother gets to determine what happens to the remains after an abortion, minimizing discord amongst the family.

Another concern they had while drafting this legislation, was that any person could look up death certificates at the county clerk's office. They wanted to protect women's privacy regarding abortions and miscarriages, so they allowed a burial transit permit to leave the name blank on the death certificate or be redacted in public records.

According to Indiana law, only one body can be cremated at a time. If this were applied to fetal remains, it would take up too much time and likely leave no ashes. To amend this, a wavier was put in that only applies to fetal remains, which allows all remains collected in a single day to be cremated together. A clause stating that pathological and medical waste did not apply to fetal remains and was also included in the legislation.

In closing, she explained that to implement this law, they gave facilities, such as hospitals and abortion clinics, the responsibility to enforce it. However, this law does not interfere with women that have miscarriages at home or have an abortion via a pill. They are responsible for what happens to those remains.

The meeting adjourned at 1:54 PM.

## INTERIM JOINT COMMITTEE ON EDUCATION

### Minutes of the 5th Meeting of the 2019 Interim

October 2, 2019

**Call to Order and Roll Call**

The 5th meeting of the Interim Joint Committee on Education was held on Wednesday, October 2, 2019, at 1:05 p.m., in Room 149 of the Capitol Annex. Representative Regina Huff, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Regina Huff, Co-Chair; Senators Jimmy Higdon, Reginald Thomas, Stephen West, and Mike Wilson; Representatives Tina Bojanowski, R. Travis Brenda, Randy Bridges, John Bam Carney, Jeffery Donohue, Scott Lewis, Mary Lou Marzian, C. Ed Massey, Bobby McCool, Reginald Meeks, Charles Miller, Attica Scott, John Sims Jr, Russell Webber, and Lisa Willner.

Guests: James Bauman, District Facilities Branch Project Manager, Kentucky Department of Education; John Gilbert, District Facilities Branch Project Manager, Kentucky Department of Education; and George Hruby, Executive Director, Collaborative Center for Literacy Development, University of Kentucky.

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

**Approval of Minutes – September 11, 2019**

Following introduction of special guests by Chair Huff, Senator Wise made a motion to approve the minutes. The motion was seconded by Senator Wilson and passed by voice vote.

**Construction Management-At-Risk**

Representative Massey was present to discuss his bill proposal for using Construction Management-At-Risk (CMAR) to streamline school construction projects. Present with him were Jim Ruhland, Senior Associate, M.B. Kahn Construction, and Chuck Saylors, Vice President, M.B. Kahn Construction who are familiar with the CMAR delivery method.

Mr. Saylors spoke in his capacity as a parent and school board member as well as a construction professional to the many ways that school construction projects would benefit from the CMAR delivery method. The current method is design-bid-build, which often results in many change orders and can result in higher costs. There is a Construction Agency method where a construction agency partners with a school to oversee things on the ground, but this method may still result in higher costs through frequent change orders. During the CMAR process, there is a guaranteed maximum cost set by the owner. Any overages are covered by the construction manager, but any savings are returned to the owner and can be used for other needs. In the case of a school, those savings could be used for improved school safety measures. Mr. Saylors said in his experience, CMAR lowers the financial risk of the contracting body, provides more control during the procurement process, and can reduce change orders.

Another positive aspect to using the CMAR method is there are limitations on contractors performing work themselves, which typically results in the hiring of local agents to perform the work. This supports local construction companies and economies. There is an assurance that the construction contract is written to industry standards and that the contractor has necessary experience. The use of this method would be another tool for schools to use to make the best use of their funds and to get the best final project. Representative Massey spoke to his experience trying to use the CMAR method for a new school in his district through the use of a waiver from the Kentucky Department of Education (KDE). KDE is receptive to using this methodology, but in the specific instance of Boone County's school, there were timing issues that prohibited the use of CMAR.

Responding to a question from Chair Huff, Mr. Saylors said the CMAR method has been employed by his company for several decades. His company constructs between $5 million and $6 million worth of projects each year in several states in the southeast and roughly half use the CMAR method.

In response to a question from Senator Higdon, Mr. Saylors said the design-build delivery method is used extensively throughout the southeast. In that method, the building is designed and built simultaneously. Using either of these methods saves time and results in a significant cost savings. He spoke to reducing a 12-year long school construction plan for building 100 schools for $2 billion to a four-year plan and a savings of $1 billion through the use of different delivery methods.

Responding to a question from Representative McCool, Mr. Saylors said using CMAR would actually expand opportunity for school districts. He also stated that this would only be one tool available to schools as it would not prohibit them from using currently existing design-bid-build or design-build methods.

Responding to a question from Representative Marzian, Mr. Saylors said he had not seen any negative impact from prevailing wage laws, and in his experience they were still able to get sufficient qualified workers for their projects.

**Arts in Education**

Jane Dewey, Director of Arts Education, Danville Public Schools was present with Dr. John Stroube, Executive Director, Kentucky Music Educators Association and Tanya Bromley, Kentucky Music Educators Association. Ms. Dewey said the proposed Art Education Equity Act can be viewed as a fulfillment of the promise of the Kentucky Education Reform Act (KERA). Students benefit from the arts in various ways including building artistic literacy, building independence, developing creative thinking skills, and supporting college and career readiness. Arts celebrate multiple perspectives, help children say what cannot be said, and raise social and emotional learning. She quoted from a study where 72 percent of business leaders surveyed said creativity was something they looked for in employees, and more than 90 percent of superintendents surveyed said various visual and performing arts courses help develop that creativity.

The crux of the Art Education Equity Act is to ensure equity of opportunity so that all students, regardless of their academic or socioeconomic status, have equal access to a quality, standards-based, sequenced visual and performing arts education as mandated in the capacities and goals set forth by the Commonwealth. Evidence shows that students who are most economically disadvantaged and most in need of academic remediation are also those who are least able to access arts education. There are robust gains among all students when there are strong arts education programs available in schools. The bill would also include a simple to use checklist to evaluate arts education in schools and provide a way for benchmark arts education programs to be made available to all schools. With access to these tools, even geographically remote schools would have tools available to them to make small changes and see gains in as little as three to five months.

Ms. Bromley next discussed the 1989 Rose decision which declared that there is a fundamental right to arts education for every student provided by the Kentucky constitution. In KERA, the General Assembly incorporated seven capacities outlined by the Rose decision, including sufficient grounding in the arts to enable each student to appreciate his or her cultural heritage. That foundation further established the state's responsibility to ensure access for all students to an arts education. The assessment and accountability system was also explicitly noted as necessary to measure progress towards achieving these goals.

As an arts educator, Ms. Dewey said she is proud of how Kentucky has approached visual and performing arts assessments in schools. But understanding the problems of program reviews, the Art Education Equity Act proposes a non-punitive checklist to better evaluate arts education in schools. Ms. Bromley said a result of Senate Bill 1 of the 2017 Regular Session was to provide a better way to evaluate arts education. It mandated visual and performing arts standards, and provided that KDE would distribute guidelines for visual and performing arts education. KDE would also have the ability to develop program standards. However, in 2019 arts education was not included in the new state assessment program aside from protecting a single hour of arts instruction in high school as part of graduation requirements.

In order to keep things simple, Ms. Bromley said this bill would remedy that by creating accountability through protected time for all students to receive arts education. All students would have equal access and opportunity during the school day through protected time of 120 minutes per week in elementary for the study of the arts and increased access to art courses in middle school. Additionally, the bill would prohibit arts instructional time from being used for other remediation or from access being denied as a form of punishment. The bill would also direct KDE to develop arts program standards and resources for helping schools improve their arts programs, identify strong arts programs as models, and develop an easy-to-use standards checklist for reporting program data to the school profile. A critical piece would also be to include that data in the school report card. A yearly report on the status of arts education to the Interim Joint Committee on Education is also recommended.

Libby Hale, a student at Danville High School, testified about her experience of attending speech and drama courses in order to address a speech impediment in middle school. Within weeks her speech impairment was gone, and she found a passion for drama and performance. She has since gone on to participate in the Governor's School for the Arts resulting in a scholarship offer beyond her wildest dreams. She advocated strongly for the protection of access to arts education for all students.

Responding to a question from Representative Bojanowski, Ms. Dewey said the 120 minutes in elementary education could be incorporated into general education courses such as using drama in English courses or using dance in physical education courses. Ms. Bromley said they would encourage addressing the standards for both subjects instead of just having a student draw a picture and calling that arts education.

In response to questions from Chair Huff, Mr. Stroube said that the primary goal was equity across the schools throughout Kentucky. Some schools will find it easy to report 120 minutes of arts education, while others will need to make adjustments because they are not protecting that educational requirement at this time.

Responding to questions from Representative Willner, Mr. Stroube said they had spoken with Commissioner Lewis and Representative Hart in the development of the bill who advised them on portions specifically in relation to middle school. It was his impression that Commissioner Lewis was in favor of the bill.

In response to questions from Senator West, Ms. Dewey said with the changes in accountability there has been some data collected in the school report card regarding facilities and the number of minutes of arts education. But as of right now, there is no way to pull out specific and comparable data. She has been able to determine, however, that there are many school districts providing no arts education time and they are not aware it is a requirement to provide time in arts education. Mr. Stroube said they spoke with a representative of the Kentucky School Boards Association, and there has not been any large push back from superintendents at this time. Senator West advised that they take the time to speak with superintendents and ensure that everyone is on the same page regarding accountability. Ms. Bromley said Representative Hart has indicated that there will be some changes to the prefiled version of the bill to address many of the comments they have gotten during the interim.

Responding to questions from Senator Thomas, Ms. Hale said mandated time for middle school was initially a portion of the bill but that was eliminated at the recommendation of KDE. She said it made sense because many middle schoolers have already made a decision about whether arts education was of interest to them. When pressed, she said maybe 60 minutes of dedicated time would be beneficial to all students in middle school.

**Dataseam – Education and Workforce Development Efforts**

Brian Gupton, CEO, Dataseam, Parker Smith, CIO, Williamsburg Independent Schools, Samuel "Blake" McCullah, Dataseam IT apprentice, Whitley County Schools, and Elizabeth "Paige" Hart, Dataseam Scholar – Caldwell County, University of Louisville Medical School were present to speak about the implementation of the Dataseam program. It was initially designed in 2005 as a way for the University of Louisville to carry out cancer research while simultaneously providing schools with computers for students. With the Dataseam grid, local school districts are creating many enrichment opportunities around the high end Apple computers they have received through the program. Also, allocating funds to Dataseam from the general fund rather than coal severance funds opened up the opportunity for schools outside of coal producing counties to take advantage of a partnership with Dataseam.

Past testimony to the General Assembly by

Dataseam has been about the cancer research they have helped facilitate; however, the focus of today's presentation was on the workforce development advantages that Dataseam has brought to schools. Scholarships and local investments have been used to create opportunities outside the original scope of Dataseam and use funds not appropriated by the General Assembly. Mr. Gupton said his focus would be on increasing certification for IT professionals in relation to maintaining the Dataseam grid in schools, investments made by the University of Louisville and Morehead State University to the Dataseam Scholars program, and the newest initiative to encourage and prepare students for careers in information technology.

The investments made by Dataseam and their partners have driven Kentucky forward and increased opportunities for students. As an authorized training center for Apple technologies, they have been able to grow in-house technicians among students who are able to take those skills out of the schools into the workforce upon graduation. They also have encouraged professional development for adults wishing to work in the IT field, creating highly skilled individuals to fill local school CIO positions. Mr. Smith testified that he had an interest in technology as a student, but there were limited opportunities for him to pursue that interest even in college. It was not until his school became a partner with Dataseam that he was able to achieve his dream of being an IT professional. He spoke of the comradery he has developed with others through the Dataseam project and those that he has connected with since. Because of his certifications, he was able to apply for and receive the CIO position at Williamsburg. He looks forward to using his new position to bring more technology into his school and help students get the introduction to technology that he did not have as a student. Mr. Gupton next introduced the many members of the Dataseam team who were with him in the audience as the largest concentration of Apple systems engineers in the United States. They are an asset to the Dataseam program, their schools and communities, and Kentucky's continually growing next generation workforce.

Mr. Gupton then spoke about the Dataseam scholars program, which provides scholarships to students in STEM fields. Ms. Hart said she vividly remembered working in the Mac lab at her school in Princeton, Kentucky, and learning to do graphic design there. She described the experience of growing up in a very rural part of Kentucky and how this shaped her as much as working on the computers in the lab. As a Dataseam scholar, she received a scholarship covering her tuition to the University of Louisville to pursue a career in a STEM field, medicine. It had always been her dream to attend medical school, but it was a gift to be able to accomplish that without worrying about the high cost of tuition. Dataseam values postsecondary education and helps students stay in-state to better their home communities. Ms. Hart looks forward to the full-circle moment when, as a medical doctor, she can make use of cancer drugs developed using the computing power of Dataseam, which harnesses the very same Mac computers from her high school that continue to inspire other students to pursue a STEM career.

Mr. Gupton next spoke about the paid Dataseam apprenticeship program, which trains students for careers in information technology. Mr. McCullah spoke about his apprenticeship with Dataseam where he first experienced getting a paying job. This was also an opportunity for a career, not just a summer job. He learned about computer and system maintenance. He also has learned more than just information technology skills, but also other workforce skills from his peers and mentors in the Whitley County IT Department. Dataseam education is important and helps students achieve. He looks forward to graduating and pursuing a career in radiology where he can apply some of the many skills he has gained through the apprenticeship program. Mr. Gupton also recognized Connor Wilson and Morgan McKiddy from Whitley County as other Dataseam apprentices who worked over the summer to make sure the computers at their schools were ready for their teachers and peers when school started in August.

Morehead State University (MSU) is one of five universities offering a degree in space systems engineering and is a strong supporter of the Dataseam program and its workforce development initiatives. Recently, MSU sponsored a Dataseam day, which welcomed students and parents from across the state to visit their Space Science Center. During that event, Dataseam participants, all of whom came from outside of MSU's service area, were exposed to technology that is unique in the world and inspired those present to pursue careers in space science. Mr. Gupton thanked the General Assembly for their support of this endeavor and looked forward to a bright future with continued growth.

In response to questions from Chair Huff, Mr. Gupton said word of mouth has helped spread the knowledge about Dataseam to schools outside of the original coal counties. As technicians and superintendents who have participated with the program have moved to other districts, they have approached Dataseam to bring more schools into the project. He also said he views the Dataseam scholarships as workforce development funds and wants to keep these individuals in the state whenever possible and will discuss with the university partners the potential of adding that stipulation to the scholarship.

Responding to Representative Willner, Mr. Gupton said he hopes to have some Jefferson County success stories very soon. Workstations have been placed in computer science and aerospace magnet schools right now to create a pipeline of space science students to MSU. There will also be opportunities for urban-rural exchange through the Challenger school exchange program between Shawnee High School and Hazard County.

In response to a question from Representative Miller, Mr. Gupton said he was referring to middle schools as feeder schools, but he hopes to continue to provide awareness to students outside of the magnet schools to encourage their participation in information technology. When students see this as an opportunity to them in Kentucky, they will run to it. The five schools were selected by JCPS as those that would benefit most from the technology based on the STEM focus of Dataseam.

Representative Lewis said the Dataseam project has been one of the best programs currently being used in his schools. Seeing children interact and make use of the Apple computers in his rural school was so meaningful. Additionally, there is untold benefit from the cancer research that the computers perform at night.

With no further business to come before the committee, the meeting adjourned at 2:38 p.m. The next meeting of the committee will be November 20, 2019, at 1 p.m. in Annex Room 149.

## TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

**Minutes of the 6th Meeting of the 2019 Interim**

September 4, 2019

**Call to Order and Roll Call**

The 6th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, September 4, 2019, at 10:00 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senator Robin L. Webb; Representatives Kim King, Rick Rand, Brandon Reed, and Dean Schamore.

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy (GOAP); Bill McCloskey, Deputy Executive Director, GOAP; Linda Hampton, Executive Director, Governor's Office of Early Childhood; Sarah Vanover, Director, Division of Childcare, Department for Community Based Services, Cabinet for Health and Family Services (CHFS); Paula Goff, Branch Manager, Early Childhood Development, Department for Public Health, CHFS; Brenda Bruner, Executive Director, Southside Christian Daycare; and Brigitte Blom Ramsey, Executive Director, Prichard Committee for Academic Excellence.

LRC Staff: Nathan Smith, Tanya Monsanto, Kelly Ludwig, and Rachel Hartley.

**Governor's Office of Agricultural Policy Report**

Warren Beeler stated the United States Geological Survey is monitoring nitrate levels in the Ohio River to determine their origin. GOAP is taking a proactive approach with the project because agriculture is often blamed for water contamination. Mr. Beeler also provided an update on the success of the Shared-Use Equipment Program in Pulaski County.

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

The requested program amendments discussed included:

Harrison County Beef Cattle Association requested an additional $17,834 in Harrison County funds for CAIP. The board recommended approval, which would bring the program total to $350,313.

Carroll County Conservation District requested an additional $7,200 in Carroll County funds for CAIP. The board recommended approval, which would bring the program total to $145,281.

Ohio County Cattlemen's Association requested an additional $81,751 in Ohio County funds for CAIP. The board recommended approval, which would bring the program total to $98,651.

Whitley County Cattlemen's Association requested an additional $33,600 in Whitley County funds for CAIP. The board recommended approval, which would bring the program total to $37,100.

Bullitt County Conservation District requested an additional $50,172 in Bullitt County funds for CAIP. The board recommended approval, which would bring the program total to $135,172.

The projects discussed included:

PHARM Roadside Market was approved for up to $9,000 in state funds and $9,000 in Trimble County funds for the repair of a walk-in cooler, a new ice cream maker, and renovations to the market structure.

Hancock County Cattlemen's Association was approved for up to $5,000 in Hancock County funds for the Youth Agriculture Production Cost-Share Program.

Nicholas County Cooperative Extension was approved for up to $3,000 to build the Nicholas County Livestock Pavilion to serve as a ham house.

City of Marion Tourism Commission was approved for up to $11,350 in state funds and $3,000 in Crittenden County funds to pave the parking lot at the farmers market structure.

Rockcastle County Industrial Development Authority was approved for up to $170,000 in state funds and $5,000 in Rockcastle County funds to construct a farmers market building and covered pavilion.

Kipley J. McNally was denied $5,500 in state funds to implement water management practices on his farm due to other grant funding options available.

Lifeforce Organics was denied $11,638 in state funds to conduct a feasibility study due to limited producer impact.

National Energy Education Development Project was denied $150,625 in state funds to implement workshops for energy and agriculture due to limited producer impact and lack of matching funds.

Verti Grow Farms was denied $2,000,000 in state funds to construct an agritourism and organic farm due to limited producer impact.

**Early Childhood Development**

Linda Hampton stated the Governor's Office of Early Childhood (GOEC) received $29,071,100 in tobacco settlement funds for Fiscal Year 2019. The majority of the funds are used for the Child Care Program and Health Access Nurturing Development Services (HANDS).

The Early Childhood Advisory Council now has a strategic plan. The mission is to provide leadership and direction for Kentucky by providing a comprehensive and sustainable prenatal-to-age-five early childhood system that will ensure a strong foundation for all children.

Community Early Childhood Councils mobilize local community members to build innovative, collaborative partnerships to help Kentucky improve kindergarten readiness. A total of $1,069,345 was awarded to 72 councils during the 2019-2020 grant cycle.

The Early Childhood Institute was held in June of 2019 and the theme was "Believe in Me Kentucky." There were 167 professional development sessions with approximately 1,000 participants.

GOEC created the School Readiness Summit to engage superintendents and the community by providing an opportunity for collaboration and action planning. There are currently 30 teams, and each team will be awarded a grant of up to $45,000.

Sarah Vanover stated the Division of Child Care (DCC) has a budget allotment of $10,448,648 for Fiscal Year 2019, and the majority of the funds go directly to providers through quality incentives with Kentucky All Stars. The tobacco settlement funds are used as matching funds to receive the federal Child Care and Development Fund block grant.

In response to a question from Senator Embry, Ms. Vanover stated there are 2,067 child care centers in Kentucky that serve children who receive subsidy payments.

Brenda Bruner stated Southside Christian Daycare has 16 centers in Kentucky and all children should have access to high-quality childcare regardless of household income. All of the centers participate in Kentucky All Stars.

Paula Goff stated Early Childhood Mental Health (ECMH) receives $1,000,000 annually from the tobacco settlement funds, and the funds are part of the match for the Maternal and Child Title V Block Grant. The services include consultations, trainings, evaluations, and therapeutic services for children from birth to five years old. ECMH served over 4,000 children and provided training to over 1,000 education staff in Head Start centers, childcare centers, and state-funded preschools. There were also over 200 foster parents that participated in social-emotional development training.

Child Care Health Consultation receives $1,000,000 annually from the tobacco settlement funds. The funds support ten regional health consultants and two trainers to provide technical assistance and training on health, safety, and social-emotional development to licensed and certified childcare providers.

Health Access Nurturing Development Services (HANDS) is a statewide home visitation program. In Fiscal Year 2019 HANDS served over 5,000 families. The program is designed to assist overburdened parents during the prenatal period until the child's third birthday. Medicaid is now covering multigravida services and state funds are used as a match.

**Importance of Early Childhood Investments – Birth to 3rd Grade**

Brigitte Blom Ramsey stated the Prichard Committee for Academic Excellence (PCAE) was established in 1983 as an independent and nonprofit organization. It produces solutions-oriented policy research and recommendations that are supported and informed by engagement with the citizens of Kentucky.

Investment in early childhood development is important because 85 percent of brain development occurs before age five and achievement gaps begin to appear at 18 months. The workforce is impacted as 12.6 percent of Kentucky families report job insecurity due to lack of child care. The lack of child care costs employers over $3 billion annually.

PCAE conducted a poll in 2019 that found 76 percent of Kentuckians needed child care services or reported it to be somewhat or very difficult to find, and 74 percent of Kentucky voters strongly or somewhat support increasing state funding for quality child care and preschool.

In 2008, PCAE began tracking the progress Kentucky has made using 20 indicators of success in education. In 2008, Kentucky ranked 24th in the country for preschool enrollment and is currently ranked 41st.

The current Consensus Forecasting Group estimates a steep decline in the tobacco settlement funds as smoking decreases. The PCAE is encouraging legislative members to find ways to maintain the level of funding for early childhood development regardless of the source.

There being no further business, the meeting was adjourned.

## KENTUCKY CAREER AND TECHNICAL EDUCATION TASK FORCE

**Minutes of the 4th Meeting of the 2019 Interim**

September 11, 2019

**Call to Order and Roll Call**

The 4th meeting of the Kentucky Career and Technical Education Task Force was held on Wednesday, September 11, 2019, at 10:00 a.m. in Room 129 of the Capitol Annex. Representative Bobby McCool, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Bobby McCool, Co-Chair; Senators David P. Givens, Jimmy Higdon, and Johnny Ray Turner; Representative Kevin D. Bratcher; and Steven Thomas.

LRC Staff: Jo Carole Ellis, Yvette Perry, Lauren Busch, Seth Dawson, Chuck Truesdell, and Christal White.

**Approval of Minutes – August 21, 2019**

On a motion by Representative Bratcher and a second by Senator Turner, the minutes of the August 21, 2019, meeting were adopted.

**Shared-Time Technology Centers: A Study of Six State Funding Systems**

Stephen Pruitt, Ph.D., President, Southern Regional Education Board (SREB), introduced staff members Debra Lamothe, School Improvement Leadership Coach, and Lee Posey, Vice President for State Services. Dr. Pruitt presented the "Shared-Time Technology Centers – A Study of Six State Funding Systems" report.

SREB provided an overview of Career and Technical Education (CTE) funding mechanisms from states that either border Kentucky or operate several shared-time technology centers. With Kentucky being the only state to develop state-centered CTE programs through Area Technology Centers (ATCs), Dr. Pruitt said finding a comparable state was challenging. The report offers a brief discussion of the importance of CTE and a review of each state's CTE programs - fast facts, labor market snapshots, CTE facts, Perkins eligible agency and annual funding, each state's funding method, additional notes on funding, and considerations for review.

The complete report, "Shared-Time Technology Centers – A Study of Six State Funding Systems" and the power point presentation may be accessed at https://apps.legislature.ky.gov/CommitteeDocuments/329/ by selecting the following options: Committees/ Special Committees/ KCTE/Meeting Materials.

By 2020, Dr. Pruitt said SREB has determined the dependent portion of the population, defined as children through traditional college-age young adults and people who qualify for Social Security and Medicare, is expected to nearly equal the working-age population, those between the ages of 25 and 64. In 2017, the dependent population represented 48 percent of SREB's regional population and predictions indicate that by 2030, for every 51 dependent people, only 47 working-age adults will provide for or contribute to economic viability.

With automation changing the workplace, it is important to consider the needs of the future workforce and develop learning experiences that will prepare young people with anticipated competencies. Five percent of Kentucky's jobs are completely automatable and 44 percent of all work activities have automation potential. The top five potential industries are food preparation and serving, sales, office and administration, production, and transportation. SREB determined that without action from state and business leaders some 1.9 million workers in Kentucky could be affected by automation in the coming decades.

Dr. Pruitt said high-quality CTE programs must be relevant to specific areas, require effective training in project-based learning and rigorous coursework, and actively involve employers in the training and education of youth. The Kentucky Department of Education (KDE), the Workforce Innovation Boards, and an incredible data system provide a great opportunity for partnership.

Critical aspects of a high-quality CTE include access and equity in securing and leveraging resources to close CTE opportunity gaps, working with regional stakeholders to expand geographic access to CTE, and dismantling barriers that prevent learners from entering CTE programs. Common barriers may include geography and availability, funding and resources, at-home factors, academic preparation, awareness and advising, cultural awareness, and physical and learning disabilities.

CTE funding methods fall into one of three categories. 1) The "Foundation Funding Only" approach is used in local CTE programs financed out of general state aid formulas that provide no earmark for CTEs; 2) "Funding for Shared-Time Technology Centers" provides dedicated funds to support programming at high schools or community technical colleges and is supported through specific earmarking through a funding formula; and 3) "Categorical Funding" is funding dedicated for CTE programs distributed to local education agencies or institutions of higher education to support career-related instructional services and may include student-based, cost-based, and/or unit-based formulas.

The states reviewed in the report, Arkansas, Indiana, Ohio, Oklahoma, South Carolina, and West Virginia, use a combination of these approaches to fund CTE programs.

Arkansas provides a total categorical state funding for CTE of $20,136,383 with 28 local education agencies and 21 locations on postsecondary campuses. Funding flows from the state to the centers through vocational center aid and training fees. Vocational center aid is based on enrollment during the previous school year. In Arkansas, each school district annually distributes a fixed-rate of $3250 for full-time equivalent (FTE) students attending a secondary career center. Allocations are capped at 60 percent if more than 60 percent of students come from a single high school and funds are distributed based on actual enrollments per semester. The Arkansas Office for Skills Development (AOSD) reimburses the districts for funds distributed to secondary career centers for the previous school year, amounting roughly to $10 to $11 million annually. School districts benefit from receiving quarterly payments; however, legislative audit issues arise due to accounts not being reconciled until the end of the school year. The AOSD disburses $9 to $10 million to districts to alleviate waiting on funds from the state.

In Indiana, the CTE total categorical state funding is $130 million. Additional pupil funding for CTE is distributed through a weighted formula based on credit hours and student enrollment in state-approved CTE programs. The regionally managed programs have a differential weighted formula based on labor market data. Programs preparing students for careers in industries that require a more than moderate number of future employees and pay high wages receiving the largest weight. Advanced CTE course funding levels are categorized by value, with high-value programs receiving $680; moderate value programs receiving $400; and less than moderate value programs receiving $200 per credit hour. Other CTE course funding level reimbursements per pupil are $300 for introductory programs and $150 for apprenticeship programs, cooperative education courses, foundational, work-based learning, and area participation programs. The complexity of this method is described in detail in the link to the report on page 2.

Ohio's total categorical state funding for CTE is $290,782,399. All 612 school districts are connected to one of 93 CTE planning districts, using three models: city districts, compacted districts, and Joint Vocational School Districts (JVSD). Each model is based on a regional approach within each district. The majority of city districts are found in larger cities; compact districts are formed of several districts uniting to offer CTE at one of the high schools; and JVDS districts, a consortium of 36 districts supporting four career centers, allow students to elect to attend one-half or one full school day. The JVSD acts as a local education agency with a superintendent, business office, and appointed boards including industry and community members. Each model has the ability to levy additional taxes to support CTE. Tuition per-pupil allocation rates differ among the chosen pathways, ranging from $1,308 to $5,192, with the most demanding occupations or the greatest cost of supporting the program being at the top of the scale. A breakdown of each category is provided in the full report.

The total categorical state funding for Oklahoma's CTE is $20 million and includes a statewide network of 29 technology center districts and 58 campuses. A constitutional amendment established "area vocational-technical schools." Oklahoma Technology Centers act as their own school districts, are created and administered by a local board elected by area voters, and state funding depends on the millage levies approved by district voters. Oklahoma's technology centers are adapting schedules and pursuing additional avenues to provide students the opportunity and flexibility to attend. In the evenings, the centers provide education for 10,000 adults. On a statewide average, technology centers receive about two-thirds of their funding at the local level and the remaining is a mixture of state and federal funds. A separate system within the Oklahoma Department of Education is specific to CTE, similar to what Kentucky had before the merger. In Oklahoma, CTEs are available only to junior and senior students and are not available within high schools buildings. High admission requirements include good attendance, good grades, and no disciplinary issues. Dr. Pruitt said the disciplinary requirement could create a barrier in Kentucky since many students with behavioral issues could benefit the most from CTE. He also said there is a concern with the transfer of credits in Oklahoma due to the difficulty of having dual enrollment at a career center and a community college.

South Carolina's total categorical state funding for CTE is $20 million. Funds are allocated in support of CTE programs for the cost of equipment, supplies, industry certifications, work-based learning activities, and continuous school improvement strategies. South Carolina has 79 school districts and 27 career centers serving a single district and operated by local boards of education. The district receives federal Perkins funding as well as state CTE funding, and the funds are shared with the career centers. South Carolina's Office of CTE provides local educational agencies with guidance and assistance through administrative provisions for success and compliance. Twelve multi-district career centers serve students from more than one area. Multi-district career centers receive federal funding through consortium agreements with feeder districts and state CTE funding. Federal funding is allocated based on a formula defined by legislation; state funding is allocated based on enrollment in CTE programs; and local school districts and multi-district career centers are required to submit a local application and adhere to state and federal laws and regulations. South Carolina has more ability to shape what goes on in CTE through approvals but are not involved in the day-to-day operations of the schools.

The total categorical state funding for CTE in West Virginia is $18 million with 22 shared-time county technical centers and 7 multi-county shared-time technical centers. Secondary CTE funds are distributed in four categories: 1) secondary block grants; 2) travel; 3) equipment replacement; and 4) multi-county grant funding. The CTEs are governed by administrative councils made up of superintendents, a county-board member from each participating county, and a representative from the Associate State Superintendent of Schools. Funds are intended to offset the additional costs of providing CTE services, defined by the state as extended employment for instructional and administrative staff, supplies, instructional materials, equipment, and placement services. To be eligible for block funds, providers must assign oversight of technical programs and those offering more than five CTE programs must appoint a certified program administrator.

SREB provided the following considerations for Kentucky moving forward: 1) determine the characteristics and competencies the workforce of 2035 should possess; 2) select a governance model that drives Kentucky's funding approach and not allow the funding model to determine the state's governance structure; 3) establish goals for CTE program completers; 4) identify criteria for high-quality CTE programs; and 5) address access and equity when determining the funding model.

In response to Senator Higdon's question, Ms. Lamothe said reimbursements are calculated per year, per student, per category identification. Mr. Pruitt said reimbursement rates differentiate depending on the number and value of the categories for which a student may qualify.

Responding to Representative McCool's question, Dr. Pruitt said although state rankings are not available, the "Fast Facts" section in the SREB report offers indicators on percentages of CTE concentrator graduation rates; continuation to postsecondary education; and placement in employment, military, or apprenticeship programs within six months of completion. Dr. Pruitt said comparisons of strengths and weaknesses is difficult due to each states' differences. He said aspects of each of the six states and perhaps states not included in the study may deserve consideration as legislation is written and funding mechanisms are developed. Ms. Lamothe said broadening the selection of the study would have provided differences of various CTE structures and funding mechanisms. With the use of Perkins V dollars, Ms. Lamothe said federal rankings are most likely available to ensure governance and funding structures meet indicators for students.

Senator Turner thanked Dr. Pruitt for the outstanding job in Kentucky and for his dedication through SREB.

Responding to a question by Senator Higdon, Dr. Pruitt said Kentucky is the only state-managed CTE with a robust data system that provides valuable information to ensure funding and governance structures will meet regional needs. The commonality among the states in the SREB study identify regional coordination and management. Business and industry labor markets partnering with workforce development regions as part of a consortium will determine if Kentucky partnerships and priorities are being fully maximized. KDE Associate Commissioner David Horseman said Kentucky has several academies with inter-local district agreements in place.

Responding to Representative Bratcher's request for final words of wisdom, Dr. Pruitt suggested a systemic approach to education and workforce automation. He said taking a very deliberate look across the board to ensure alignment of federal funding mechanisms with a unified vision to balance the workforce needs for today and the future is crucial. He said the Workforce Innovation Boards, local Chambers of Commerce, and legislators have the ability to ask pertinent questions to determine future workforce expectations for unprepared and unaware students.

Dr. Pruitt said opportunities in Kentucky are incredible due to robust engagement among the General Assembly and KDE through a rare collection of data in Kentucky that is unseen in other states and the ability to identify the top five industries per region. He suggested Kentucky look where our CTE system needs to be, build the pieces, and identify issues to achieve those goals. Dr. Pruitt said it is important to have a unified vision of workforce needs to meet the needs as automation and technology changes and to provide CTE-based skills that evolve as jobs and markets change.

Representative McCool announced the next meeting of the task force will be October 2, 2019.

There being no further business before the task force, the meeting adjourned at 11 a.m.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the September Meeting

September 16, 2019

**Call to Order and Roll Call**

The September meeting of the Administrative Regulation Review Subcommittee was held on Monday, September 16, 2019, at 10:00 AM, in Room 149 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Rosemary Holbrook, Personnel Cabinet; Todd Renner, Department of Revenue; Ryan Barrow, Office of Financial Management; Anthony Grey, Larry Hadley, Board of Pharmacy, Marc Manley, Board of Cosmetology; David Trimble, Board of Embalmers and Funeral Directors; Ron Brooks, Brent McCarty, Steven Phillips, Paul Wikes, Karen Waldrop, Department of Fish and Wildlife Resources; Jason Glass, Clint Quarles, Department of Agriculture; Sean Alteri, Amanda LeFevre, Department of Environmental Protection; Amy Barker, Brandon Lynch, Department of Corrections; William Codell, Lori Bradbury-Robinson; Tamara Hart, Elise Marti, Department of Juvenile Justice; Todd Allen, Steve Lyles, Department of Education; Michael Nemes, Bridget Papalia, Brooken Smith, Education and Workforce Development Cabinet; Joe Donohue, Department of Financial Institutions; Erica Brakefield, Julie Brooks, Leanna Caven, Frank Jackson, Devon McFadden, Department for Public Health; Stephanie Brammer-Barnes, Steven Davis, Office Inspector General; Jonathan Scott, Department for Medicaid Services; Shannon Gadd, Jessica Wayne, Tonia Wells, Department for Aging and Independent Living; Erika Bauford, Laura Begin, Kristy Kidd, Department for Community Based Services; Shawn Cox, William Dolan, Jon Dougherty, Ankur Gopal, Betsy Johnson, Joe Jurgensen, Marc Wilson, Ron Wolf.

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

The Administrative Regulation Review Subcommittee met on Monday, September 16, 2019, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

PERSONNEL CABINET: Classified

101 KAR 2:102. Classified leave general requirements. Mary Elizabeth Bailey, commissioner, and Rosemary Holbrook, general counsel, represented the cabinet.

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

Unclassified

101 KAR 3:015. Leave requirements for unclassified service.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Sales and

Use Tax; Registration and Collection

103 KAR 25:131. Current month accelerated payment of sales and use taxes by larger taxpayers. Todd Renner, executive director, Office of Tax Policy and Regulation, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Sales and Use Tax; Service and Professional Occupations

103 KAR 26:070. Contractors.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 26:090. Veterinarians and pet care providers.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1 through 4, 7, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Sales and Use Tax; Miscellaneous Retailer Occupations

103 KAR 27:180. Vending machines.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1, 2, and 4 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Sales and Use Tax; Miscellaneous Retail Transactions

103 KAR 28:010. Admissions.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 through 4 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.

Sales and Use Tax; General Exemptions

103 KAR 30:170. Containers, wrapping, and packing materials.

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

Selective Excise Tax; Cigarettes

103 KAR 41:220. Applications, stamp orders, returns, reports, and statements to be filed electronically – waiver.

In response to a question by Co-Chair Hale, Mr. Renner stated that this administrative regulation did not adjust the cigarette tax. This administrative regulation required cigarette vendors to report tax information electronically in order to improve efficiency.

Office of Financial Management: State Investment Commission

200 KAR 14:201. Repeal of 200 KAR 014:200. Ryan Barrow, executive director, represented the commission.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:165. Transfer of prescription information. Anthony Gray, general counsel, and Larry Hadley, executive director, represented the board.

Board of Cosmetology

201 KAR 12:030. Licensing, permits, and examinations. Marc Manley, counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph, Sections 9 through 11 and 20, and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 14 to authorize a designee of the board inspector and board administrator to conduct an inspection of a school. Without objection, and with agreement of the agency, the amendments were approved.

Board of Embalmers and Funeral Directors

201 KAR 15:010. Definitions. David Trimble, general counsel, represented the board.

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

201 KAR 15:015. Per Diem compensation of board members.

201 KAR 15:030. Fees.

In response to questions by Representative Marzian, Mr. Trimble stated that fee increases applied to licensees and funeral establishments. Fee increases ranged from twenty-five (25) dollars to fifty (50) dollars yearly, which raised fees to the statutory caps.

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

201 KAR 15:040. Examination.

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

201 KAR 15:050. Apprenticeship and supervision requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 4, and 6 and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 15:080. Complaints.

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

201 KAR 15:110. Funeral establishment criteria.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph; Sections 1 through 3, 5, 7, 10, and 11; and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 15:120. Requirements for applicants holding a license in another state.

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

201 KAR 15:125. Surface Transportation Permit.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 through 3 and 5; and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A; and (2) to add a section to establish a renewal process and renewal fee for a Surface Transportation Permit. 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 1:185. Pay lakes. Ron Brooks, director, Fisheries Division; Brent McCarty, branch manager, Recruitment, Retention, and Reactivation Branch; Steven Phillips, staff attorney; and Karen Waldrop, deputy commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to make technical changes to the agency contact information. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 1:201. Taking of fish by traditional fishing methods.

A motion was made and seconded to approve the following amendments: to make technical changes to the agency contact information. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 1:410. Taking of fish by nontraditional fishing methods.

A motion was made and seconded to approve the following amendments: to make technical changes to the agency contact information. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT: Department of Agriculture: Kentucky Grain Insurance and Grain Dealers

302 KAR 34:011. Repeal of 302 KAR 034:010, 302 KAR 034:020, 302 KAR 034:030, 302 KAR 034:040, 302 KAR 034:050, and 302 KAR 034:060. Jason Glass, director, and Clint Quarles, staff attorney, represented the department.

Grain Storage

302 KAR 35:011. Repeal of 302 KAR 035:020, 302 KAR 035:030, 302 KAR 035:040, 302 KAR 035:050, 302 KAR 035:060, and 302 KAR 035:070.

Bond and Grain Fund Distribution

302 KAR 36:011. Repeal of 302 KAR 036:010.

Regulation and Inspection; Packaging and Labeling

302 KAR 75:130. Packaging and labeling.

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

Regulation and Inspection; Method of Sale

302 KAR 76:100. Method of sale.

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

Regulation and Inspection; Scanner

302 KAR 80:010. Examination procedure for price verification.

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

Regulation and Inspection; Commercial Weighing and Measuring Devices

302 KAR 81:010. Technical requirements for commercial weighing and measuring devices.

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

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:010. Operation of wastewater systems by certified operators. Sean Alteri, deputy commissioner, and Amanda LeFevre, director, represented the division.

Water Quality Certification

401 KAR 8:030. Water treatment plant and water distribution system classification and staffing.

401 KAR 8:050. Drinking water program fees.

Certified Operators

401 KAR 11:001. Definitions for 401 KAR Chapter 011.

401 KAR 11:030. Wastewater treatment and collection system operators; classification and qualifications.

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

401 KAR 11:040. Water treatment and distribution system operators; classification and qualifications.

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

401 KAR 11:050. Operator and training provider certification.

401 KAR 11:060. Operator and training provider certification fees.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:110. Roederer Correctional Complex. Amy Barker, assistant general counsel, and Brandon Lynch, program administrator, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1 and Policy 16-01-01 to revise inmate visiting procedures, including: (1) establishing a two (2) hour limit for permanent inmates; (2) specifying that accepting additional visitors shall not restart the time limit; (3) prohibiting visitor movement during count times; (4) increasing the number of night-visit inmates from fifteen (15) to twenty-one (21); and (5) replacing a set time for night visits with a posted time. Without objection, and with agreement of the agency, the amendments were approved.

Department of Juvenile Justice: Child Welfare

505 KAR 1:160. Department of Juvenile Justice Policy and Procedures Manual: juvenile sexual offender treatment program. William Codell, attorney; Lori Bradbury – Robinson, licensed psychologist and program administrator; Tamara Hart, licensed psychological associate; and Elise Marti, staff attorney, represented the department.

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

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Chief State School Officer

701 KAR 5:090. Teacher disciplinary hearings. Todd Allen, deputy general counsel, represented the office.

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

Office of District Support Services: School Administration and Finance

702 KAR 3:130. Internal accounting.

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

Apprenticeship Standards

787 KAR 3:010. Registration of apprenticeship programs. Michael Nemes, deputy secretary; Bridget Papalia, general counsel; and Brooken Smith, chief of staff, represented the department. Shawn Cox, director of external affairs, Ion Apex Electric; Jon Dougherty, education director, AMTECK; Ankur Gopal, CEO, Interapt LLC; Marc Wilson, Top Shelf Lobby, LLC and Associated Builders and Contractors; and Ron Wolf, director of external relations, AGC of Kentucky, appeared in support of this administrative regulation.

In response to a question by Co-Chair Hale, Mr. Nemes stated that changes applied to the Registered Apprenticeship Program only. This did not affect licensing policy and was a superior training program. Businesses were having difficulty finding skilled workforces, especially in the areas of electrical work, carpentry, and plumbing. Kentucky apprenticeship requirements were burdensome and hindered developing the needed skilled workforces. The Registered Apprenticeship Program established safe and efficient training.

In response to a question by Co-Chair Hale, Mr. Smith stated that these changes adjusted journeyworker to apprentice ratio requirements. The proposed baseline ratio would be one (1) apprentice per journeyworker and authorized a second apprentice once the first had over 2,000 on-the job experience hours. Only low and medium-risk occupations were eligible for the ratio modifications. Changes did not impact more stringent employer requirements or collective bargaining agreements that established different ratios.

In response to a question by Co-Chair Hale, Mr. Gopal stated that the Registered Apprenticeship Program was a successful model for developing a workforce with the needed aptitude. This model allowed Interapt LLC to remain in Louisville, rather than the company seeking a workforce elsewhere.

In response to a question by Co-Chair Hale, Mr. Wilson stated that Top Shelf Lobby, LLC, supported the Registered Apprenticeship Program because this was the exact remedy needed to solve Kentucky's workforce crisis.

In response to a question by Co-Chair Hale, Mr. Cox stated that Ion Apex Electric supported the Registered Apprenticeship Program because the shortage of skilled workers in the trades was becoming more pronounced. This was a step forward to alleviate the shortage and provide quality career paths.

In response to a question by Co-Chair Hale, Mr. Wolf stated that AGC of Kentucky supported the Registered Apprenticeship Program because American economic leadership depended on a skilled workforce, especially in the commercial construction industry.

In response to a question by Co-Chair Hale, Mr. Dougherty stated that AMTECK was concerned that Kentucky law allowed, except for prevailing wage or state-funded projects, an unrestricted number of unlicensed electrical workers as long as there was at least one (1) licensed electrician. The Registered Apprenticeship Program would incentivize companies to more appropriately train employees.

Representative Frazier stated that she fully supported the Registered Apprenticeship Program.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1, 2, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Financial Institutions: Administration

808 KAR 1:170. Licensing and registration. Joe Donohue, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1 through 4, 8, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Check Cashing

808 KAR 9:050. Licensee change of control.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Public Health Protection and Safety: Public Accommodations

902 KAR 7:010. Hotel and motel code. Erica Brakefield, section supervisor; Julie Brooks, regulation coordinator; and Leanna Caven, program evaluator, represented the division.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 4 through 9, 14, 16 through 18, 20, and 22 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Public Health: Division of Prevention and Quality Improvement: Programs for the Underserved

902 KAR 21:020. Kentucky Colon Screening Program. Julie Brooks, regulation coordinator, Devon McFadden, director, represented the division.

Division of Public Health Protection and Safety: Milk and Products

902 KAR 50:003. Repeal of 902 KAR 050:002. Julie Brooks, regulation coordinator, and Frank Jackson, program evaluator, represented the division.

902 KAR 50:005. Milk Advisory Committee.

Office of Inspector General: Division of Audits and Investigations: Controlled Substances

902 KAR 55:120. Disposal of prescription controlled substances. Stephanie Brammer – Barnes, regulation coordinator; Steve Davis, inspector general; and Jill Lee, pharmacist consultant, represented the division.

Department for Medicaid Services: Division of Fiscal Management: Hospital Service Coverage and Reimbursement

907 KAR 10:830 & E. Acute care inpatient hospital reimbursement. Jonathan Scott, regulatory and legislative advisor, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 2, and 7 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 7 to clarify that Worksheet B is part of the CMS 2552 cost report; and (3) to amend Sections 2 and 7 to require, effective beginning May 10, 2019, pursuant to federal approval, that the department shall make the annual IME payment to state university teaching hospitals and provide a supplemental DGME payment for the direct costs of graduate medical education incurred by eligible in-state hospitals. Without objection, and with agreement of the agency, the amendments were approved.

Department for Aging and Independent Living: Division of Guardianship

910 KAR 2:040. Service provisions for adult guardianship. Shannon Gadd, commissioner; Jessica Wayne, assistant director; and Tonia Wells, director, represented the division. William Dolan, attorney, Kentucky Protection and Advocacy, appeared in opposition to this administrative regulation.

In response to a question by Representative Frazier, Ms. Wells stated that DNR orders and end-of-life decisions were person centered and physician directed. Family were notified and given an opportunity to provide feedback. If there was a conflict, guardianship procedures were discussed. At least two (2) physicians were included in the process.

In response to a question by Co-Chair Hale, Mr. Dolan stated that Kentucky Protection and Advocacy was concerned that guardian visits were going from four (4) required visits to just one (1). Guardians previously were required to procure services, while the new provisions were more of a sign off on case manager decisions. Kentucky Protection and Advocacy also had concerns regarding birth control provisions. Only one (1), rather the previous two (2) physicians, was required for a DNR situation.

In response to a question by Co-Chair Hale, Ms. Gadd stated that the change in guardian visit requirements was for the purposes of adding flexibility. Individuals under guardianship were under a wide variety of situations. The securing of services component was for compliance with the nationally recognized Uniform Act. Ms. Wells stated that birth control was a medical decision and medical decisions were made by guardians. These were physician based for various health reasons. Ms. Gadd and Ms. Wells stated that the change in the number of physicians required for a DNR was an access issue, especially in rural areas where it was difficult to timely consult two (2) physicians.

Co-Chair Hale encouraged the agency to continue dialogue with Mr. Dolan.

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

Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:470. Central registry. Erika Bauford, section supervisor; Laura Begin, regulation coordinator; and Kristy Kidd, adoption specialist, represented the division.

Child Welfare

922 KAR 1:560. Putative father registry and operating procedures.

A motion was made and seconded to approve the following amendments: to amend material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

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

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

The following administrative regulations were deferred or removed from the September 16, 2019, subcommittee agenda:

COUNCIL ON POST SECONDARY EDUCATION: Nonpublic Colleges

13 KAR 1:020. Private college licensing.

STATE BOARD OF ELECTIONS: Forms and Procedures

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

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

102 KAR 1:032. Bona Fide Retirement.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:095. Pharmacist interns.

Board of Dentistry

201 KAR 8:540. Dental practices and prescription writing.

Real Estate Authority: Real Estate Commission

201 KAR 11:002. Repeal of 201 KAR 011:030, 201 KAR 011:045, 201 KAR 011:062, 201 KAR 011:090, 201 KAR 011:095, 201 KAR 011:100, 201 KAR 011:110, 201 KAR 011:115, 201 KAR 011:135, 201 KAR 011:145, 201 KAR 011:147, 201 KAR 011:175, 201 KAR 011:180, 201 KAR 011:195, 201 KAR 011:215, 201 KAR 011:225, 201 KAR 011:230, 201 KAR 011:232, 201 KAR 011:235, 201 KAR 011:240, 201 KAR 011:245, 201 KAR 011:250, 201 KAR 011:300, 201 KAR 011:350, 201 KAR 011:400, 201 KAR 011:410, 201 KAR 011:440, 201 KAR 011:450, and 201 KAR 011:460.

Real Estate Commission

201 KAR 11:011. Definitions for 201 KAR Chapter 011.

201 KAR 11:105. Advertising.

201 KAR 11:121. Standards of professional conduct.

201 KAR 11:170. Education provider requirements.

201 KAR 11:190. Consumer and administrative complaints; discipline; administrative hearings.

201 KAR 11:210. Licensing, education, and testing requirements.

201 KAR 11:220. Errors and omissions insurance requirements.

201 KAR 11:461. Repeal of 201 KAR

011:420.

Real Estate Appraisers

201 KAR 30:130. Education provider, instructor, and course. Tony Cotto, executive advisor, Public Protection Cabinet, and Marc Manley, acting general counsel, represented the board.

In response to a question by Co-Chair Hale, Mr. Manley requested that this administrative regulation be deferred to the October meeting of the subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred.

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

301 KAR 2:185. Hunter education. Ron Brooks, director, Fisheries Division; Brent McCarty, branch manager, Recruitment, Retention, and Reactivation Branch; Steven Phillips, staff attorney; and Karen Waldrop, deputy commissioner, represented the department.

In response to questions by Representative Turner, Mr. McCarty stated that twenty-two (22) other states authorized hunter certification without an in-person course or range day. The department reached out to those states and, of those who responded, data indicated an increased number of certified hunters and a decrease in adverse hunting-related incidents. This administrative regulation would allow hunters to become certified via on-line courses. Because on-line certification would be convenient, previously exempt landowners hunting on their own property and born on or after January 1, 2002, would be required to be certified. Live-fire training for hunter certification would be optional, rather than mandatory.

Representative Turner stated that he was opposed to this policy because, during a time of debate regarding gun violence in America, the department might be taking away the one (1) chance many youth would have for live-fire training pertaining to firearm safety. In response, Ms. Waldrop stated that many in-person course and range days provided little in-depth firearm handling. For example, firing an air rifle at a state fair would qualify for hunter certification. Often a youth would only handle a firearm once or twice at an in-person course or range day. The department intended to establish a more rigorous in-person course or range day for those hunters who so opted. Hunters could bring their personal firearms in order to gain better training regarding the circumstances they might encounter. Courses could be made better if there were fewer of them. Representative Turner stated that the department seemed to be suggesting that a hunter could be more acclimated to firearms through an on-line experience, rather than an in-person course or range day. In response, Ms. Waldrop stated that the on-line course was focused on firearm safety and other hunter safety issues, rather than firearm handling. Representative Turner stated that it seemed almost superfluous to require hunter certification at all without the live-fire handling component.

In response to a question by Representative Turner, Ms. Waldrop stated that the department was not making this proposal in order to procure federal matching funds, rather to remove barriers to hunter certification. Travel, time, and cost had become barriers to attaining hunter certification. An in-person course or range day would still be available for those who opted to attend. These courses would be more rigorous than many current events. Representative Turner stated that the live-fire requirement could save lives. In response, Mr. McCarty stated that, based on data that indicated that on-line courses reduced adverse hunting-related incidents, the failure to remove the requirement could itself result in adverse hunting-related incidents. Indiana had been implementing a similar policy since 2004 and had a decrease in adverse hunting-related incidents. The choice was between firearm training and quality firearm training. Ms. Waldrop stated that it was the goal of the department to properly train hunters and increase hunting opportunities.

In response to questions by Representative Frazier, Mr. McCarty stated that initially the department expected to lose money as a result of this policy because federal matching funds were not available for donated courses. The NRA had donated a free on-line course. Since that time, it was determined that federal matching funds could be used for donated courses. Ms. Waldrop stated that the department expected funding levels pursuant to this policy to be similar to previous levels and funding was not a component in the department's decisions regarding this policy. The department expected the policy to encourage more people to become hunter certified. Mr. McCarty stated that the other states that had implemented this policy initially experienced an upsurge in certifications due to noncompliant hunters opting to become certified due to the added convenience. The uptick was not necessarily due to new hunters. Typically, fifty (50) percent of hunters seeking certification still opted to take the in-person course or range day.

In response to questions by Co-Chair West, Ms. Waldrop stated that landowners hunting on their own property were previously exempt from hunter certification requirements. This policy change would require hunter certification for landowners hunting on their own land; however, it would only apply to those born on or after January 1, 2002. Mr. McCarty stated that these policy changes had significant support from stakeholders. Data indicated that on-line hunter certification resulted in more certified hunters and fewer adverse hunting-related incidents. Typically, most states experienced about a fifty (50) percent decrease in attendance of the in-person courses or range days. Ms. Waldrop stated that in-person courses and range days would still be available and would be more rigorous than in the past.

In response to a question by Representative Turner, Ms. Waldrop stated that, when she testified that federal matching funds were not an issue, the intention of the statement was that federal matching funds were not an issue in the policy-making decision. The department did expect federal matching funds. Mr. McCarty stated that the decision was based on increasing safety, even to the point when the department expected to lose money, although that was not now the case.

Representative Turner stated that it was important for every youth to have as much training in hunter safety as possible, especially with the level of gun violence in America. This policy would undermine youth hunter safety training. Representative Turner stated that, in good conscience, he could not support this policy. Many youth did not have mentoring regarding firearm safety. It was troubling that an agency would be insensitive to concerns regarding youth safety pertaining to firearms.

Representative Turner made a motion, seconded by Senator Raque Adams, to find this administrative regulation deficient. In response to a question by Co-Chair Hale, Ms. Waldrop requested that this administrative regulation be deferred to the October meeting of the subcommittee and asked the grounds for the finding of deficiency. Representative Turner withdrew the motion to find this administrative regulation deficient and stated that KRS 13A.030(2)(a) authorized the subcommittee to make a nonbinding determination of deficiency and, in this case, the basis was safety concerns. In response to a question by Representative Turner, Ms. Waldrop stated that the commission and sportsmen would need to know the safety concerns basis for a nonbinding determination of deficiency. A motion was made and seconded to defer consideration of this administrative regulation to the October subcommittee meeting. Without objection, and with agreement of the agency, this administrative regulation was deferred.

Co-Chair Hale stated that, while not questioning the department's motive, the perception of this policy seemed unappealing at this time. In response to a question by Senator Clark, staff stated that, if this administrative regulation was deemed deficient by this subcommittee, the Governor would be contacted in accordance with KRS 13A.330. The second committee that would consider this administrative regulation was expected to be the Natural Resources and Energy Committee. Co-Chair West stated that public perception and timing were concerns regarding this administrative regulation. Any administrative regulation should represent the intent of the General Assembly, and the intent of the General Assembly seemed to be, generally, toward more, rather than less firearm education.

A motion was made and seconded to approve the following amendments: to make technical changes to the agency contact information. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Wells

401 KAR 6:001 & E. Definitions for 401 KAR Chapter 006.

401 KAR 6:211. Repeal of 401 KAR 006:200.

401 KAR 6:310 & E. Water supply well construction practices and standards.

401 KAR 6:320 & E. Certification of water well drillers and water well driller assistants.

401 KAR 6:350 & E. Monitoring well construction practices and standards.

Water Quality Standards

401 KAR 10:001. Definitions for 401 KAR Chapter 010.

401 KAR 10:026. Designation of uses of surface waters.

401 KAR 10:029. General provisions.

401 KAR 10:030. Antidegradation policy implementation methodology.

401 KAR 10:031. Surface water standards.

Division for Air Quality: Attainment and Maintenance of the National Ambient Air Quality Standards

401 KAR 51:010. Attainment status designations.

JUSTICE AND PUBLIC SAFETY CABINET: Asset Forfeiture

500 KAR 9:011. Repeal of 500 KAR 009:010, 500 KAR 009:020, 500 KAR 009:030, and 500 KAR 009:040.

Motorcycle Safety Education Commission

500 KAR 15:010 & E. Motorcycle safety education program.

Office of the Secretary

501 KAR 6:060. Northpoint Training Center.

501 KAR 6:140. Bell County Forestry Camp.

TRANSPORTATION CABINET: Department of Vehicle Licensing: Driver Improvement

601 KAR 13:090. Medical Review Board; basis for examination, evaluation, tests.

601 KAR 13:100. Medical standards for operators of motor vehicles.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Oil and Gas

805 KAR 1:001. Definitions for 805 KAR Chapter 001.

805 KAR 1:020. Protection of fresh water zones.

805 KAR 1:030. Well location and as-drilled location plat, preparation, form and contents.

805 KAR 1:050. Bonds, requirements, cancellation.

805 KAR 1:060. Plugging wells.

805 KAR 1:080. Gas storage reservoirs; drilling, plugging in vicinity.

805 KAR 1:110. Underground injection control.

805 KAR 1:120. Operating or deepening existing wells and drilling deeper than the permitted depth.

805 KAR 1:140. Directional and horizontal wells.

Division of Oil and Gas

805 KAR 1:170. Content of the operations and reclamation plan.

805 KAR 1:180. Production reporting.

805 KAR 1:190. Gathering lines.

805 KAR 1:200. General information associated with oil and gas permits.

Sanctions and Penalties

805 KAR 9:011. Repeal of 805 KAR Chapter 009.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:020. False or deceptive names, titles, prohibited.

806 KAR 9:030. Adjuster licensing restrictions.

806 KAR 9:061. Repeal of 806 KAR 009:060.

806 KAR 9:070. Examinations.

806 KAR 9:110. Agent's rights after contract termination.

806 KAR 9:190. Disclosure requirements for financial institutions authorized to engage in insurance agency activities.

806 KAR 9:200. Volume of insurance agent exchange of business.

806 KAR 9:310. Life settlement licenses.

806 KAR 9:321. Repeal of 806 KAR 009:320.

806 KAR 9:341. Repeal of 806 KAR 009:341.

806 KAR 9:350. Recognition of financial planning certification and designation for receipt of fees and commissions.

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

902 KAR 20:036. Operation and services; personal care homes. Stephanie Brammer – Barnes, regulation coordinator; Kara Daniel, division director; Steven Davis, inspector general; and Wendy Morris, commissioner, represented the division. Betsy Johnson, president, and Joe Jurgensen, administrator, Kentucky Association of Health Care Facilities/Kentucky Center for Assisted Living, appeared in opposition to this administrative regulation.

In response to a question by Co-Chair Hale, Mr. Davis stated that the Office of Inspector General was the oversight agency within the cabinet and licensed child care and health care facilities, including Personal Care Homes (PCHs.) This administrative regulation was the result of a settlement agreement made by the cabinet for which the Office of Inspector General was the enforcement agency; however, the Office of Inspector General did not directly initiate this overall policy. There were two (2) primary types of PCHs, freestanding facilities that served clients with Severe Mental Illness (SMI), which received minimal federal funding, and assisted living-type facilities, which may charge a much higher amount. The cabinet was continuing to develop and reorganize PCH requirements. PCHs were not being expected to provide occupational, physical, or speech therapies.

PCHs were expected to provide basic assistance with individuals who were transitioning out of facilities.

In response to questions by Co-Chair Hale, Ms. Morris stated that many initial concerns of stakeholders had been remedied by the Amended After Comments version of this administrative regulation. Required Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs) would be provided by existing provider employees and should require minimum burden. The agency planned to record instruction for the convenience of providers and was developing a comprehensive curriculum for training purposes. Reimbursement rates were always an ongoing concern. There were many stakeholders who commented during the public comment period. The agency also worked with Protection and Advocacy to ensure that these requirements and the training curriculum complied with the settlement agreement.

In response to a question by Co-Chair West, Ms. Morris stated that this administrative regulation was narrowly tailored to comply with the settlement agreement, which was an agreement to avoid litigation. The cabinet entered into a settlement agreement with Kentucky Protection and Advocacy based on the Olmstead decision of 1999. In accordance with the Olmstead decision, states were obligated to ensure that clients who did not wish to live in a congregate living system had ample services and supports in the community. The decision did not require the state to move people out, but to ensure that states were not relying exclusively on congregate living systems.

In response to a question by Co-Chair Hale, Ms. Johnson stated that Kentucky Association of Health Care Facilities/Kentucky Center for Assisted Living was opposed to this administrative regulation because the settlement agreement with Kentucky Protection and Advocacy prohibited the cabinet from developing its own policy. Although the terms of the settlement agreement negatively impacted private licensed PCHs and their clients, neither group were included in the settlement agreement process. Public policy should not be developed without all stakeholders having input, and the settlement agreement circumvented KRS Chapter 13A because agency decisions were held captive by the settlement agreement, which lacked judicial review. This administrative regulation exacerbated the already severe underfunding of PCHs by subverting limited resources to a small group of residents to whom the settlement agreement applied. KRS 13A.270 and 13A.280 established a right for all stakeholders to have the opportunity to comment in a meaningful way regarding proposed administrative regulations. The promulgating agency then issues a Statement of Consideration. The settlement agreement, by limiting the agency's decision-making process, negated meaningful comments and responses pursuant to KRS 13A.270 and 13A.280. Additionally, the agency did not submit the required cost estimate required as part of the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT. PCHs received forty (40) dollars and forty-seven (47) cents per day, per client and could not afford this unfunded mandate.

In response to a question by Co-Chair Hale, Mr. Jurgensen stated that many of Kentucky's most vulnerable citizens were entrusted into the care of specialized PCHs. For many of these residents with SMIs, no amount of community supports would allow them to live safely independent of a congregate living system. Funding for PCHs was grossly inadequate. PCHs received no more than forty (40) dollars and forty-seven (47) cents per day, per client, but were required to provide client care, quality meals, hygiene products, sponsored activities, assistance with physician services and medication, and assistance with the clients' financial management needs. The daily reimbursement had not been increased since 2006. The average reimbursement was seventeen (17) dollars per day, per client. PCHs operate in a highly regulated environment with low margins. Additional requirements would burden PCHs, which might be forced to close. The estimated cost increase to implement these policy changes was four (4) dollars per day, per client. Most PCHs would be required to add additional staff. Staff were not equipped for these new requirements, and adverse incidents might result. Stakeholders were not included in the settlement agreement.

In response to a question by Co-Chair West, Mr. Jurgensen stated that there were approximately eighty-eight (88) PCHs, including both types. It was likely if this administrative regulation became effective at these rates, that many PCHs would go out of business. Ms. Johnson stated that it would be preferable for the agency to remove the requirements pertaining to ADLs and IADLs. All stakeholders should be included in policy decisions surrounding the settlement agreement. PCHs could not continue to operate on forty (40) dollars and forty-seven (47) cents per day, per client.

In response to a question by Representative Marzian, Mr. Jurgensen stated that the number of clients varied among PCHs. Forty (40) to sixty (60) clients per PCH might be the state average.

In response to questions by Co-Chair Hale, Mr. Nemes stated that the cabinet was aware of some of the challenges PCHs were facing. The cabinet was working toward streamlining and reorganizing requirements. The reimbursements came from the General Fund. There were also inherent legal obstacles to funding. The cabinet did not believe that changes would add significant expenses to PCHs. The ADLs and IADLs were very simple in nature and were not expected to require additional staffing. Ms. Morris stated that there was a 2012 LRC study done regarding PCHs. Unfortunately, there were adverse outcomes for some clients within PCHs and after transitioning out. PCHs sometimes closed because of quality of care problems as well as funding problems. Some other states had similar settlement agreement issues and problems. The number of clients transitioning was very small per facility. Comprehensive training existed outside of this administrative regulation.

In response to questions by Co-Chair West, Mr. Nemes said that the streamlining process would take approximately nine (9) months for development. Many of the issues of concern would remain but would be more isolated. Rehabilitation should be a primary goal for these facilities. The settlement agreement needed to move forward; therefore, removing the requirements of concern for consideration at the 2020 Regular Session of the General Assembly was not preferable to the agency. Ms. Morris stated that these requirements were a small step toward making PCHs more rehabilitative for clients.

Representative Frazier stated that there were concerns about many aspects of this administrative regulation.

In response to a question by Representative Marzian, Ms. Morris stated that the agency expected to ask for increased funding for these and other related programs through DCBS. Mr. Nemes stated that the agency was the enforcement arm of the program, not the budgeting arm.

In response to a question by Co-Chair Hale, the agency agreed to defer consideration of this administrative regulation to the October meeting of the subcommittee. Without objection, and with agreement of the agency, this administrative regulation was deferred.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph; Sections 1 through 4 and 7; and the SMI Screening Form to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 20:370. Operations and services; private duty nursing agencies.

902 KAR 20:430 & E. Facilities specifications, operation and services; behavioral health services organizations for mental health treatment.

Department for Public Health: Division of Audits and Investigations: Controlled Substances

902 KAR 55:070. Emergency medication kits in long-term care facilities.

Department for Medicaid Services: Payments and Services

907 KAR 3:170 & E. Telehealth service coverage and reimbursements.

Division of Policy and Operations: Behavioral Health

907 KAR 15:005 & E. Definitions for 907 KAR Chapter 015.

907 KAR 15:010 & E. Coverage provisions and requirements regarding behavioral health services provided by individual approved behavioral health practitioners, behavioral health provider groups, and behavioral health multi-specialty groups.

907 KAR 15:015 & E. Reimbursement provisions and requirements for behavioral health services provided by individual approved behavioral health practitioners, behavioral health provider groups or behavioral health multi-specialty groups.

907 KAR 15:020 & E. Coverage provisions and requirements regarding services provided by behavioral health services organizations for mental health treatment.

907 KAR 15:022 & E. Coverage provisions and requirements regarding services provided by behavioral health services organizations for substance use disorder treatment and co-occurring disorders.

907 KAR 15:025 & E. Reimbursement provisions and requirements regarding behavioral health services provided by behavioral health services organizations.

Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:320 & E. Service appeals.

The subcommittee adjourned at 12:50 p.m. The next meeting of the subcommittee is tentatively scheduled for October 8, 2019, at 1 p.m.

## ALZHEIMER'S AND DEMENTIA WORKFORCE ASSESSMENT TASK FORCE

### Minutes of the 3rd Meeting of the 2019 Interim

September 5, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Alzheimer's and Dementia Workforce Assessment Task Force was held on Thursday, September 5, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Deanna Frazier, Co-Chair; Senators Stephen Meredith and Reginald Thomas; Representative Danny Bentley; Melissa Aguilar, Bill Cooper, Steven Davis, Buddy Hoskinson, Mackenzie Longoria, Devon McFadden, Andrea Renfrow, Mary Romelfanger, Phillip Travis, Kelly Upchurch, and Denise Wells.

Guests: Vicky Pritchett, Human Resources Director, Home Instead Senior Care, Former Caregiver; and Emilio Santellana, Client Care Manager, Home Instead Senior Care.

LRC Staff: Dana L. Simmons, Lead Staff and Becky Lancaster

**Approval of Minutes**

A motion to approve the minutes of the August 1, 2019 meeting was made by Representative Bentley, seconded by Melissa Aguilar, and approved by voice vote.

**Assessment of the Current Alzheimer's and Dementia Healthcare Workforce to Identify Current or Anticipated Workforce Shortages**

Vicky Pritchett, Human Resources Director, Home Instead Senior Care, Former Caregiver, shared her experience as a caretaker for her mother who had Alzheimer's for eight years until her passing.

In response to questions and comments from Representative Frazier, Ms. Pritchett stated that her family sought help to care for her mother but was not able to retain staff because no one knew if or when her mother would become combative and argumentative towards the staff. Her mother was in a facility for a period of time but eventually was removed because the staff could not provide the specific care needed for an Alzheimer's patient.

Emilio Santellana, Client Care Manager, Home Instead Senior Care, stated that he works on assessments and care plans for clients with Alzheimer's and dementia. He stated that a struggle with Alzheimer's and dementia clients is that behaviors, attitudes, and reactions change every day. Clients' behaviors change anytime there is any type of change small or large.

In response to comments and questions from Mr. Hoskinson, Ms. Pritchett stated that there is a high turnover rate in staff working with Alzheimer's clients. She has one or two staff orientations every week. All caregivers are interviewed and state that they have experience with clients that have Alzheimer's or dementia. However, once the caregiver is in the home, they call Ms. Pritchett with patient issues they cannot resolve. Ms. Pritchett dedicates a day of training specifically for Alzheimer's training. She also plans and facilities Alzheimer's support group meetings and has the caregivers come to the meetings. She stated that the company spends thousands of dollars on the training for the caregivers.

In response to comments and questions from Ms. Aguilar, Ms. Pritchett stated that the average wage for an Alzheimer's or dementia caregiver is $10 to $12 an hour. Some caregivers have been with the company for 13 years and are happy with the hourly wage.

In response to comments and questions from Ms. Longoria, Ms. Pritchett stated that approximately 50 percent of newly hired caregivers come from the healthcare field. Many caregivers transfer from nursing homes and assisted living facilities. Approximately 10 percent of newly hired caregivers start straight from high school with most being a certified nursing assistant (CNA). Some high schools offer a program for students to become a CNA. Approximately 30 percent of newly hired caregivers have previously been private caregivers. She stated that there are three quizzes that must be completed by newly hired staff along with a full discussion after the quizzes. Mr. Santellana stated that occasionally two caregivers are scheduled for one client to allow a new staff person to shadow a current worker. The new staff person would have hands-on experience with the client while being supervised.

In response to comments and questions from Mr. Davis, Mr. Santellana stated that Home Instead Senior Care is a personal services agency. Ms. Pritchett stated that the workers are nonmedical staff. The high turnover rate is among all staff and not specific to just the workers that work with Alzheimer's and dementia clients. The most complaints come from staff that work with Alzheimer's and dementia clients. While interviewing for new staff, Ms. Pritchett keeps the needs and behaviors of her clients in mind to best match the client to a staff member. The hours a staff member will work with an Alzheimer's client varies depending on what the family of the client is requesting.

In response to questions and comments from Representative Frazier, Ms. Pritchett stated that there is not a lack of applicants for the caregiver positions, but some applicants do not qualify for the positions. The office staff is trained to work with clients and can fill vacancies if necessary.

In response to comments and questions from Ms. Romelfanger, Ms. Pritchett stated that Home Instead Senior Care does have a standardized, basic orientation including a hands-on portion, for every level of caregiver that is hired. The Home Instead Senior Care office in Frankfort has a full-scale model bathroom used for training purposes only. The Alzheimer's training is conducted every year. Ms. Pritchett is working to provide a CNA class to the caregivers within the company. The curriculum used in her trainings is standardized and comes from the Home Instead Senior Care corporate offices.

In response to comments and questions from Ms. Renfrow, Ms. Pritchett stated that the retention issues are the same as other home health companies and nursing homes.

In response to comments and questions from Mr. Cooper, Ms. Pritchett stated that the caregivers are paid by long-term care insurance, private pay, and Veteran clients. Mr. Santellana stated that most of the clients with Home Instead Senior Care are private pay clients. He stated that approximately 15 percent of clients pay with long-term care insurance. The Department of Veterans Affairs (VA) is another source of funding for some veteran clients or the surviving spouses of a veteran. There is another company in the Frankfort area that does homecare and accepts a Medicaid waiver for funding. Ms. Pritchett stated that there are other facilities that use Home Instead Senior Care services for staffing.

Melissa Aguilar, Director, Kentucky Workforce Innovation Board (KWIB), KYWorks Collaborative, stated that the Workforce Innovation Opportunity Act requires every state to have a workforce board with members that are chosen by the Governor. In 2017 and 2018, KWIB put together the WorkReady strategic plan. The four goals of KWIB are to increase employer engagement, to increase educational attainments and completions, to increase Kentucky's workforce participation rate, and to align the board's partners with resources. There are 10 local workforce development areas that cover specific regions of the state. There are two tools that KWIB uses to measure progress, the local workforce dashboard and the WorkReady Communities dashboard that are housed on the Kentucky Center for Statistics' (KYStats) website.

Ms. Aguilar stated that the workforce participation rate varies from 72.59 percent in the Northern Kentucky area to 38.93 percent in the Eastern Kentucky Concentrated Employment Program (EKCEP) area. The state workforce participation rate average is 61.81 percent. The national workforce participation rate average is 66.48 percent. With all occupations in the state, there will be about 107,488 jobs available between 2018 and 2022. In regards to jobs in the healthcare workforce, there will be approximately 9,458 jobs available between 2018 and 2022 in Kentucky. The main causes of high turnover rates in healthcare jobs are lack of experience, retirements, voluntarily leaving, competing states, and injuries that lead to a disability. Across all industries in Kentucky, there are approximately 175,303 open positions available for employment. In the state workforce system there are approximately 26,000 job seekers registered. Ms. Aguilar shared a graph that lists the number of job openings in each of the 10 areas in the state.

Ms. Aguilar stated that from 2012 to 2016 there were 15,000 licensed practical nurse (LPN) training certifications given, 6,800 registered nurse (RN) associate degrees given, and 7,000 RN bachelor degrees given. The supply of healthcare workers does not equal the demand of workers. KWIB is working to recruit more individuals into the healthcare fields. She stated that high paying healthcare positions require a higher level of training. KWIB is working on the side of the public and private employers as well as the education and economic development side. The national average RN hourly wage is \$29.17 and Kentucky's average RN hourly wage is \$26.58. KYStats provides data and allows KWIB to analyze and evaluate the data to pose solutions for a better workforce.

Ms. Aguilar stated that KWIB had employers to map out staff positions from the lowest to the highest positions in each industry and to list greatest areas of need. In the 2012/2013 career technical education graduating classes, only 12.6 percent had careers in the health sciences field. KWIB is continuing to support work-based learning; however, there are not enough employer clinical sites for students. There are many apprenticeship opportunities in the healthcare field. The process for KWIB is to analyze the demand, analyze the supply, to create career pathways, and to provide work-based learning experiences. KWIB is working to educate the training providers. KWIB recommends that the task force research best practices from other states such as Virginia, Oregon, New Hampshire, Oklahoma, and Illinois. Each of those states have completed studies relating to how Alzheimer's and dementia clients affect the workforce. KWIB suggests having a roundtable discussion with employers to help document the best practices that are in process and the supports that need to be added to assist employees who care for Alzheimer's and dementia clients. Ms. Aguilar gave a list of references that KWIB will be reviewing when working on the issue.

In response to questions and comments from Ms. Longoria, Ms. Aguilar stated that the KWIB has been able to think about other populations such as ex-offenders, individuals with disabilities, and foster youth to recruit for employment. Kentucky seems to be shifting the same people between jobs in the healthcare workforce instead of increasing the workforce participation rates. Training individuals to stay with an employer and finding where employers can pull from the other populations is the challenge for KWIB. She stated that Kentucky could have more scholarships, apprenticeships, and incentives offered to students seeking employment in the healthcare field. The WorkReady scholarships are specific to the top five industries in the state, healthcare being at the top. The Kentucky Educational Excellence Scholarship (KEES) is another alternate avenue for funding.

In response to questions and comments from Ms. Romelfanger, Ms. Aguilar stated that the local workforce boards and training providers know about the professional associations that may offer scholarships for the middle class worker. The local workforce boards have case management staff that work with individuals on a daily basis.

In response to questions and comments

from Senator Meredith, Ms. Aguilar stated that many children are not in a home environment that would teach them humility. Schools and teachers can teach about humility and empathy but it also needs to be reinforced at home.

Kelly Upchurch, President, Chief Executive Officer, Horizon Adult Health Care, Horizon Home Care, American Health Management, Incorporated, stated that he started his first adult day center in 1997 with the goal to provide an alternative for clients. Horizon Adult Health Care serves approximately 550 patients a day. All patients must qualify for a nursing home level of care. The adult day health care services provide many services such as nursing services, occupational therapy, nutritious meals, case management, socialization, and many other services. The Horizon Home Care attendant care services are in 89 Kentucky counties and serve 900 clients a day. Attendant care services include personal care, companionship, light housekeeping, transportation to the doctor, church, grocery, beauty salon, or barber, meal preparation, transferring and positioning, and assistance with other daily needs. If a person can remain engaged in the community, they will be happier and healthier longer.

The healthcare workforce is in need of RNs, LPNs, nurse aids, healthcare associates, and transportation associates. Some of the challenges to retaining the workforce are the lack of skilled workers, lack of mentoring, lack of training, lack of raises in the cost of living provision, and a poor organizational culture. There are some creative ways to recruit and retain qualified team members that include flexibility of schedules, opportunities for advancement, competitive pay, full health benefits, life insurance, a 401K with an employer match, and paid time off. Often locations in rural areas cannot offer higher wages, but Horizon can work with the staff member on other incentives.

In response to questions and comments from Mr. Davis, Mr. Upchurch stated that the adult day health model is not a home model. To qualify for care by Horizon a client must qualify for a waiver and Medicaid. Clients must be at a nursing home level of care. There are barriers to entering the adult day health program. The average patient is a 72 year old female on 15 or more medications a day. Horizon has personal care coordinators that can navigate the Department for Community Based Services (DCBS) system with the client. Horizon's annual budget has to be budget neutral with a ceiling cap. He stated that Horizon has good relationships with other providers that go into the home such as personal service agencies. Horizon can be the first provider to recognize that other services are needed for a patient. Horizon coordinates care with home health providers when a skilled service is required.

In response to questions and comments from Ms. Aguilar, Mr. Upchurch stated that Horizon recruits employees at health fairs and other pop-up events. Horizon employees have the chance to speak about the company and its opportunities for employment. Horizon also places ads online for employment. Most new employees come to Horizon because of the work culture and the incentives such as the health, vision, and dental insurance.

In response to questions and comments from Ms. Longoria, Mr. Upchurch stated that it costs approximately $8,000 a year for a patient to attend adult day health programs. It costs approximately $42,000 a year for patient to be in a double bed nursing home room. Adult day health programs save Kentucky approximately $200 million a year.

In response to questions and comments from Ms. Romelfanger, Mr. Upchurch stated that there is not a record of clients that are Veterans, but there is a high number of Veteran clients in the Louisville facility.

In response to questions and comments from Ms. Renfrow, Mr. Upchurch stated that his center partners with local health departments and other agencies to conduct monthly trainings for the staff on specific topics such as patients with Alzheimer's and dementia. There are good resources to assist the workforce in each community.

**Adjournment**

There being no further business, the meeting was adjourned at 11:43 AM.

## GOVERNMENT CONTRACT REVIEW COMMITTEE

**Committee Minutes**

September 12, 2019

**Call to Order and Roll Call**

The Government Contract Review Committee met on Thursday, September 12, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Stan Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: John Horne, Jeff Harmon, Graham Gray, April O'Dea, Kevin Rader, Eric Pelfrey, David Harmon, John Drake, Tom Kerr, Brad Holajter, Stacy Woodrum, Ryan Barrow, Cindy Arflack, Jan Chamess, Rick Bender, Lona Brewer, Barry Swanson, and Chipper Griffith.

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

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

**AUGUST DEFERRED ITEM:**

UNIVERSITY OF LOUISVILLE

University Professional Continuing Education Association, 20-013. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

WESTERN KENTUCKY UNIVERSITY

Compansol, 192018. Per the University's request, this contract was withdrawn.

**DEFERRED ITEM:**

WESTERN KENTUCKY UNIVERSITY

Signet, 192022. A motion was made by Representative Fugate to defer the contract to the October meeting of the committee. Representative Hart seconded the motion, which passed.

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

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

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

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

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

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

DEPARTMENT FOR INCOME SUPPORT
Our Family Direct Primary Care, PLLC, 2000000236.

DEPARTMENT OF CRIMINAL JUSTICE TRAINING
Baptist Health Medical Group, Inc., 1900000487-1.

DEPARTMENT OF HIGHWAYS
QK4, Inc., 2000000295; Vaughn & Melton Consulting Engineers, Inc., 2000000306; H. W. Lochner, Inc., 2000000469.

DEPARTMENT OF JUVENILE JUSTICE
American Correctional Association, 1900004929.

EASTERN KENTUCKY UNIVERSITY
Hyperlink, LLC, 20-273.

FACILITIES & SUPPORT SERVICES
Redwing Ecological Services, Inc., 2000000086; Patrick D. Murphy Company, Inc., 2000000174; GRW Engineers, Inc., 2000000343.

FINANCE - OFFICE OF THE SECRETARY
Sturgill, Turner, Barker & Moloney, PLLC, 2000000271.

KENTUCKY EMPLOYERS MUTUAL INSURANCE
MCM CPA's and Advisors, LLP, 20-MCM-001.

KENTUCKY STATE POLICE
Powerphone, Inc., 2000000337.

KENTUCKY STATE UNIVERSITY
Ashley-Rountree and Associates, 20-26.

MOREHEAD STATE UNIVERSITY
Multi, 20-014; Multi, 20-015.

PERSONNEL - OFFICE OF THE SECRETARY
McBrayer, PLLC, 1800001790-1.

TRANSPORTATION - OFFICE OF THE SECRETARY
McBrayer, PLLC, 1900005002; Gateway Community & Technical College, 2000000239.

UNIVERSITY OF KENTUCKY
K. Norman Berry Associates, PLLC, A201070; CMTA, Inc., A201090; EOP Architects, A201100; Ross Tarrant Architects, A201110.

UNIVERSITY OF LOUISVILLE
Breakpoint Technology, 20-022.

WESTERN KENTUCKY UNIVERSITY
Sublime Media Group, 192020.

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

BOARD OF MEDICAL LICENSURE
Multi, 1900000777.

DEPARTMENT FOR MEDICAID SERVICES
Myers and Stauffer, LC, 1800001623; Navigant Consulting, Inc., 1800001738.

DEPARTMENT OF CORRECTIONS
Dunn Law, PLLC, 1900004947.

DEPARTMENT OF EDUCATION
Ameresco, 1900001446.

DEPARTMENT OF HIGHWAYS
GRW Engineers, Inc., 0700004081; S&ME, Inc., 1100000552; Palmer Engineering Company, 1100001520; Stantec Consulting Services, Inc., 1200001543; Palmer Engineering Company, 1200002167; Palmer Engineering Company, 1300001582; Palmer Engineering County, 1500001636; Palmer Engineering Company, 1500002150; American Engineers, Inc., 1500002154; HDR Engineering, Inc., 1500002157; Palmer Engineering Company, 1600000349; Palmer Engineering, 1600000444; Palmer Engineering, 1600000467; Palmer Engineering, 1600000931; Palmer Engineering, 1600002564; HDR Engineering, Inc., 1600003756; H.W. Lochner Consulting, Inc., 1600003757; Cultural Resource Analysts, Inc., 1600003838; Stantec Consulting Services, Inc., 1700000295; Stantec Consulting Services, Inc., 1700000307; Bluegrass Valuation Group, LLC, 1700001171; Stantec Consulting Services, Inc., 1700001597; Palmer Engineering Co., 1700002663; Palmer Engineering Company, 1700002761; Gresham Smith and Partners, 1700002781; Integrated Engineering, 1700002938; Palmer Engineering Co., C-00049871; Presnell Associates, Inc. d/b/a QK4, C-02061099; Palmer Engineering Company, C-05038089.

EASTERN KENTUCKY UNIVERSITY
Central Kentucky Interpreter Referral, 20-100.

FACILITIES & SUPPORT SERVICES
CMTA, Inc., 1400000547; Sherman Carter Barnhart, 1400001413; Stengel Hill Architecture, Inc., 1500001000; Architectural Investment, 1500002693; Kohrs Lonnemann Heil Engineers, PSC, 1600000312; Kohrs Lonnemann Heil Engineers, PSC, 1600000312; S&ME, Inc., 1900002340; Ross Tarrant Architects, Inc., 1900002454.

KENTUCKY STATE POLICE
Right Brother Aviation, LLC, 1900001868.

KY COMMUNITY TECHNICAL COLLEGE SYSTEM
Affordable Language Services, LLC, 770.

PERSONNEL - OFFICE OF THE SECRETARY
Blue & Company, LLC, 1800001975; Tempo Holding Company, LLC, 1900002942.

UNIVERSITY OF KENTUCKY
Sherman Carter Barnhart, A161180; Ekhoff, Ochenkoski, Polk Architects, Inc., A171180; Champlin Architecture, A191070; Grant Cooper & Associates / Grant Cooper Healthcare, K18-151; McMasters Keith Butler, Inc., K19-125; Smith Management Group, K19-168; Trimeric Corporation, K19-173; Marshall Medical Management, LLC, K19-195.

WESTERN KENTUCKY UNIVERSITY
Huron Consulting Group, 182012; Multi, 182014.

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

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Education Development Center, Inc., 2000000088; Norton Healthcare, 2000000209; Fletcher Group, Inc., 2000000347; Achieving Recovery Together, Inc., 2000000406.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 2000000214.

CHFS - OFFICE OF THE SECRETARY

University of Kentucky, 2000000403.

COUNCIL ON POSTSECONDARY EDUCATION

Murray State University, 2000000305.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Chapin Hall Center for Children, 1900004803; Catholic Charities of Louisville, Inc., 1900004870.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Louisville & Jefferson MSD, 1900005004; Hopkinsville Surface & Storm Utility, 2000000164.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Department for Aging and Independent Living- AmeriCorps, 2000000324.

DEPARTMENT FOR LIBRARIES & ARCHIVES

Council On Postsecondary Education, 2000000338.

DEPARTMENT FOR LOCAL GOVERNMENT

City of Jamestown, 1900003989; City of Sebree, 1900004882; Daviess County Fiscal Court, 1900004944; McLean County Fiscal Court, 2000000082; Industrial Authority of Mayfield-Graves County, 2000000167; Inter-Modal Transportation Authority, Inc., 2000000181; Big Sandy Area Development District, 2000000184; Cumberland Valley Area Development District, 2000000187; Fivco Area Development District, 2000000188; Kentucky River Area Development District, 2000000191; Lake Cumberland Area Development District, 2000000193; Pennyrile Area Development, 2000000196; Purchase Area Development District, Inc., 2000000197; City of Irvine, 2000000206; Ballard County Economic Industrial Development Authority, 2000000287; Leslie County, 2000000328; Leslie County, 2000000329; Leslie County, 2000000330; Ohio County Fiscal Court, 2000000336; Simpson County Fiscal Court, 2000000361; Knox County Fiscal Court, 2000000377.

DEPARTMENT FOR NATURAL RESOURCES

University of Kentucky Research Foundation, 2000000018.

DEPARTMENT FOR PUBLIC HEALTH

Community Health Clinic, Inc., 1900005016; Kentucky Department of Corrections, 2000000356.

DEPARTMENT FOR WORKFORCE INVESTMENT

Jobs for Kentucky's Graduates, 1900004418.

DEPARTMENT OF CORRECTIONS

Kentucky Community and Technical College System, 1900001583.

DEPARTMENT OF EDUCATION

Kentucky Valley Education, 1900004265; Boone County Board of Education, 1900004299; Department for Public Health, 1900004690; Advance Education, Inc., 1900004744; Jefferson County Board of Education, 1900004801; Fayette County Board of Education, 1900004813; The Center for Education Leadership, 1900004896; Board of Regents of the University of Wisconsin System, 1900004938; Warren County Board of Education, 2000000020; Madison County Board of Education, 2000000268; Paducah Independent School District, 2000000298; Jefferson County Board of Education, 2000000302; Franklin County Board of Education, 2000000355.

DEPARTMENT OF MILITARY AFFAIRS

University of Kentucky Research Foundation, 1900004330; Daviess County Fiscal Court, 1900004871; City of Maysville, 2000000007.

KENTUCKY FISH AND WILDLIFE RESOURCES

Kenlake Marina Corporation, 2000000004.

KY INFRASTRUCTURE AUTHORITY

Cumberland Valley Area Development District, 2000000030; Pennyrile Area Development, 2000000048.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

ADMINISTRATIVE OFFICE OF THE COURTS

New Vista of the Bluegrass, Inc., 1800001094.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Oxford House, Inc., 1800001958; Young People In Recovery, 1900000704; Bluegrass.Org, 1900003229.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 1900000410; Multi, 1900004391.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Eastern Kentucky University, 1900004478.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Ohio Valley Educational Cooperative, 1900002225; Multi, 1900002434; Green River Area Development District, 1900002498; Christian Appalachian, 1900002501; Teach Kentucky, Inc., 1900002504.

DEPARTMENT FOR LOCAL GOVERNMENT

Floyd County Fiscal Court, 1900002618; Floyd County Fiscal Court, 1900002619; Floyd County Fiscal Court, 1900002623; Floyd County Fiscal Court, 1900002624; Floyd County Fiscal Court, 1900002625; Floyd County Fiscal Court, 1900002626; Martin County Fiscal Court, 1900003070; Martin County Fiscal Court, 1900003070.

DEPARTMENT FOR MEDICAID SERVICES

Department of Education, 1800001306.

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Community and Technical College System, 1800001924.

DEPARTMENT OF AGRICULTURE

Multi, 1900003210; Multi, 1900003211.

DEPARTMENT OF EDUCATION

Utah State University, 1900000748; University of Louisville Research Foundation, 1900002720; Henderson County Board of Education, 1900004080; Kentucky Educational Development Corporation, 1900004082;

Kentucky Valley Education, 1900004110; Fayette County Board of Education, 1900004137; Corbin Independent School District, 1900004160; Knox County Board of Education, 1900004161; Pike County Board of Education, 1900004941.

DEPARTMENT OF MILITARY AFFAIRS

Louisville & Jefferson MSD, 1800000724; Louisville & Jefferson MSD, 1800000732; Louisville & Jefferson MSD, 1800000735; Louisville & Jefferson MSD, 1800000750; Louisville & Jefferson MSD, 1800000773; Oldham County EM, 1800000802.

JUSTICE - OFFICE OF THE SECRETARY

Unlawful Narcotics Investigations Treatment and Education, 1900001531.

TRANSPORTATION - OFFICE OF THE SECRETARY

University of Louisville Research Foundation, 1800001726.

**THE FOLLOWING FILM TAX INCENTIVES WERE REVIEWED WITHOUT OBJECTION:**

TOURISM - OFFICE OF THE SECRETARY

Stargazer 2019i, LLC, 2000000349; SGT ROX, LLC, 2000000364; Ocotillo Heights Productions, LLC, 2000000468.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT FOR NATURAL RESOURCES

Goldberg Simpson, LLC, 2000000353. John Horne and Jeff Harmon discussed the contract with the committee. A motion was made by Representative Fugate to consider the contract as reviewed. Senator Wheeler seconded the motion, which passed.

DEPARTMENT OF CRIMINAL JUSTICE TRAINING

Bluegrass Community and Technical College, 2000000242. Graham Gray, April O'Dea, and Kevin Rader discussed the contract with the committee. A motion was made by Representative Fugate to consider the contract as reviewed. Senator Wheeler seconded the motion, which passed.

DEPARTMENT OF HIGHWAYS

Stantec Consulting Services, Inc., 2000000348; Strand Associates, Inc., 2000000381; Palmer Engineering Company, 2000000383; H. W. Lochner, Inc., 2000000384; QK4, Inc., 2000000386; Integrated Engineering, 2000000388; HMB, Inc., 2000000389; HDR Engineering, Inc., 2000000390; QK4, Inc., 2000000458; Palmer Engineering Company, 2000000460; GRW Engineers, Inc., 2000000466. Eric Pelfrey, David Harmon, and John Drake discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Senator Wheeler seconded the motion, which passed.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT OF CORRECTIONS

The Moss Group, Inc., 1900003657. Tom Kerr, Brad, Holajter, Stacy Woodrum, and Graham Gray discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Lee seconded the motion, which passed.

DEPARTMENT OF HIGHWAYS

QK4, Inc., C-00240486. Eric Pelfrey, John Drake, and David Harmon discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Meredith seconded the motion, which passed.

OFFICE OF THE CONTROLLER

American Municipal Tax-Exempt Compliance Corporation, 1900000743. Ryan Barrow discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT FOR PUBLIC HEALTH

Big Sandy Health Care, Inc., 1900005008. Cindy Arflack and Jan Chamness discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

OFFICE OF ENERGY POLICY

Kentucky Foundation, Inc., 1900004751; National Energy Education Development Project, 2000000275; Cedar, Inc., 2000000294. Rick Bender and Lona Brewer discussed the contracts with the committee. A motion was made by Senator Meredith to disapprove the contracts. Representative Hart seconded the motion which failed, with Senator Wheeler and Representative Fugate voting no and Representative Lee voting to pass. A motion was made by Representative Fugate to consider the contract as reviewed. Senator Wheeler seconded the motion, which passed with Representative Hart voting no.

UNIVERSITY OF KENTUCKY

St. Claire Regional Medical Center, 005-20. Barry Swanson and Chipper Griffith discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENTS FOR $50K AND UNDER WERE SELECTED FOR FURTHER REVIEW:**

OFFICE OF ENERGY POLICY

Bluegrass Greensource, Inc., 2000000297. Rick Bender and Lona Brewer discussed the contract with the committee. A motion was made by Representative Fugate to consider the contract as reviewed. Senator Wheeler seconded the motion, which passed.

**EXEMPTION REQUESTS:**

COUNCIL ON POSTSECONDARY EDUCATION:

The Council on Postsecondary Education requested an amended exemption from the committee's routine review process for MOA's using Federal funds received from the US Department of Education, under Title IV of the Higher Education Act, for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) and will continue to provide the committee with quarterly reports. A motion by Senator Carroll to grant the request to June 30, 2022. Representative Hart seconded the motion, which passed without objection.

CABINET FOR HEALTH AND FAMILY

SERVICES:

The Division of Procurement and Grant Oversight, on behalf of The Department for Behavioral Health, Developmental and Intellectual Disabilities requested an amended exemption from Committee Policy Statement 99-4, which prohibits contracts and agreements from extending beyond biennium for two KORE Contracts (PON 729 1700002889 & PON 729 1900000520). A motion was made by Senator Carroll to grant the request to June 30, 2020. Representative Hart seconded the motion, which passed without objection.

CABINET FOR HEALTH AND FAMILY SERVICES:

The Division of Procurement and Grant Oversight, on behalf of The Department for Community Based Services for Employment Opportunities requested an exemption from Community Policy Statement 99-4, which prohibits contracts and agreements from extending beyond biennium for an agreement to partner with The Center for Employment Opportunities to implement a Supplemental Nutrition Assistance Program Employment Training Agreement to cross the biennium. A motion was made by Senator Carroll to grant the request to September 30, 2020. Representative Hart seconded the motion, which passed without objection.

CABINET FOR HEALTH AND FAMILY SERVICES:

The Division of Procurement and Grant Oversight, on behalf of The Department for Behavioral Health, Developmental and Intellectual Disabilities requested an amended exemption from Committee Policy Statement 99-4, which prohibits contracts and agreements from extending beyond biennium, Centerstone Emergency Department and Bridge Clinic Service Contract (PON 729 1800000550), as additional funds in the amount of $181,600.00 were added to the contract. A motion was made by Senator Carroll to grant the request to June 30, 2020. Representative Hart seconded the motion, which passed without objection.

There being no further business, the meeting adjourned at 11:48 AM.

## CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

**Minutes**

September 17, 2019

**Call to Order and Roll Call**

The Capital Projects and Bond Oversight Committee was held on Tuesday, September 17, 2019, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Rick Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Walker Thomas, Co-Chair; Senators Julian M. Carroll, Christian McDaniel, and Robby Mills; Representatives Steven Rudy, and Maria Sorolis.

Guests: Deck Decker, Interim Executive Director, Kentucky Communications Network Authority; Janice Tomes, Deputy State Budget Director, Office of State Budget Director; Scott Aubrey, Director, Division of Real Properties, Department for Facilities and Support Services; and Ryan Barrow, Executive Director, Office of Financial Management.

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

**Approval of Minutes (August 27, 2019)**

Senator Carroll moved to approve the minutes of the August 27, 2019 meeting. Representative Thomas seconded the motion, and the committee approved the minutes by voice vote.

**Information Items**

Ms. Halloran referenced three information items. Pursuant to KRS 45.760(5), the University of Kentucky reported two restricted fund medical equipment purchases.

Pursuant to KRS 45.812(1), the Boyd County School District reported a projected $5.685 million bond issue for Phase IV of its high school.

Pursuant to KRS 48.111(6), the Division of Real Properties reported a lease invitation to consolidate three Cabinet for Health and Family Services (CHFS) leased facilities in Floyd County, two Department for Community Based Services (DCBS) offices and an Office for Children with Special Healthcare Needs.

**Kentucky Communications Network Authority**

Mr. Decker reported the Kentucky Bond Development Corporation, Industrial Building Revenue Bonds, City of Williamsburg, Series 2019 previous debt issue and the status of the KentuckyWired project. Rings 1A and 1B are lit, Ring 2 is about to be lit, Rings 3 and 5 is projected to be lit by the end of this year, and Ring 4 is projected to be lit Spring 2020. The Independent Certifier is in the process of certifying Ring 1A for site migration, which should take place in a couple of weeks.

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

Senator McDaniel moved to roll the appropriation increase and two new projects into one roll call vote, seconded by Representative Thomas, and approved by voice vote.

Ms. Tomes submitted a $1,755,584 appropriation increase, from $7.2 million to $8,955,854 in federal funds, for the Department of Military Affairs, Construct Response Group Building Kentucky Air National Guard Phase I project. The increase was due to federal design and construction revisions.

Ms. Tomes next submitted two new Kentucky Transportation Cabinet projects, the $4,814,700 Simpson County and $5,549,300 Whitley County Welcome Centers. 80 percent federal funds and 20 percent road funds will fund both projects, the demolition and replacement of the existing welcome centers.

Senator Carroll moved to approve the appropriation increase and two new projects, seconded by Senator Mills, and approved by unanimous roll call vote.

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

Representative Rudy moved to roll the five lease renewals into one roll call vote, seconded by Senator Mills, and approved by voice vote.

Mr. Aubrey submitted five lease renewals under the same terms and conditions. The first was for CHFS, DCBS in Montgomery County; 11,544 square feet of office space at $13.50 per square foot costing $155,844 annually, through June 30, 2022.

The second was for CHFS, Commission for Special Healthcare Needs, in Fayette County; 10,912 square feet of office and clinic space at $16.50 per square foot costing $180,049 annually, through June 30, 2022.

The third was for the Department of Housing, Building and Construction, in Franklin County; 37,286 square feet of office space at $8.07 per square foot costing $300,898 annually, through June 30, 2021.

The fourth was for CHFS, DCBS, in Letcher County; 19,285 square feet of office space at $9.26 per square foot costing $178,579 annually, through June 30, 2021.

The fifth was for the Department of Workforce Investment in Fayette County; 11,513 square feet of office space at $16.50 per square foot costing $189,965 annually, through June 30, 2022.

Representative Thomas moved to approve the five lease renewals, seconded by Senator McDaniel, and approved by unanimous roll call vote.

In response to Senator McDaniel, Mr. Aubrey stated that he would confirm that the leased Montgomery County property was not in the courthouse. He also stated that the owner for the Franklin County leased property passed and that the assets were placed in a family trust. The owner's son now oversees the property.

**Report from the Office of Financial Management**

**Office of Financial Management**

**New Debt Issues**

Senator Mills moved to roll the two new debt issues into one roll call vote, seconded by Representative Thomas, and approved by voice vote.

Mr. Barrow submitted two new debt issues. The first was the State Property and Buildings Commission (SPBC) Revenue and Revenue Refunding Bonds, Project No. 122. The general fund supported bond issue will finance $175 million of projects authorized in various appropriations bills and refund some prior debt for economic savings. One refunding series was a current refunding for around half a million in savings. The other two refunding series were structured to accommodate federal tax law changes. The first was a forward delivery refunding for around $1.2 million in savings that will only be executed if rates change prior to pricing the other series. The second was a taxable advance refunding of Project No. 100 Series A debt for around $12 million in savings.

The second was the Northern Kentucky University General Receipts Bonds, 2019 Series A to finance $37 million in projects; a residence hall, garage, and additional parking. The majority of funds will be allocated towards the residence hall.

In response to Senator Carroll, Mr. Barrow said that interest rates have been historically low, resulting in a compressed interest rate differential between a AAA credit rating and the state's credit rating (Aa3 with Moody's).

Senator McDaniel moved to approve the new debt issues, seconded by Senator Mills, and approved by unanimous roll call vote.

**Previous Debt Issues**

Mr. Barrow reported three previous debt issues. The first was the Kentucky Higher Education Student Loan Corporation (KHESLC) Student Loan Backed Notes, approximately $105 million, to finance federally guaranteed Federal Family Education Loan Program student loan acquisitions.

The second was the Kentucky Economic Development Finance Authority (KEDFA) Revenue Bonds (CommonSpirit Health), Series 2019A, approximately $176 million, to refund some prior conduit debt in which Catholic Health Initiatives (CHI) was the borrower. This conduit debt issue was neither a liability to KEDFA nor the commonwealth.

In response to Senator McDaniel, Mr. Barrow confirmed that the transaction generated $1.5 million in present value savings to CommonSpirit Health, of which CHI is a component.

The third was the Murray State University General Receipts Refunding Bonds, 2019 Series A, about $4.1 million, to refund some prior debt for about $350,000 in net present value savings.

**School District Bond Issue with School Facilities Construction Commission Debt Service Participation**

Mr. Barrow submitted the estimated $530,000 Middlesboro Independent school district bond issue with School Facilities Construction Commission debt service participation for roof improvements to its middle school and central office; 75 percent SFCC funds and 25 percent local funds. The school district did not need a tax increase to finance this project.

Representative Thomas moved to approve the school district bond issue, seconded by Senator Mills, and approved by unanimous roll call vote.

Senator Girdler announced that the next meeting would be Tuesday, October 15, 2019 in Annex Room 169, with Representative Thomas as chair.

With there being no further business the meeting adjourned at 1:22 p.m.

## AREA DEVELOPMENT DISTRICT WORKING GROUP

**Minutes of the 4th Meeting of the 2019 Interim**

September 25, 2019

**Call to Order and Roll Call**

The 4th meeting of the Area Development District Working Group was held on Wednesday, September 25, 2019, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Suzanne Miles, Co-Chair; Senator Dennis Parrett; Representative Susan Westrom.

Guests: Mike Burress, Executive Director, Lincoln Trail Area Development District (ADD); Michelle Allen, Executive Director, Kentucky River ADD; and Jason Vincent, Executive Director, Pennyrile ADD.

LRC Staff: Mark Mitchell, Jennifer Hays, and Chase O'Dell

**Approval of Minutes**

A motion was made, and seconded, to approve the minutes of the June 18, July 24, and August 28 meetings. The minutes were approved by voice vote.

**Procedures for Grant Awards, Grant Amounts by County in Each ADD, and Owned or Leased Facilities by ADD**

Mike Burress, Executive Director, Lincoln Trail Area Development District (ADD); Michelle Allen, Executive Director, Kentucky River ADD; and Jason Vincent, Executive Director, Pennyrile ADD; discussed the procedures for grant awards, grant amounts by county in each ADD, and owned or leased facilities by each ADD.

Mike Burress testified that the state General Fund has allocated $1.98 million to the Department for Local Government (DLG) through the Joint Funding Administration (JFA) for Fiscal Year (FY) 2020. Mr. Burress continued to say that $1,050,000 will be allocated to Kentucky through the Economic Development Administration (EDA) in FY 2020. Kentucky will receive over $22 million in FY 2020 through the Community Development Block Grant (CDBG).

Michelle Allen testified that there are nine ADDs that fall within the Appalachian region in Kentucky. In FY 2020, $806,158 will come through the Appalachian Regional Commission (ARC) to those ADDs.

Mr. Burress stated that the U.S. Department of Labor provides over $32 million directly to Kentucky for workforce development.

Ms. Allen said that the aging services program contains a blend of federal and state funds. The federal funds come from the U.S. Department of Health and Human Services Administration for Community Living. The federal and state dollars both come to the Department for Aging and Independent Living (DAIL) before being divided among the ADDs. The funds are divided by an intrastate formula.

In response to a question from Senator

McDaniel, Joseph Vincent stated that reporting discrepancies can depend on how an ADD reports expenses.

In response to a question from Representative Westrom, Mr. Vincent testified that waiting lists for aging services are substantial. In response to more questions, Mr. Vincent stated that the remedy would be increased funding. The waitlist from last year totaled 6,902 individuals. Mr. Vincent continued to say that the problem is spread across the state.

Mr. Vincent testified that 10 of the 15 ADDs own their main office building. Five of the ADDs lease their main office building.

In response to a question from Senator Parrett, Mr. Vincent stated that the Pennyrile ADD works directly with the Department of Veterans Affairs (VA) and provides various services for veterans. Mr. Vincent added that the Pennyrile and Lincoln Trail ADDs do a significant amount of work with soldiers transitioning out of Fort Campbell and Fort Knox.

In response to a question from Representative Miles, Mr. Vincent testified that ADDs have been involved in social programs from the beginning. In response to further questions, Mr. Burress stated that ADDs are local government, but are modeled after local, state, and federal government policy. If an ADD were not able to fulfill its financial obligations, the debts would fall to the local board.

In response to a question from Representative Westrom, Mr. Burress testified that ADDs hold annual board orientations. He continued to say that the ADDs work with various associations to provide training for board members. In response to further questions, Mr. Burress testified that there are award costs and expenditure costs for services provided. When the expenditures are higher than the award, the difference is often made up by local contributions.

**Adjournment**

With no further business before the working group, the meeting was adjourned.

## PUBLIC WATER AND WASTEWATER SYSTEM INFRASTRUCTURE TASK FORCE

**Minutes of the 3rd Meeting of the 2019 Interim**

September 18, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Public Water and Wastewater System Infrastructure Task Force was held on Monday, September 18, 2019, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Phillip Wheeler, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senator Robin L. Webb; Representatives Derek Lewis and Ashley Tackett Laferty; Mike Gardner, Peter Goodmann, Orbrey Gritton, Gary Larimore, and Donna McNeil.

Guests: Robert F. Powelson, President and Chief Executive Officer, National Association of Water Companies, Sandy Neal, Director of Business Development, Bluegrass Water Utility Operating Company, Todd Thomas, Bluegrass Water Utility Operating Company, and John Greer, Utility Specialist, Tennessee Comptroller of the Treasury.

LRC Staff: Stefan Kasacavage, Janine Coy-Geeslin, Tanya Monsanto, and Susan Spoonamore, Committee Assistant.

The August 28, 2019, minutes were approved, by voice vote, upon motion made by Representative Lewis and seconded by Senator Wheeler.

**Investing in Kentucky's Water and Wastewater Infrastructure**

Robert Powelson, President and Chief Executive Officer, National Association of Water Companies, said that nationally, there are some chronic failures facing the water grid. He stated that his message is about ways to create consolidation so private capital can be deployed to solve some of the big problems with water systems. The latest infrastructure assessment reports identify a $14 billion infrastructure funding gap for water and wastewater infrastructure in the Commonwealth of Kentucky.

Mr. Powelson said that there are 52,000 water systems in the United States and 85 percent of those systems are run by municipalities. There are approximately 1,500 drinking water systems deemed in violation of the Safe Water Act. The big challenge facing water systems is how to address what is actually a national problem. The American Society of Civil Engineers (ASCE) gave the United States wastewater grid a D. The largest issue facing states is how to maintain viable sustainable water service to communities. According to the ASCE, it will take $4.5 trillion by 2025 to fix and or maintain viable sustainable water services. As a result of insufficient infrastructure, increased cost of regulatory compliance, shrinking state budgets, limited bonding capacity, and limited government funds, many small and midsize utilities are choosing to sell their water and wastewater systems.

Mr. Powelson said that over the next 20 years, Kentucky water systems will be facing $8.23 billion in drinking water infrastructure needs and $6.24 billion in wastewater infrastructure needs. According to the Associated General Contractors of America, every $1 billion invested for water infrastructure would support 28,500 jobs. In 1974, Kentucky had approximately 2,100 public water systems and now there are roughly 437 systems. American Water had invested heavily in their research and development operation by using predictive analytics. American Water had also done a great job of replacing infrastructure and delivering on safety, reliability, and affordability to their customers. If Kentucky continued to move towards regionalization of water and wastewater assets, it could create 410,000 potential jobs. Grid modernization drives job investment, and it also addresses reliability and safety metrics for industrial, small business, and residential customers.

In order to help municipalities capitalize their assets, Kentucky must first enact Fair Market Value (FMV) legislation. FMV legislation would establish a transparent process for independent valuation experts to calculate a reasonable and fair value for a water system's assets subject to approval of the Public Service Commission. It is a voluntary program that would allow water and wastewater systems to maximize the value of their assets. It would also create a straightforward process for determining the actual value of an asset. Under the FMV program, it would allow a willing seller and a willing buyer to agree on a purchase price. The seller and the buyer would choose an independent appraiser, then those two appraisers would choose a third appraiser, by mutual agreement. All three appraisers have to be certified and are paid by the acquiring utility. The fair market value would be the average of the three appraisals. An acquisition by a member of the National Association of Water Companies would not take away local control, cause loss of jobs, or rates to skyrocket.

In response to Senator Webb, Mr. Paulson stated that 11 states have Fair Market Value legislation. American Water was the largest investor-owned utility in the country. Kentucky American Water can use single tariff pricing, which would spread the cost among the universal rate base – everybody would pay. Of course, a rate increase case would need to be presented before the Public Service Commission for approval.

In response to Senator Wheeler, Mr. Paulson said he did not know how much water rates increased after being purchased by American Water. He stated that he could provide that information. He explained that the proceeds of a sale go directly to the municipality to use however they see fit.

In response to Mr. Goodmann, Mr. Paulson said there are infrastructure systems throughout the United States that would be better served in a regional investment structure.

**Safe Water, Healthy Communities**

Todd Thomas, Vice President of Central States Water Resources (CSWR), a/k/a Bluegrass Water Utility Operating Company stated that CSWR purchases water systems that no one else wants. CSWR consolidates desperate systems that are spread apart. CSWR's mission is to bring safe, reliable, and environmentally-responsible water resources to every community in the United States and to be the best water utility in the U.S. at providing service to small communities. "Small" could mean as few as 20 people on the system. The vision is to transform communities, large or small, by using technology and innovation to quickly invest in reliable infrastructure to meet the needs and protect the river and streams of the state. Some systems lack managerial, technical, and financial capabilities. There are systems that have been in operation for decades and were not designed to meet the new regulatory requirements for water or wastewater. No bank will offer any money to repair these old systems without a personal mortgage or personal property.

Mr. Thomas said that CSWR's investments into water resources are also investment into communities at-large, ultimately enhancing value and driving outside investment. CSWR engages with community owners and leaders in need of help, purchases utility assets, and partners with communities to improve service and value. He said that repairing outdated water and wastewater systems increases the value of each community it serves. Mr. Thomas said water quality has a direct impact on home values.

Mr. Thomas said that CSWR works with the Kentucky Division of Water and the Public Service Commission (PSC) to identify communities that are in desperate need of critical water infrastructure investment. CSWR recently obtained PSC approval to acquire nine water utilities in Kentucky and is in the process of filing to acquire six more. CSWR is a private solution to a public problem and is an option of last resort for many communities. Customers are offered several payment options, including an 800 number, for billing issues or reporting problems CSWR uses local contractors, local water and wastewater contractors, and a cloud-based management system.

In response to Mr. Gardner, Mr. Thomas said that fair market value would be a good option since some of the systems have nothing else to offer. He also said that CSWR would like to use a statewide unified rate. CSWR typically buys from private individuals not municipalities.

In response to Mr. Larrimore, Mr. Thomas said CSWR had no complaints about the acquisition process with the PSC in cooperation with the Kentucky Division of Water.

**Addressing Failing Systems in Tennessee**

Mr. John Greer, Utility Specialist, Tennessee Comptroller of the Treasury, and Technical Secretary to both the Water and Wastewater Financing Board (WWFB) and the Utility Management Review Board (UMRB) explained that the Office of the Comptroller of the Treasury (COT) does not work for private investor-owned utilities, only government utilities. The COT office is housed within the Tennessee state legislature so, he is an employee of the legislative branch. The WWFB and the UMRB were created in 1987 to protect the state's revolving loan fund, but in 2007 they were moved to the COT. The WWFB oversees the water and wastewater systems for 260 municipalities, 12 counties, and 10 regional authorities. The UMRB oversees 179 utility districts (rural water districts). Mr. Greer said that the UMRB and WWFB consists of nine members, two ex-officio, and seven members appointed by the Governor. The boards have representatives from different industries, but all are local government experts. The purpose of the boards is to correct financial losses through user rate increases, expense decreases, negotiating regional consolidation for public-to-public utilities. Under Tennessee law, water and wastewater facilities are required to be self-supporting. The UMRB acts for the public welfare and carries out the General Assembly's intent that utility districts be operated as a self-sufficient enterprises.

Mr. Greer explained that both boards follow regulatory procedures that consist of a formal review, board investigation (five years of financial data and five years of water loss and operational data), informal hearings, contested cases, and litigation. All of the procedures are conducted informally, without lawyers, unless the failing system fails to comply.

In response to Senator Webb, Mr. Greer said that if an official of the water or wastewater utility missed a training, then the county judge could not reappoint them to the local board. If a commissioner has a breach of their fiduciary responsibility in running the system, the COT will start ouster proceedings that go through an administrative law judge. If, for example, a mayor were to miss training, the entire entity would get referred to the COT.

In response to Representative Gooch, Mr. Greer stated that training is mandatory in Tennessee. Within one year from an official's appointment, they must obtain 12 hours of on-line training, and then 12 hours of continuing education every three years for as long as the official serves the utility.

Mr. Greer stated that all government utilities in Tennessee must submit an annual audit by an independent certified public accountant. A two-year operating loss, or a default on a debt instrument would get the utility or entity referred to the board. New utilities must obtain approval from the board prior to beginning operation. If a utility loses 20 percent or more of their operating cost in water loss, the entity must submit a Water and Wastewater Analysis (WWA) reporting worksheet.

Mr. Greer said the board partners with local utilities for education, financial planning, and managerial and technical assistance. The board also collaborates with local, state, and federal agencies.

Mr. Greer noted that after a utility gets referred to the board, the utility will have a five year capitol asset plan. The COT continually provides information to utilities through its Web site, bulletins, and twitter.

In response to Representative Gooch, Mr. Greer stated that he has been the only staff member for the boards for the past three years, but another person had just been hired. He said once the communication barriers with other state agencies are dissolved, it makes the job easier by having information available.

In response to Mr. Gardner, Mr. Greer said that audits are not expensive for most of the utilities because the auditor has to be approved by COT. A $22 million community development block grant was given to water and wastewater systems last year in blocks of $550,000. He also stated that giving money to poorly run systems does not help. Mr. Greer said that Tennessee found funds at the federal and state level through matches for only small distressed communities. The State Revolving Funds (SRF) help to encourage mergers.

In response to Mr. Gardner, Mr. Greer stated that the model developed by the COT had helped to change lives. The model is designed to take governments and fix them, leaving money in the local community and local government.

In response to Mr. Larrimore, Mr. Greer said the biggest distinction between the two boards and the PSC is the formality. The utility would be paying attorneys' fees and dealing with the Office of the Attorney General for rate increases. Going through the Water and Wastewater Financing Board and Utility Management Review Board is a more informal process. Each board has the expertise to deal with the entities that they regulate.

In response to Mr. Larrimore, Mr. Greer stated that the boards are not in the business of setting rates without having all the data presented. Mr. Greer did not know how much it would cost an entity going before the PSC, but there are no fees charged by the boards unless an outside consultant would be needed to do a rate study. Even at that, both boards can have a rate study done for local governments for approximately $1,000.

In response to Ms. McNeil, Mr. Greer stated that the boards work with the SRF program by placing all audits on-line and sending background information to the SRF. Working closely with the SRF, it helps to eliminate bad loans and confirm that entities are eligible. Mr. Greer said that the University of Tennessee is researching an Ability to Pay Index and Affordability Index study along with rate metrics.

In response to Ms. McNeil, Mr. Greer said that if any utility defaults on debt, has a technical default, does not meet bond covenants, or just forgets to make a payment, they instantly get referred to the COT.

Meeting adjourned.

## PUBLIC ASSISTANCE REFORM TASK FORCE

**Minutes of the 3rd Meeting of the 2019 Interim**

October 7, 2019

**Call to Order and Roll Call**

The 3rd meeting of the Public Assistance Reform Task Force was held on Monday, October 7, 2019, at 3:00 PM, in Room 131 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; Senator Whitney Westerfield; Representative Russell Webber; Elizabeth Caywood and Bill Wagner.

Guests: Representatives Joni Jenkins and Kim Moser; Matt Weidinger, Resident Fellow, American Enterprise Institute; Meghan McCann, Senior Policy Specialist, National Conference of State Legislatures; Terry Brooks, Executive Director, Kentucky Youth Advocates; Jennifer Hancock, President and CEO, Volunteers of America Mid-States; Anne Polston, Kinship Caregiver from Casey County; Douglas Beard, Director, Division of Family Support, Cabinet for Health and Family Services. Kathy Curtis, Mt. Tabor Benedictines; Amanda Groves, Kentucky Council of Churches; Jessica Hinkle and Erin Kidder, DCBS; Mike Sasko, Softheon Inc.

LRC Staff: Chris Joffrion, Lead Staff, Hillary McGoodwin, Sean Meloney, and Ben Payne.

**Approval of Minutes**

A motion to approve the minutes of the August 19, 2019 meeting was made by Representative Webber, seconded by Senator Westerfield, and approved by a voice vote.

**The Case for Public Assistance Reform**

Matt Weidinger, Resident Fellow, American Enterprise Institute, stated that Kentucky House Bill 3 (HB3) would reorient the current allocation of funds from the Kentucky's Temporary Assistance for Needy Families (TANF) program. The TANF funds would be divided 25 percent for childcare; 25 percent for work, education, and training programs; 25 percent for work supports and supportive services; 15 percent for basic assistance; five percent for nonrecurring short-term benefits; and five percent for program maintenance. As of 2018, Kentucky is the only state that devoted a majority (65 percent) of its TANF funds to basic assistance compared to the national average of 21 percent. With the shift of funds towards pro-work related programming and appropriate broad disbursement of funds within TANF, Kentucky would be in line with the intended purposes of TANF and pending federal legislation.

In states which have undertaken to strengthen programs designed to assist adults with going to work, new programming to help recipients to find, enter, and remain in work can be more expensive than basic assistance. It may require spending above the five percent cap for "program maintenance" that HB3 proposes. The very precise funding allocations proposed under HB3 will hinder the current "above cap" spending the state is using for child welfare and basic assistance. If HB3 was to go into effect, and the state did not find alternative funding sources for basic assistance and child welfare, those programs could no longer be funded at their current rate.

HB3's work policy is similar to legislation implemented in Maine which found that after their pro-work activity policy went into effect, Maine saw their TANF, able-bodied adults without dependents caseloads drop by 80 percent. Falling from 13,332 recipients in December 2014 to 2,678 recipients in March 2015.

Mr. Weidinger stated that HB3 includes a measure to place a Supplemental Nutritional Assistance Program (SNAP) recipient's photo on their SNAP electronic benefits card (EBT) to help prevent EBT fraud. HB3 specifies that retailers participating in the food stamp program must ensure that the recipient's photo on the card matches the purchaser. While EBT fraud is a known problem, so is getting the retailers to comply with the various anti-fraud measures, like the photo on the card. This would require the state to institute more oversight on the retailers to ensure compliance with the measures. Massachusetts' implementation of the photo EBT casts doubt on the efficacy of this option. The most prevalent source of waste in the SNAP program occurs through payment errors resulting in agency miscalculation of recipient benefit eligibility. Kentucky is far from having the highest rate of SNAP payment error, the United States Department of Agriculture (USDA) reported Kentucky's rate was 7.17 percent last year, compared to the highest rate of 16.33 percent in Washington, DC.

Mr. Weidinger stated that HB3 would condition eligibility for SNAP and Medicaid benefits on compliance with a new substance abuse screening program. This requirement would provide advantages to both the state and the recipient since 78 percent of all jobs require applicants to pass a drug screening. Illegal drug use disqualifies a person from receiving unemployment insurance, and this condition on assistance should be no different. Limiting the substance use screening to persons with a history of substance use disorder might solve legal concerns by possibly providing just cause. The drug screening focus proposed in HB3 could both limit the cost of the policy on the state but improve the likelihood that persons with a history of substance abuse are not misusing taxpayer funds.

In response to questions from Bill Wagner, Mr. Weidinger stated that the language in HB3 is not similar to any other state legislation that he is aware of but that the federal government has several laws that have incorporated similar language.

Representative Moser commented that drug testing SNAP and Medicaid recipients invokes another barrier to treatment for an already barrier ridden part of Kentucky's population. Representative Moser stated that while the intention behind the drug testing is to benefit the employer and the taxpayer, the recipient would bear the unintended consequences of potentially keeping those persons with substance abuse disorders from seeking any help for themselves or their family. Mr. Weidinger responded that the language in HB3 is targeted in its intended implementation and those unintended consequences are things to consider.

Elizabeth Caywood commented that the state already has a number of drug screening programs and services that do not entail drug testing. Public assistance programs afford many with substance use disorders the financial support to access recovery and rehabilitative services. Both the drug testing and Mr. Weidinger' s support for HB3's requirement for photo identification on EBT cards would be too costly for the state and are a barrier to caregivers, children, and recipients who rely on others to get their groceries.

Ms. Caywood stated that in regards to Mr. Weidinger' s statement on how TANF funds are currently being used by the state and his support for HB3's change in disbursement, those changes would have drastic impact on how the Department for Community Based Services is able to fill in funding gaps for child welfare. Ms. Caywood stated that Mr. Weidinger' s presentation is based on assumptions that there are enough jobs in Kentucky to support a shift to a pro-work assistance model and that this does not address the cyclical problem of people being in low-paying unstable jobs. The Kentucky model should be a practical, human-centric, and specialized program that reaches Kentuckians.

In response to comments from Ms. Caywood, Mr. Weidinger stated that those concerns are all things that need to be considered within the targeted approach of HB3.

In response to questions from Senator Humphries, Mr. Weidinger stated that to create a 10 percent "slush" fund within TANF for poor economic times or anomalous situations, Kentucky could shave two percent the TANF spending categories within HB3.

**Benefits Cliffs: What are they and how can we bridge them**

Meghan McCann, Senior Policy Specialist, National Conference of State Legislatures stated that benefits cliff are what happens when public benefit programs taper off or phase out quickly as household earnings increase. When income increases, families sometimes lose some or all economic supports. These can include the SNAP, school nutrition programs, health care, child care assistance, TANF, and housing assistance. Often, the benefit cliff means wage increases result in a net loss of resources or only a small overall increase. For this reason, the benefit cliff is viewed as a disincentive to work. The abrupt reduction or loss of benefits can be very disruptive for families because even though household earnings increased, they usually have not increased to the point of self-sufficiency.

Ms. McCann stated that for families, the cliff effect can create an anchor into, rather than a ladder out of, poverty. They lose more than they gain when they take a job or receive a raise, and their safety net is simultaneously weakened or eliminated. For businesses, it often means perpetually recruiting, hiring, and training for the same entry-level positions. This effect is seen by some, including the U.S. Department of Health and Human Services (HHS), as an effective marginal tax rate on low-income earners, because they do not realize the full dollar-for-dollar value of their earnings.

Ms. McCann stated that New England is emerging as a leader in developing policy solutions to the cliff effect. The six New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont) are tackling benefits cliffs in policy, agency culture, and frontline practice as part of a nationally recognized regional two-generation initiative: A Whole Family Approach to Jobs work group. The work group conducted a nationwide environmental scan to identify administrative policy changes and legislation that have been enacted to address benefits cliffs. Short-term solutions primarily fell into three categories: 1) phasing out benefits slowly, extending certification periods or using sliding fee scales, 2) raising eligibility limits or changing exit/loss of eligibility standards to enable a longer stay on benefits while working, and 3) providing monetary incentives for continued employment or allowing more earned income to be retained.

Ms. McCann stated that policies aimed at mitigating or eliminating benefits cliffs have interrelated goals that together support workers, families, and business while bolstering the economy. The Whole Family Approach to Jobs work group identified a menu of policy options for both state and federal consideration. The state policies are organized into five overarching state policy strategies: 1) mapping benefits cliffs and pathways to financial self-sufficiency, 2) aligning eligibility levels, 3) making work pay, 4) increasing family economic security through asset development, and 5) fostering culture and system changes in the public and private sectors.

Ms. McCann stated that the work group found the median wage to lift a family out of poverty was between $15-$18/hour. While this presents the state with immediate difficulties, the state can implement various tax exemptions and credits to give cliff-bound families a boost. Those exemptions come in the form of 1) earned income tax credits, 2) asset development from escrow accounts and individual development accounts. The state can engage with the labor force, employers, and schools to create a streamlined career pathway as well as looking into the importance of dual-parent income and investing in childcare assistance.

In response to questions from Mr. Wagner, Ms. McCann stated that she did not know where Kentucky ranked for benefits cliffs in relation to the national average, as it not data that is actively tracked.

Senator Humphries commented that the ideal hourly wage to avoid cliffs referenced in Ms. McCann's presentation ($15-$18/hr.) is a rate that the state and employers would be hard pressed to meet.

**Public Assistance and Kentucky's Kids**

Terry Brooks, Executive Director, Kentucky Youth Advocates, stated that the focus of the state should be on various forms of tax credits and exemptions that help families stay together and children prosper. He fears the emphasis in HB3 on work misses an opportunity to help impoverished Kentuckians without mandatory programming. The state should pursue earned income tax credits which are refundable tax credits for low to moderate income working individuals. Mr. Brooks stated that earned income tax credits have a 2:1 return on revenue.

Childcare assistance is an opportunity for the state to invest in programming, similar to what is offered currently to foster parents, as a means to help keep parents at work without sacrificing the care of their children or childcare as a barrier to stable employment. Another avenue the state should consider is the age of youngest child tax exemption which would waive work requirements for TANF recipients after the birth of a child, generally for 3- 12 months.

Anne Polston, a kinship caregiver from Casey County detailed her struggles raising her five grandchildren without any assistance from the state and advocated for a program that mirror the financial assistance given to foster parents.

Jennifer Hancock, President and CEO of Volunteers of America Mid-States, stated that the Volunteers of America has many programs that help low-income, individuals bridge the housing and recovery gap while searching for and also maintaining employment.

**An Update on the New SNAP National Accuracy Clearinghouse**

Meghan McCann, Senior Policy Specialist, National Conference of State Legislatures explained that the 2018 Farm Bill established the SNAP National Accuracy Clearinghouse (NAC). The clearinghouse is an interstate data system that would aim to prevent multiple issuances of SNAP benefits and could reduce SNAP federal spending by $576 million from 2019-2028. According to the 2018 Farm Bill, all states will be required to join the NAC by December 2021.

Ms. McCann stated that in 2013, five states (Alabama, Florida, Georgia, Louisiana, and Mississippi) participated in a pilot project which looked at four things: impact on dual participation, effectiveness in utilization of the NAC, the Public Assistance Reporting Information System (PARIS), and the return on investment. The pilot project did reduce dual participation across the five pilot states. The effectiveness of utilization of the NAC varied from state to state. NAC proved more successful and efficient than PARIS in preventing and identifying dual participation. The cost savings across the pilot states was $5.6 million in federal overpayment avoidance. States can join the NAC program prior to December 2021, but they would be responsible for funding and would have to receive a waiver from their regional Food and Nutrition office. The startup costs for the five pilot programs were: $29,200 for Alabama, $147,019 for Florida, $35,557 for Georgia, $127,555 for Louisiana, and $330,000 for Mississippi.

**Kentucky's Plans for the SNAP National Accuracy Clearinghouse**

Douglas Beard, Director, Department for Community Based Services Division of Family Support stated that no states bordering Kentucky participate in the NAC. He explained that for this reason, early participation does not make logistical or fiscal sense but that the Cabinet for Health and Family Services (CHFS) would continue to monitor participation by other states. He reported that Kentucky would be prepared to join the NAC by December 2021 as required by federal laws.

**Public Comments**

Kathy Curtis, Mt. Tabor Benedictines, stated that as a resident of eastern Kentucky, she would encourage members of the task force to come engage with the people who depend on these programs, in their communities, and get their opinions since they will be directly impacted.

Amanda Groves, Kentucky Council of Churches, stated that she did not like the impression that people who receive benefits are takers. She explained that many people are depending on these funds to survive, especially in light of recent plant closings and layoffs. She echoed the sentiments of Kathy Curtis and encouraged the members to talk to recipients in their communities before making grave changes.

**Adjournment**

There being no further business, the meeting was adjourned at 5:00 pm.

## PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

**Minutes**

October 4, 2019

**Call to Order and Roll Call**

The Program Review and Investigations Committee met on Friday, October 4, 2019, at 8:00 AM in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Rob Rothenburger, Co-Chair; Senators Perry B. Clark, Stephen West, Whitney Westerfield, and Phillip Wheeler; Representatives Lynn Bechler, Chris Fugate, Adam Koenig, Ruth Ann Palumbo, and Walker Thomas.

Guests: Jay K. Box, President, Kentucky Community and Technical College System; Daniel P. Bork, Commissioner, Department of Revenue; and Brent King, Executive Director, Office of Field Operations, Department of Revenue.

LRC Staff: Greg Hager, Committee Staff Administrator; Greg Daly; Christopher T. Hall; Van Knowles; Jean Ann Myatt; Jeremy Skinner; William Spears; Shane Stevens; Joel Thomas; and Christy Young, Committee Assistant.

**Minutes for September 13, 2019**

Upon motion by Representative Thomas and second by Representative Koenig, minutes for the September 13, 2019 meeting were approved by voice vote without objection.

**Staff Report: *Nonacademic Barriers Facing Kentucky Community And Technical College Students***

Mr. Stevens gave an overview of the Kentucky Community and Technical College System (KCTCS). Its students differ from Kentucky university students for specified characteristics that are related to nonacademic barriers. They are more likely to be first generation, be unprepared for college, have dependents, be low income, and be older. For all specified characteristics except age, the report and presentation show a range of values based on whether the percentage is calculated based on only the number of students for which information on the characteristic is known or as a percentage of all students. The five prominent nonacademic barriers facing KCTCS students are inability to navigate college, financial instability, competing time constraints, personal health issues, and student disengagement. For each barrier, he described how it may affect students.

Mr. Hall said that KCTCS does not have reliable information on the prevalence of nonacademic barriers. Recommendation 1 of the report is that the KCTCS System Office and colleges should develop methods to determine the prevalence of specific nonacademic barriers at each college and track the prevalence of such barriers over time.

Given the lack of reliable data, Program Review staff used community-level data as proxy measures for the prevalence of specified factors that can lead to nonacademic barriers: average student income by college and by region average income, housing as a high percentage of income, food insecurity, access to child care, and access to mental health and primary care providers.

Mr. Spears said Program Review staff asked KCTCS college presidents to provide information on programs addressing nonacademic barriers. Colleges provided information on 142 programs. Each college reported at least three programs; 11

colleges reported at least eight programs. Staff assigned programs to seven categories. Multiple barrier programs, which provide several types of services, are the most common program at nearly 25 percent. Financial instability and navigation are the most commonly targeted individual barriers. Targets vary by college. Half or more of the programs at Henderson, Southcentral, and Southeast target navigational issues. Half of Gateway's programs target financial instability. Half of Hazard's programs are multiple-barrier programs.

Programs were categorized into eight groups based on the type of service. He described the programs and their prevalence. Advising programs have an element of one-on-one interaction with students that provides career or academic support. Targeted services are for students with issues outside the classroom, for example, child care. Inclusivity and engagement programs have the similar goal of increasing interest and participation of students; inclusivity programs focus on specific subgroups. Streamlining programs aim to make progress easier for students. Financial aid, tutoring, and orientation are typical college services.

Program costs could not be determined precisely because of missing information and cost variations. Total costs were provided for 128 programs. Eleven programs, mostly partnerships with other entities, were reported as having no cost to the college.

KCTCS college staff were asked how they measure the success of each program. Mr. Spears indicated the percentage of programs using specified measures of success. Usage measures indicate the amount of service provided but not whether services resulted in any changes for the students. Usage was tracked by one-half of programs and is the sole source of measurement for 40 programs. It can be an appropriate measure when the college has difficulty tracking students. Retention, which tracks whether a student returns to the college in a later semester, can serve as a stronger measure of success. Retention was the second most common measure and was most common among multiple-barrier programs. Attainment measures whether a student obtained a certificate, diploma, degree, or job. This is a stronger measure because it shows whether a program has improved a student's future but does not necessarily indicate the program caused the attainment. Attainment was used by about 30 percent of programs overall but was commonly used in multiple-barrier programs. Comparisons between program participants and other groups of students were used for five programs. This can be a strong measure because it helps determine whether programs changed outcomes for participants. All programs made comparisons to the entire student population or to previous years. A stronger method would be to compare participants with similar nonparticipants.

KCTCS colleges were asked to estimate the number of students served by their programs in fall 2017 and spring 2018. Overall, programs served a median 2.4 percent of students. The schools were asked to provide staffing estimates for their nonacademic programs. Most programs had five or fewer full-time-equivalent employees.

Community college nonacademic programs were reviewed in the seven surrounding states. Some schools in other states offered programs that were different but focused on similar issues. A Missouri college offered child care grants. An Ohio college offered student health insurance. Two West Virginia colleges participated in a program to provide free counseling services through text messages.

Mr. Hall said that the ultimate goal of any program is to increase the likelihood that students return the next semester and eventually attain a credential or transfer to a 4-year university. Retention alone is not an accurate measure of a program's effectiveness. Because all nonacademic programs are designed to address a particular problem, measuring a program's success should be geared toward determining whether it decreases the prevalence of that problem. Recommendation 2 of the report is that the KCTCS System Office, and colleges should develop more accurate measures of nonacademic program success that focus on determining whether a program decreases the prevalence of the problem it was designed to address.

Many factors can contribute to a student's willingness or ability to return to school the next semester. Better understanding the relationship between a program's effectiveness and retention would demonstrate the utility of individual programs and allow KCTCS to better manage its programs and resources. Recommendation 3 is that the KCTCS System Office should study the relationship between programs that decrease nonacademic barriers, student success, and retention. Results should be shared with the colleges so that they can improve existing programs and more effectively implement future programs.

Responding to the report, Dr. Box said that it confirms that KCTCS students are different from university students, including what is needed to achieve success. The report is clear that KCTCS cannot continue to spend money and time on initiatives without determining their impact. KCTCS has not done a good job of tracking nonacademic problems and programs, so the recommendations in the report are a wake-up call. KCTCS will need help in doing this and will ask universities to do research. He has shared the report with KCTCS college presidents. The October meeting of the president's leadership team will discuss how to address the recommendations.

Representative Thomas said that nearly $1 million is allocated for matching KCTCS college foundation funding. In response to his questions, Dr. Box said that three or four schools have this type of agreement, it is not system wide.

In response to Senator Carroll's question about trends in enrollment, Dr. Box said there was a dramatic drop-off in enrollment beginning in 2012. Enrollment steadied in 2017 and is up 2 percent this year. KCTCS is one of the few systems in the US with growth. The biggest struggle in enrollment is with working adults.

Senator Carroll asked if there has been an increase in partnerships with industry, including more customized programs. Dr. Box said that KCTCS has always tried to do this. In the past several years, manufacturing has been an area of focus. Now, there is an emphasis on health care, particularly the expansion of nursing programs.

In response to a question from Senator Carroll, Dr. Box said that much research is being done on the effect of free college programs. The initial data from Tennessee is that enrollment increases in the first year but not in the following years. It is still an open question as to how free college affects retention and getting a meaningful credential. KCTCS is tracking Work Ready Kentucky success and can provide information on this.

Senator Wheeler asked why it is not mandatory for participants in programs to complete surveys on nonacademic programs. Dr. Box said that this could be done and used with other data. The names of program participants are sometimes unknown; he cited food pantries as an example.

Representative Fugate noted his appreciation of the two KCTCS schools in his district, Hazard and Southeast, for what they contribute to the area. Dr. Box commended Hazard for its Tuesday Night Live program, which provides meals for parents and children and child care during classes.

In response to questions from Representative Koenig, Dr. Box said that the annual investment of state appropriations and tuition per student is about $5,500 per year, which is about the same level as in 2004. Expenses to provide the education are much higher than that. The cost to students is approximately $4,400 per year. About 70 percent of students qualify for federal financial aid; 55 percent get full financial aid.

Senator Carroll mentioned the West Kentucky Community and Technical College Scholar House, which provides on-site housing and child care. He asked which other schools have these services. Dr. Box said that Bluegrass has an agreement with the University of Kentucky for some students to stay in dorms. Southcentral has an agreement with Western Kentucky University. He was unaware of other KCTCS schools with housing opportunities. Child care varies by school; most try to have arrangements with local providers.

Senator Carroll said that West Kentucky Community and Technical College has housing, child care on site, and 2 years free. This seems like significant progress. He asked whether the return on investment is improving and what is available online. Dr. Box said that the level of success is the highest ever. Kentucky is second in the US in credentials awarded per capita and retention is up. It is unclear to what this can be attributed. There has been more emphasis on advising early, including dual credit in high schools. KCTCS schools are investing money in personnel in career navigators and coaches. However, as a result of budget cuts, student support staff have been reduced. Dr. Box said that KCTCS is the largest provider of online education in Kentucky. There are about 18,000 online-only students, primarily older students who are working. There are hybrid programs that combine on-campus and online learning.

Senator Carroll commended West Kentucky Community and Technical College for its contribution to the region. He asked the line should be drawn on free college. Students should have some personal investment in their education. Dr. Box said that does not favor a state program for free community college because it diminishes the value of education. In the current system, opportunities for financial and other types of assistance are available through the appropriate channels.

In response to a question from Senator Carroll, Dr. Box said that it would be a good idea to have early childhood education providers partner with community colleges to create spaces for their students.

In response to questions from Senator Westerfield about funding, Dr. Box said that in the 2018-2020 budget, KCTCS received $8.9 million in performance funding, but there was a 6.25 percent cut across all 16 colleges. Performance funding went to nine colleges. Performance funding goes directly to colleges, not the system office.

In response to questions from Senator Westerfield about compensation of employees, Dr. Box said that salaries for entry-level staff are competitive. A compensation and classification study completed 2 years ago compared KCTCS to other institutions. A 3 phase plan went to the Board of Regents. In Phase 1, minimum entry-level salaries were implemented. The increase in these salaries created compression among other salaries. Phase 2, which is to be recommended to the board for 2020-2021, would increase salaries for those who were compressed. Salaries are set system wide according to band levels: 15 for staff and 5 for faculty. There has been no across-the-board raise in 3 to 4 years. All faculty and staff received a $1,000 supplemental, nonrecurring payment this year. The money came from money left over in each college's annual budget. Leftover money stays with the college to serve as a rainy day fund. Two institutions did not have sufficient funds for all their $1,000 payments. The necessary funding was made through the system office reserve. This totaled $30,000 to $40,000, which the schools have to pay back.

In response to questions from Senator Westerfield, Dr. Box said that the Contract Review Committee recommended a supplement and deferred compensation for Dr. Box to the Board of Regents at its September meeting. At the request of Dr. Box, the board stopped its deliberations, so there was no change to his compensation or contract. He said that he has told the board that his is satisfied with his $375,000 compensation package. Dr. Box said that if the board had approved an increase, he would have used it toward an endowment for students. His contract is a rolling 3-year contract that ends in 2021.

Senator Carroll asked whether Work Ready Scholarship funds are accounted for in the discussion of funding cuts. Dr. Box said this is invested in students and was included in his discussion of state funding and tuition revenue per student.

In response to a question from Senator West, Dr. Box said that the amount of the across-the-board decreased in appropriations was 6.25 percent of approximately $250 million [$15,625,000].

Senator Clark made a motion to adopt the staff report; Representative Palumbo seconded. The report *Nonacademic Barriers Facing Kentucky Community And Technical College Students* was adopted by roll call vote.

**Department of Revenue Audit Process**

Mr. Bork said the tax system is voluntary and the department's compliance and audit processes are built around this. The department has compliance programs for many tax types. This presentation focuses on the individual income tax, sales and use tax, and tangible property tax. He described desk and field audits. Desk audits focuses on obvious errors in tax statements, for example, when amounts on different tax documents do not match. The department and the US Internal Revenue Service (IRS) share information. The department mostly uses its own auditors. The exception is audits on companies doing business in multiple states. In this case, the department uses audits done by the Multistate Tax Commission. Field auditors are in 10 service centers in the state.

Mr. King said that field audits are done primarily on sales and use tax, tangible property tax, corporate income tax, and individual income tax. He described the field audit and taxpayer protest processes. Audits are primarily on retailers, contractors, and manufacturers. The audit process is initiated by the audit selection and review team in Frankfort, which uses systematic criteria to narrow the returns that may be selected for audit. One of the referral sources for audits is the Finance and Administration Cabinet tip line. In addition to getting the tax assessment through an audit, a goal is to educate the taxpayer. Most centers have 4 to 6 auditors; the largest centers have 8 to 14 auditors. Audits may be conducted electronically or on site. After the audit has been completed and reviewed, the work papers are sent to the taxpayer.

Mr. King described trends in the number of field auditors, audits, and assessments. The number of auditors decreased from 115 in 2012 to 69 in 2018. The number of audits also declined since its peak but has increased slightly in recent years, even with fewer staff. The IRS audit rate is about 1 percent. Kentucky's best audit coverage for a tax type does not approach 1 percent.

Assessments are down since 2012.

In response to a question from Senator Carroll, Mr. Bork said that the decline in auditors and compliance staff affects the amount of tax revenue. Each auditor on average brings in $500,000 to $1 million in tax revenue. The decline in the number of auditors is partly because of the across-the-board funding cut but also because of uncompetitive salaries. A new auditor's salary is $39,000, which is less than in the private sector. Once hired, it is difficult to keep them. Mr. King added that is hard to hire auditors in the first place.

In response to Senator Carroll's question as to whether contracting out for auditing has been considered, Mr. Bork said that there are statutory issues. It is an option, but he does not favor it.

In response to a question from Senator Carroll, Mr. Bork and Mr. King said that there is no overlap between their work and work done by the State Auditor. Senator Carroll asked how difficult it would be for the Department of Revenue to absorb the duties of the State Auditor. Mr. Bork said that this is not very feasible because the rules to be followed are different. The department would have to recreate what the State Auditor already does, which would not be efficient. Mr. King said that the State Auditor serves the important role as watchdog for spending by agencies. The department's focus is generating revenue that is due to the state. Senator Carroll said that Auditor Harmon does a great job.

Representative Bechler asked about red flags from tax returns. Mr. King gave the example of documentation of sales tax and use tax that do not match. Another red flag is when a taxpayer claims assets for an industry in which the taxpayer is not a participant.

In response to Representative Bechler's question, Mr. King said that there is not extensive coverage of farming income. The focus is more on hobby farming.

Representative Bechler noted that the presentation says that the result of a field audit is that the taxpayer pays, protests, or the bill is sent to collections. He asked if a result is ever that the taxpayer overpaid. Mr. King said that this is correct and that a taxpayer getting a refund should be listed as a possible outcome.

Senator Carroll said that one his constituents who was being audited complained that the letter he received had the statement that he owed a specified amount in red. He asked about the standard letter or form that is sent. Mr. King said that for field audits, there is much back and forth communication with the taxpayer and extensive work papers accompany the letter. Regarding desk audits, Mr. Bork said that people may get frustrated if they call the department and do not get an immediate response to questions. It is hard to change the current formats for letters that are based on mainframe systems. When a new system is implemented, letters can be revised to be more user friendly.

Senator Carroll said that a business in his area was doing quarterly filings, which was changed to monthly. He asked if this is a new requirement. Mr. Bork said that whether filing is monthly, quarterly, or annual is reviewed each year based on the amount of sales by the business.

Senator Carroll asked that data be provided to him on the relationship between staffing and revenue collections before the General Assembly considers the budget.

Senator Carroll announced that the next committee meeting is November 22.

The meeting was adjourned at 9:54 AM.

## EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

**Minutes**

September 17, 2019

**Call to Order and Roll Call**

The meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, September 17, 2019, at 1:15 p.m., in Room 129 of the Capitol Annex. Representative Brandon Reed, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Brandon Reed, Co-Chair; Senators Alice Forgy Kerr, and Mike Wilson; Representatives Tina Bojanowski, and Regina Huff.

Guests:

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

**Office of Education Accountability Report: Revenues and Expenditures for Career and Technical Education in Kentucky**

Dr. Bart Liguori, Research Division Manager, Office of Education Accountability, and Chris Riley, Research Analyst, Office of Education Accountability were present to share the OEA study regarding state-appropriated revenues and expenditure allocations for the 53 state-operated area technology centers (ATCs) and 42 locally-operated centers (LAVECs) utilized by students across the Commonwealth. Mr. Riley explained that funding has held steady over the last several years, but there are some problems regarding compliance with statute and regulation for career and technical education (CTE). There has been much legislative activity on CTE recently, specifically the creation of a CTE task force which will present to the Interim Joint Committee on Education prior to the next Regular Session of the General Assembly. This report will likely inform legislation and budget allocation for CTE in the upcoming biennium.

According to administrative regulation 705 KAR 3:141, there should be a minimum of five pathways offered at each CTE center and a minimum of 180 students enrolled. Pathways in many career fields are made available to students and include diverse industries such as manufacturing, engineering, and health related sectors. ATCs are located in 52 districts and serve students from 72 districts. There are 42 LAVECs in 32 districts with three districts feeding into the Fayette County LAVECs. These centers all receive state funds. Additionally, comprehensive high schools offer CTE, but these are not allocated CTE-specific funding from the state, rather they pay for expenses out of school level general fund appropriations. There are eight programs which have applied to be added to the LAVEC funding list, but KDE is not adding additional schools or programs at this time.

Data for the report came from many sources including district-level annual financial reports, state grant allocation data, and OEA surveys sent to superintendents and CTE principals. KDE provided data on ATC expenditures, unduplicated CTE student counts, LAVEC funding allocations by category, and ten years of total CTE funds. Mr. Riley illustrated that the largest portion of funding for CTE comes from the general fund, with other funds coming from restricted funds and federal funds. Holding steady at approximately $80 million a year, there was a nominal decrease of 4 percent from 2009 to 2018. However, inflation adjusted amounts show that an additional $18 million would have been required in 2018 to meet the same purchasing power that was available in 2009.

During the 2018 fiscal year, LAVECs were allocated $11.8 million from the general fund and ATCs received $24.2 million. Additionally, $17.4 million were allocated from SEEK funds to ATCs. Other CTE specific funds were allocated to districts housing ATCs ($4.1 million) and to KCTCS ($1.4 million). Vocational transportation received $2.4 million from CTE specific funds. Mr. Riley then presented an OEA recommendation that the School Facilities Construction Commission (SFCC) should work in collaboration with the Kentucky Board of Education (KBE) and KDE to promulgate an administrative regulation that identifies the methodology for equating the average daily attendance of ATCs with the average daily attendance of other local school districts to ensure that these centers receive a proper share of the Kentucky Education Technology System funding.

Per student, LAVECs receive approximately $397 and ATCs receive approximately $2,033 after the SEEK and general fund allocations are combined, illustrating a significantly disproportional allocation, even though LAVECs spend as much or more than ATCs per student. There are also unfunded CTE schools and pathways as a result of a deficiency in funding according to KDE. It is estimated that $1.3 million is needed for the previously referenced eight schools which have applied for LAVEC funding. An additional $1.4 million is needed for full funding of currently unfunded pathways in existing LAVECs, and $19.4 million is needed for 78 comprehensive high schools who are not currently receiving state funds for CTE but could qualify for LAVEC funding under current methodology.

Currently, KDE is not compliant with statute regarding funding amounts due to a flaw in the calculation. OEA recommendations stated that KDE should fund new CTE programs at existing LAVECs in accordance with 705 KAR 2:140, sec. 5(2) or the KBE should amend the regulation to reflect current practices and the General Assembly should revise KRS 157.069 regarding the LAVEC categorical funding formula to reflect the proper methodology of computing category 2 and category 3 LAVEC full-time equivalent (FTE) student counts. There is also a weighted system for calculating LAVEC funding using FTE counts, and this system is within a statutory and regulatory framework. But KDE has acknowledged there is a mistake in the formula, therefore they do not use it. KDE has developed an internal formula but there is a semester "lag" in distribution of funding which is not in compliance with the regulation or statute. The $17.4 million SEEK funding should also match expenditures, but staff found that the allocations do not match. There is significant variation among the ATCs and some use funds allocated for building maintenance and retirement of debt service, but some use SEEK funds for SBDM and other disallowed instructional expenses. This has resulted in several other recommendations, including that KDE should comply with all provisions of regulations for ATC funding or that KBE should align regulation with current practice, and the General Assembly should include specific language directing KDE to allocate funds to secondary CTE programs at KCTCS if they intend for KDE to continue that allocation.

In 2018, KDE allocated $24.2 million to ATCs from their general funds, however, these funds are not line-item allocations for ATCs. There is also no statutory or regulatory framework for distribution to ATCs. OEA recommends that KBE promulgate regulations concerning the distribution of funds to ATCs that address both general fund and SEEK allocations. Additionally, accounting errors were discovered during staff review of district level annual financial reports, many of which were program coding errors. This masks the true costs associated with delivering CTE. There were also problems in federal reporting of CTE funding in Kentucky, including underreporting of CTE teacher counts by KDE and districts. Combined, these errors prevent comparison of expenditures across districts. OEA staff recommend that KDE should review the chart of accounts and change how ROTC, SBDM, and board expenditures are captured so that all schools are reporting accurately. KDE should work with district staff to ensure all CTE expenditures are coded correctly on the annual financial reports as are CTE teaching and administrative staff on the staff data reports submitted to both KDE and the US Department of Education.

Mr. Riley then shared a table illustrating the difference between funding for ATCs and LAVECs through comparison of the Southside Fayette County LAVEC and Madison County ATC. The per-pupil allocation is significantly higher for the Fayette County LAVEC, with a large portion coming from local district general funds. The Madison County ATC had a per-pupil allocation of $1,932 with 95 percent covered by state sources, whereas Fayette County LAVEC had a per-pupil allocation of $2,847 with only 32 percent coming from state funding sources. There is a significant disparity in expenditures per-FTE and per-pupil.

Staff further compared the ATC with the highest per-FTE allocation program with the lowest per-FTE program. Martin County ATC was allocated more than $11,000 per-FTE while Meade County ATC was allocated only $4,100 per-FTE in 2018. Deeper analysis of this difference found that Meade County has six programs housed at their ATC that are funded with district funds and the students in those programs are counted in the total FTE counts. Since CTE specific SEEK funds are allocated according to FTE counts, these inflated totals may result in greater allocation of SEEK funds to the nine districts which have at least one locally operated program housed at an ATC.

As referenced earlier, CTE teachers at ATCs are paid by KDE according to a set salary schedule and work at least 190 days per year. LAVEC teachers are district employees subject to home district salary and ranking schedules. They are required to work at least 185 working days but not more than 187 days according to statute. An analysis of starting salaries found that a majority of ATC teachers earn more than district-paid teachers, however, the same comparison of teachers with 20 or more years of experience found that a majority of district-paid teachers earn more than ATC teachers for all ranks. Staff analysis further discovered that special education teachers were more likely to be employed at a stand-alone LAVEC than at an ATC. Additionally, CTE classrooms cost more because of lower teacher-to-student ratios, higher cost of equipment needed for specialized pathways, and the fluctuating cost of consumables. Many districts also struggle to keep their equipment up to date in comparison to industry standards because of the high cost of specialized equipment.

At the request of staff, KDE provided estimations for new CTE program costs but there was considerable variation in the total estimated cost across programs, from $100,000 up to $325,000. Most of the difference in these start-up costs come from the higher cost of equipment for some programs over others. Finally, a majority of ATC facilities were built or last remodeled during the 1960s and 1970s. Some districts have newer facilities, but staff analysis found that 91 districts report a need for either facility upgrades or entirely new buildings. The total unmet need for CTE facilities was more than $394 million as of February 2019.

In conclusion, Mr. Riley said the total

funding for CTE has remained steady but inflation indicates a significant loss of purchasing power. Also, state funding proportionally favors ATCs relative to LAVECs, with districts making up the difference using district-level funding. And there are widespread issues with compliance and transparency for existing CTE funding structures making comparison between districts difficult. Potential legislative action during the upcoming Regular Session could set Kentucky on a different path going forward.

Senator Kerr asked if KDE had a response to the report. Chair Reed said the response had been provided to members electronically and was included in their meeting packets. The response would also be available online with other meeting materials.

Following the presentation and questions, Senator Wilson made a motion to accept the report, seconded by Senator Kerr. The motion passed by voice vote.

**Approval of Minutes**

Senator Kerr made a motion to approve the minutes as written, seconded by Representative Huff. The motion passed by voice vote.

Chair Reed announced that the next meeting of the subcommittee will be on October 17, 2019, at 1 p.m. in Annex Room 129. The topic will be teacher shortages. There being no further business to come before the committee, the meeting adjourned at 1:50 p.m.

## ALZHEIMER'S AND DEMENTIA WORKFORCE ASSESSMENT TASK FORCE

**Minutes of the 4th Meeting of the 2019 Interim**

October 3, 2019

**Call to Order and Roll Call**

The 4th meeting of the Alzheimer's and Dementia Workforce Assessment Task Force was held on Thursday, October 3, 2019, at 1:00 PM, in Room 131 of the Capitol Annex. Representative Deanna Frazier, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Deanna Frazier, Co-Chair; Senator Reginald Thomas; Representatives Danny Bentley and Lisa Willner; Steven Davis, Buddy Hoskinson, Mackenzie Longoria, Devon McFadden, Andrea Renfrow, Mary Romelfanger, Philip Travis, Kelly Upchurch, and Denise Wells.

Guests: Dr. David McFaddin, Senior Vice President for Operations, Colleen M. Schneck, ScD, OTR/L, FAOTA, Associate Dean, College of Health Sciences, Professor, Department of Occupational Science and Occupational Therapy, Stephanie W. Adams, MSW CSW, Social Work Program Director, Department of Anthropology, Sociology and Social Work, Eastern Kentucky University; Jay Box, Ed.D., President, Kim Williams, System Director for Allied Health and Nursing Programs, Brian Perry, Legislative Liaison, Kentucky Community and Technical College System; Gregory A. Jicha, M.D., Ph.D., Professor of Neurology, Robert T. & Nyles Y. McCowan Endowed Chair in Alzheimer's Research, Alzheimer's Disease Center, College of Medicine, Keith Knapp, Ph.D., CNHA, CNA, Associate Professor, Department of Health Management & Policy, College of Public Health, University of Kentucky; Josh Williams, Talent Pipeline System Leader; and Bari Lewis, Director of Community Outreach, Alzheimer's Association.

LRC Staff: Dana L. Simmons, Lead Staff, and Becky Lancaster.

**Approval of the Minutes**

A motion to approve the minutes of the September 5, 2019 meeting was made by Mary Romelfanger, seconded by Andrea Renfrow, and approved by voice vote.

**Innovative solutions to recruit and retain professionals involved in providing care and treatment to individuals with Alzheimer's and dementia.**

**Eastern Kentucky University**

Dr. David McFaddin, Senior Vice President for Operations, Eastern Kentucky University (EKU), stated that nearly 90 percent of EKU undergraduate students are Kentucky residents. After graduation 75 percent of EKU degree holders are employed in Kentucky. Colleen M. Schneck, ScD, OTR/L, FAOTA, Associate Dean, College of Health Sciences, Professor, Department of Occupational Science and Occupational Therapy, Eastern Kentucky University, stated that in the fall of 2018, the College of Health Sciences had 2,469 students enrolled in health majors. There were approximately 1,012 graduates from the College of Health Sciences that included 713 with a health major that may potentially work with the aging population in Kentucky. Three years after graduation 75 percent of graduates are employed in Kentucky with an average salary of $51,130. EKU students have the ability to take service learning courses that relate to persons diagnosed with Alzheimer's or dementia in programs such as The Place To Be. The Place To Be is a half-day program offered by the Department of Occupational Science and Occupational Therapy at EKU, that provides socialization and specifically targeted therapeutic activities for persons diagnosed with Alzheimer's or dementia.

Stephanie W. Adams, MSW, CSW, Social Work Program Director, Department of Anthropology, Sociology and Social Work, Eastern Kentucky University, stated that the EKU social work program has 420 students at the Richmond location and online pursuing a Bachelor of Social Work (BSW) degree. Approximately 80 percent of EKU graduates are employed and/or accepted into a Masters of Social Work (MSW) program within three months of graduation. A significant number of graduates remain in the region and work in fields including healthcare, aging, and disability services. All BSW students must complete two practicums or internships before graduating. These programs give students an opportunity to work in a field of interest with a safety net. EKU is working with the Department for Aging and Independent Living (DAIL) on a workforce development project. The project will place social work practicum students in a DAIL provider agency and allow students to receive a stipend of up to $8,500 for practicum hours. EKU offers gerontology certificates at the undergraduate and graduate level.

Dr. McFaddin stated that EKU has been working with the Cabinet for Health and Family Services (CHFS) and the Kentucky Housing Cooperation (KHC) to provide a transitional type of care for individuals who are still ambulatory, have quality of life, and do not require a nursing home or medical facility. EKU is proposing an assisted living facility to be located on the South campus with approximately 120 beds. The facility would be a living laboratory space for EKU students specializing in various fields. EKU is moving forward on the request for proposal (RFP) process and have a developer and operator selected. A barrier for the project is the necessity to have a 1915(c) Home and Community Based Services (HCBS) waiver. The waiver would allow Medicaid funds to pay for the room and board for the individual. EKU believes this project would be a great opportunity for cost-savings for Kentucky.

In response to questions and comments from Senator Mills, Ms. Adams stated that she does not know the size of the class for the gerontology certificate. There is support for the certificate program online but because the graduate program is new the number of students is not known. She stated that many students are maximized at their position with an Associate degree. Students return to EKU to acquire a BSW degree to allow for job promotion. Employers want to keep employees but some regulations are requiring employees to have a Bachelor degree. Dr. McFaddin stated that the assisted living project would be a low income product. Residents would have to meet the threshold for low income to bring in the KHC funding. There are many counties including and surrounding Madison County that are distressed communities that could benefit from the program.

In response to questions and comments from Representative Wilner, Ms. Adams stated that the Psychology Department is involved in the new assisted living project. All five certificate programs related to the social work program are involved in units across the whole school. Dr. McFaddin stated that the new assisted living project created significant interest among other programs on the EKU campus.

In response to questions and comments from Philip Travis, Ms. Schneck stated that EKU is producing 400 to 500 registered nurses (RNs) and nurse practitioners per year. Those graduates are covering a broad spectrum of jobs.

**Kentucky Community and Technical College System**

Jay Box, Ed.D., President, Kentucky Community and Technical College System (KCTCS), stated that KCTCS is a system of 16 colleges with over 70 locations across the Commonwealth. KCTCS colleges provide education towards supporting the healthcare needs of Alzheimer's and dementia patients. KCTCS offers 28 healthcare programs ranging from nurse aide to emergency medical technician (EMT). In the 2018-2019 school year, KCTCS graduated 3,112 nursing assistants, 270 licensed practical nurses (LPNs), and 17 recovery coaches. The programs that are directly related to Alzheimer's and Dementia care are psychiatric mental health technician, aging services, direct support work, and client service coordinator. The total number of graduates from the KCTCS healthcare sector in the 2018-2019 school year was 6,130. The Medicaid nurse aide certifications may be earned as a high school senior, at a college level, or through a nursing home. KCTCS nursing graduates can take the national certification exam and go to work as a RN in two years. Approximately 17,355 graduates of KCTCS were employed in healthcare and the social assistance industry sector.

Dr. Box stated that the KCTCS Allied Healthcare program coordinators, along with college recruiters, spend time in high schools and with social organizations recruiting students into the field through educational opportunities. Work Ready Kentucky Scholarships were awarded to 623 students towards tuition leading to credentials in Healthcare in the 2018-2019 school year. KCTCS and the Kentucky Department of Education have developed dual credit pathway models for EMS paramedic, medical assisting, medical information technology, nursing, and pharmacy technology programs. KCTCS offers testing for students to qualify for prior learning credits. KCTCS staff is working to increase and expedite the attainment of state occupational licenses by veterans. KCTCS offers online and accelerated programs to get individuals into the healthcare talent pipeline. Some KCTCS locations offer an accelerated Emergency Medical Services Technology (Paramedic) certificate that can be completed in 12 months. KCTCS is ahead of many states in how it meets healthcare talent pipeline needs.

In response to questions and comments from Senator Mills, Dr. Box stated that Kentucky Educational Excellence Scholarship (KEES) money cannot be used for dual credit hours. The dual credit scholarship pays for two classes per semester. The Work Ready Kentucky scholarships allows for additional course work. Students can partner KEES and the Work Ready Kentucky scholarships together for additional course work. To achieve an Associates degree while in high school, a student may have to pay some tuition themselves. Students could earn a one year certificate while in high school.

In response to questions and comments from Philip Travis, Dr. Box stated that the need for LPNs is driven by availability for employment. KCTCS never eliminates a program but suspends the program. A suspended program can be reopened if the need arises for the program. Kim Williams, System Director for Allied Health and Nursing Programs, Kentucky Community and Technical College System, stated that 13 of the 16 KCTCS colleges offer the practical nursing program at multiple campuses. She stated that is difficult to find nursing faculty but when the need arises there will be nurses to come forward to fill the vacant faculty roles. Dr. Box stated that the biggest challenge is satisfying faculty needs in the Associate degree nursing program because a higher degree is required to teach at that level.

In response to questions and comments from Mackenzie Longoria, Ms. Williams stated that in the programs relating to Alzheimer's and dementia care the students get a combination of specific and broad-based training. All of the disease processes that effect the aging population will be taught to students. Dr. Box stated that KCTCS just received the apprenticeship grant and is working on the program setup. Ms. Williams stated that there are three KCTCS colleges that are creating apprenticeships. KCTCS is working on a geriatric Medicaid nurse aide and a dementia specialist nurse aide apprenticeship.

In response to questions and comments from Mary Romelfanger, Ms. Williams stated that the Healthcare Facilities Leadership program is a two-year program that is geared towards creating administrators and unit managers for all types of facilities. KCTCS will speak to the Association of Healthcare Administrators about the derivation of the content for the Healthcare Facilities Leadership program. KCTCS would like to see this program be taught throughout the state.

In response to questions and comments from Steven Davis, Ms. Williams stated that all nurse aides become certified in the Medicaid program to complete the certification. KCTCS is working on how to track the number of Medicaid nurse aides employed in a nursing facility or a long-term care setting. She anticipates that the apprenticeships for long-term care facilities will give students better insight into the scope of work. The apprenticeships will allow KCTCS faculty better oversight of the students work experience. She did not know how many nurse aide students return or continue their education to become LPNs. All the students in the practical and registered nursing programs take the nurse aide course. KCTCS works with the Department for Medicaid Services to update and monitor the curriculum for the nurse aide training programs.

**University of Kentucky**

Gregory A. Jicha, M.D., Ph.D., Professor of Neurology, Robert T. & Nyles Y. McCowan Endowed Chair in Alzheimer's Research, Alzheimer's Disease Center, College of Medicine, University of Kentucky, stated that in 1972, funding was obtained for the construction of the current Sanders-Brown Research Building and a program in biomedical research was implemented within the University of Kentucky Chandler Medical Center. Keith Knapp, Ph.D., CNHA, CNA, Associate Professor, Department of Health Management & Policy, College of Public Health, University of Kentucky, stated that the nursing program is for acute inpatient care, not for community dwelling persons or daily life care issues. Dr. Jicha stated that the Sanders-Brown Center On Aging (SBCOA) includes the Alzheimer's Disease Center (ADC). The ADC provides graduate and undergraduate training in neurology, psychiatry, social work, and gerontology. The National Institutes of Health (NIH) training focuses on training researchers not clinicians. He stated that to address the Alzheimer's and dementia workforce issue Kentucky should bring in leaders from elsewhere to help create innovative solutions and develop programs targeting the existing workforce to reinforce skills used in caring for patients with all types of dementia.

Dr. Jicha stated that over 2000 people have taken the web-based course, Telemedicine based Assessment of Cognition in Kentucky (TACK). Forty-one percent of the program participants are nurses. The Kentucky Enduring Education Network for Collaborative Dementia Care (KEEN-CDC) had 400 trainees with oversight by the Office of the Inspector General. The University of Kentucky is working in four areas for innovative solutions: (1) development of a NIH-funded Pepper Center for Training in Aging and Dementia; (2) focus on recruitment and retention; (3) the hub and spoke training model; and (4) the Extension for Community Healthcare Outcomes (ECHO) project. The Pepper Center is designed to address the needs of the aging population. The Beeson Career Training Grants would bring in millions of dollars a year to Kentucky for training the workforce.

Dr. Knapp stated that recruitment in careers that support families who have a loved one with Alzheimer's or dementia is necessary. Transportation assistance is a key barrier for people who want to access programs located at the University of Kentucky. Online programs is helping with access to programs. Kentucky could leverage online access in public libraries and schools that would not create a large capital investment by state government. The recruitment for workers in non-traditional audiences such as Veterans is important to grow the healthcare workforce. Kentucky should also consider recruiting family and informal caregivers such as clergy and neighbors to enter or assist the healthcare workforce. He stated that in order to retain staff there are incentives such as care "enterprise zones" that work towards student loan forgiveness, scholarships, and tax credits for employers and employees.

Dr. Jicha stated that the hub and spoke training model was based off of successful Indiana program where there was a central Alzheimer's disease center or a hub that excelled in research and clinical care provision. The model is designed to allow training in disparate areas so that each local spoke would become a hub to reach more areas. The ECHO Model™ connects groups of community providers with specialists at centers of excellence in regular real-time collaborative sessions. Dr. Knapp stated that an action item is the Kentucky Alzheimer's workforce development plan that will have a 2020 update. Another action item is to elevate and drive training expectations for the Pepper Center. Kentucky should also incentivize recruitment, retention, and distribution. He stated that every field of medicine is touched by the shadow of dementia and Kentucky needs a broad based policy to ensure the basics are understood and retrained in every provider in the state.

In response to questions and comments from Buddy Hoskinson, Dr. Jicha stated that the KCTCS is a great infrastructure to implement the hub and spoke model for training.

In response to questions and comments from Mackenzie Longoria, Dr. Jicha stated that there is a financial disincentive to becoming a gerontologist and that may change as there is talk nationally to move to a value-based care reimbursement system. The care of those involved in geriatrics and dementia is value-based but not reimbursed well in the system. Dr. Knapp stated that the reimbursement systems are produced as a hybrid from manufacturing where productivity means high volume not high touch.

In response to questions and comments from Mary Romelfanger, Dr. Jicha stated that in the field of dementia the doctors do know one another. He believes that Kentucky can have a Pepper Center built at the University of Kentucky alone or in conjunction with the Institute for Sustainable Health and Optimal Aging at the University of Louisville.

**Kentucky Chamber Workforce Center**

Josh Williams, Talent Pipeline System Leader, Kentucky Chamber Workforce Center, stated that the Kentucky Chamber Workforce Center's role is to service a resource for all businesses across the state in all things education and workforce related. To address the workforce challenges that Kentucky is facing employers and industry have to drive the discussion. The Talent Pipeline Model (TPM) was developed by the United States Chamber of Commerce Foundation. The secret to workforce development is in industry leadership. The supply chain model provides a framework for employers to come together to address shared workforce challenges. He described a six step strategy for employers to transfer the relationship with educational workforce partners to be performance driven. Employers and educators are coming together to co-engineer solutions while understanding what key performance indicators are necessary.

Mr. Williams stated that the talent pipeline is divided into four regions with each project manager creating and coordinating collaborative work within Kentucky's five key sectors including healthcare. There are approximately 20 collaboratives engaging nearly 160 employers in all five of our key sectors. He shared a graph that depicted how many nursing positions will be created due to new positions created, retirements, and voluntary or involuntary turnover over the next two years within each specialty. He stated that the critical care RN group would have a 93 percent voluntary or involuntary turnover rate. The operating room and procedural RN group would have a 31 percent retirement turnover rate and the skilled nursing and rehabilitation RN group would have a 52 percent new position demand rate. He stated that six of the eight surveyed schools did not graduate the maximum number of RN students from the school. The largest barriers for educators increasing program capacity are: (1) lack of qualified faculty and clinical instructors; (2) scarcity of clinical rotation sites; (3) increased number of students and costs; and (4) student retention.

Mr. Williams stated that the demand projection breakdowns are based on new, retirement, and voluntary positions. Over the next two years, there are 249 RNs projected to retire. The workforce is working to see if those RN retirees could become teaching faculty for nursing programs. The Kentucky Chamber Workforce Center has eight healthcare collaboratives that are up and running across Kentucky. In the Maysville area, 74 percent of the RNs are coming from the local community technical college. The Maysville Community and Technical College is producing an average of 41 RNs a year, which more than doubles the two-year demand. The Kentucky Chamber Workforce Center has found that the need is completely different; the community is not building capacity. The students are graduating and then leaving the area. The solution is to work to retain the graduates in the area and to develop a model so that the people in the entry level positions that are rooted in the community, can work to advance in those positions.

In response to questions and comments from Representative Bentley, Mr. Williams stated that the abundance of nurse practitioners does not mess up the statistics regarding RNs, but it does provide an interesting perspective as to why there are so many when the needs are in other areas.

**Adjournment**

There being no further business, the meeting was adjourned at 3:06 PM.

## GOVERNMENT CONTRACT REVIEW COMMITTEE

**Committee Minutes**

October 10, 2019

**Call to Order and Roll Call**

The Government Contract Review Committee met on Thursday, October 10, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Kerrie Dehorty, Deaidra Douglas, Stan Salyards, Ethan Witt, Dana Fohl, Bryan Makinen, Tony Dunbar, Jay Hall, Melissa Brewer, Evan Jones, Tonya Peters, Ray Gillaspie, David Schuermer, Genevieve Brown, Tom Stratton, Heather Wagers, Stacy Woodrum, Ashley Hooker, Charles Harman, Tara Rodriguez, Karla Tipton, and Lea Ann Lewis.

LRC Staff: Kim Eisner and Kim Smith.

A motion was made by Representative Fugate to approve Minutes of the September 2019, meeting of the committee. Senator Wheeler seconded the motion, which passed without objection.

**SEPTEMBER DEFERRED ITEM:**

WESTERN KENTUCKY UNIVERSITY

Signet, 192022. A motion was made Senator Carroll to consider the contract as reviewed. Representative Booker seconded the motion, which passed without objection.

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

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

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

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

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

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

AUDITOR OF PUBLIC ACCOUNTS

Patrick & Associates, LLC, 2000000543; Tichenor and Associates, 2000000544.

DEPARTMENT FOR INCOME SUPPORT

John Francis Norton, 2000000243; Aletia Gayle Farmer, 2000000251.

DEPARTMENT OF EDUCATION

Metametrics, Inc., 2000000359.

DEPARTMENT OF HIGHWAYS

HMB Engineers, Inc., 2000000520; HDR Engineering, Inc., 2000000569; Aecom Technical Services, Inc., 2000000571; HDR Engineering, Inc., 2000000579; RHA, LLC, 2000000583; American Engineers, Inc., 2000000647; Aecom Technical Services, Inc., 2000000649; WSP USA, Inc., 2000000651; Kimley-Horn and Associates, Inc., 2000000652; Burgess and Niple, Inc., 2000000690; HDR Engineering, Inc., 2000000691.

DEPARTMENT OF JUVENILE JUSTICE

C-Tech Associates, Inc., 2000000284.

EASTERN KENTUCKY UNIVERSITY

Trek Advancement, LLC, 20-284.

FACILITIES & SUPPORT SERVICES

Patrick D. Murphy Company, Inc., 2000000175; Riverine Systems, LLC, 2000000378.

KENTUCKY FISH AND WILDLIFE RESOURCES

Haworth Meyer Boleyn, Inc., 2000000120.

KENTUCKY LOTTERY CORPORATION

Bandy Carroll Hellige, 20-16-044-1.

KENTUCKY RETIREMENT SYSTEMS

Manatt Phelps Phillips, LLP, 1900004288; Michael McClain, PLLC, 1900004814.

KENTUCKY STATE POLICE

Jason McCowan, 2000000559; Benjamin Wilcott, 2000000597.

KENTUCKY STATE UNIVERSITY

Alliance Medical & Home Care, 20-27.

NORTHERN KENTUCKY UNIVERSITY

Under Score Branding, 2020-103; Vitamin Collective, LLC, 2020-104; Thompson Hine, LLP, 2020-105; Brubaker & Associates, Inc., 2020-106.

TRANSPORTATION - OFFICE OF THE SECRETARY

Crowe, LLP, 2000000564.

UNIVERSITY OF KENTUCKY

Ekhoff, Ochenkoski, Polk Architects, A201080; JRA Architects, A201120; Lord, Aeck, & Sargent, Inc., A201130; Omni Architects, A201140; Buffkin Baker, LLC, K20-128; Smith Management Group, K20-129; Smith Management Group, K20-130; Trimeric Corporation, K20-131; HealthCare Appraisers, Inc., K20-132.

UNIVERSITY OF LOUISVILLE

Sannam S4, Inc., 20-024; Huron Consulting Services, LLC, 20-026; HBSA, Inc., 20-027.

WESTERN KENTUCKY UNIVERSITY

Premier Parking Services, LLC, 192023; Crowe, LLP, 192025.

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

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Sources of Strength, Inc., 1800002008.

BOARD OF EXAMINERS OF SOCIAL WORK

Scanlan Associates, LLC, 1800002292.

DEPARTMENT OF EDUCATION

CN Resource, LLC, 1900000532.

DEPARTMENT OF HIGHWAYS

Michael Baker Jr., Inc., 0700004078; Vaughn & Melton Consulting Engineers Kentucky, Inc., 1400000764; QK4, 1500002151;

Aecom Technical Services, Inc., 1700002656; Integrated Engineering, 1700002665; Palmer Engineering Company, 1800000406; J.M. Crawford & Associates, Inc., 1800000447; American Engineers, Inc., 1800001152; QK4, Inc., 1800001478; Stantec Consulting Services, Inc., 1800001566; HMB Engineers, Inc., 2000000522; HMB Engineers, Inc., 2000000523; HMB Engineers, Inc., 2000000526.

DEPARTMENT OF MILITARY AFFAIRS

1 Asterisk Safety Consultants, LLC, 1900003130.

FACILITIES & SUPPORT SERVICES

CMW, Inc., 1000000976; Greg Best Consulting, Inc., 1700001729; Third Rock Consultants, LLC, 1900002766.

KENTUCKY LOTTERY CORPORATION

IGT Global Solutions Corporation f/k/a GTECH Corporation, 20-10-001.

KY COMMUNITY TECHNICAL COLLEGE SYSTEM

Walther, Gay & Mack, PLC, 762.

UNIVERSITY OF KENTUCKY

Omni Architects, A191120; Marshall Medical Management, LLC, K19-195.

WESTERN KENTUCKY UNIVERSITY

Jackson Lewis P.C., 182025.

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

ADMINISTRATIVE OFFICE OF THE COURTS

Chrysalis House, Inc., 2000000663; Hope Center, 2000000664; Morehead State University, 2000000665.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Centerstone of Kentucky, Inc., 2000000622.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 2000000094.

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

Cerebral Palsy Kids Center, 2000000163.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Community Action Lexington-Fayette County, 1900004943; Childrens' Home of Northern Kentucky, 2000000399; Center for Employment Opportunities, Inc., 2000000420.

DEPARTMENT FOR LOCAL GOVERNMENT

Knott County Fiscal Court, 1900003856; Henderson County Fiscal Court, 1900004991; City of Paducah, 2000000276; Union County Fiscal Court, 2000000285; Mason County Fiscal Court, 2000000489; McCreary County Fiscal Court, 2000000490; Madison County Fiscal Court, 2000000545; Shelby County Fiscal Court, 2000000573.

DEPARTMENT FOR MEDICAID SERVICES

Department of Juvenile Justice, 1900004867.

DEPARTMENT FOR NATURAL RESOURCES

Multi, 2000000035.

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Public Health Institute, 2000000405.

DEPARTMENT FOR WORKFORCE INVESTMENT

Connected Nation, Inc., 2000000299; Kentucky Association for Environmental Education, 2000000427.

DEPARTMENT OF AGRICULTURE

University of Kentucky Research Foundation, 2000000254.

DEPARTMENT OF EDUCATION

Kentucky Higher Education Assistance Authority, 1900004031; Collaborative for Teaching, 1900004528; Bluegrass Community and Technical College, 1900004759; University of Louisville Research Foundation, 2000000398; University of Kentucky Research Foundation, 2000000419; University of Kentucky Research Foundation, 2000000444; University of Kentucky Research Foundation, 2000000445; Anderson County Board of Education, 2000000484; Ashland Board of Education, 2000000485; Berea Independent Board of Education, 2000000486; Calloway County Board of Education, 2000000487; University of Kentucky Research Foundation, 2000000498; KET Foundation, 2000000506; Boyle County Board of Education, 2000000517; Fayette County Board of Education, 2000000546.

KENTUCKY STATE POLICE

Kentucky Medical Services Foundation, Inc., 1900004789.

OFFICE OF ENERGY POLICY

Cedar West, Inc., 2000000283.

TRANSPORTATION - OFFICE OF THE SECRETARY

Kentucky Association of Chiefs of Police, 2000000428; Kentucky Association of Chiefs of Police, 2000000429; Kentucky Association of Chiefs of Police, 2000000430; Kentucky Association of Chiefs of Police, 2000000431; Kentucky Association of Chiefs of Police, 2000000432; Kentucky Association of Chiefs of Police, 2000000433; Kentucky Association of Chiefs of Police, 2000000434; Norton Hospital, Inc., 2000000446; Norton Hospital, Inc., 2000000447.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

ADMINISTRATIVE OFFICE OF THE COURTS

Morehead State University, 1600000957; Morehead State University, 1600000958; Morehead State University, 1600000959; Morehead State University, 1600000961; Northkey Community Care, 1600001042; Pennyroyal Mental Health, 1600001044; Mountain Comp Care Center, 1600001045; Kentucky River Community Care, Inc., 1600001047; Morehead State University, 1600001048; Morehead State University, 1700001012; Morehead State University, 1700001013; Morehead State University, 1700001014; Morehead State University, 1700001015; Morehead State University, 1700001017; Morehead State University, 1700001019; Pennyroyal Mental Health, 1700001118; Pennyroyal Mental Health, 1700001120; Kentucky River Community Care, Inc., 1700001121; Hope Center, 1700001122; Lifeskills Corporation Offices, 1700001123; Chrysalis House, Inc., 1700001127; Bluegrass Prevention Center, 1700001128; Western Kentucky Regional Mental Health & Retardation Advisory Board, 170001126; Morehead State University, 1800001090; Bluegrass Prevention Center Regional MH-MR Board, Inc., 1800001094; Chrysalis House, Inc., 1800001095; Eastern Kentucky University, 1800001794; Pennyroyal Regional Mental Health Mental Retardation Board, 1900004749.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

University of Kentucky Research Foundation, 1700002889; Centerstone of Kentucky, Inc., 1800000550; People Advocating Recovery, 1800001981; University of Kentucky Research Foundation, 1800002012; Hazelden Betty Ford Foundation, 1800002031; Department of Corrections, 1900000520; Appalachian Regional Healthcare, Inc., 1900002524; Justice Cabinet, 1900002983; CHFS Department for Community Based Services, 1900003175; University of Kentucky Research Foundation, 1900003238; Kentucky Hospital Research & Education Foundation, 1900003411; Kentucky

Primary Care Association, Inc., 1900003728; C.E. Mendez Foundation, Inc., 1900003845.

COUNCIL ON POSTSECONDARY EDUCATION

Collaborative for Teaching, 1900003432.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Kentucky Housing Corporation, 1800001949; Kentucky Association of Sexual Assault Programs, 1800001967; Kentucky Housing Corporation, 1900003852; Community Action Kentucky, Inc., 1900003964.

DEPARTMENT FOR LOCAL GOVERNMENT

Floyd County Fiscal Court, 1900003118; Elliott County, 1900004757.

DEPARTMENT FOR MEDICAID SERVICES

Cabinet for Workforce Development, 1800001088; University of Kentucky Research Foundation, 1800001768; University of Kentucky Research Foundation, 1900002839.

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Hospital Research & Education Foundation, 1800001682; Juniper Health, 1900001897; Family Health Centers, Inc., 1900002478; Multi, 1900004002; Multi, 1900004003.

DEPARTMENT FOR WORKFORCE INVESTMENT

American Institutes for Research, 1900004373.

DEPARTMENT OF AGRICULTURE

Dare To Care, Inc., 1900000055; Multi, 1900003210; Multi, 1900003211; Northern Kentucky Area Development District, 1900003662; Feeding America, Kentucky's Heartland, 1900003664; Gods Pantry Food Bank, Inc., 1900003666; Purchase Area Development District, Inc., 1900003667; Dare To Care, Inc., 1900003668.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT OF CRIMINAL JUSTICE TRAINING

Woosley Counseling, Inc., 1900004949; Thin Line Counseling and Consulting, LLC, 1900004950; Angela Michelle Childers, Professional Service Corporation, 1900004951. Kerrie Doherty, Deaidra Douglas, and Stan Salyards discussed the contracts with the committee. A motion was made by Representative Hart to consider the contracts as reviewed. Representative Lee seconded the motion, which passed.

EASTERN KENTUCKY UNIVERSITY

Tetra Tech, Inc., 20-269; Wyatt, Tarrant & Combs, LLP, 20-278. Ethan Witt, Dana Fohl, and Bryan Makinen discussed the contracts with the committee. A motion was made by Representative Hart to consider the contracts as reviewed. Representative Lee seconded the motion, which passed.

FACILITIES & SUPPORT SERVICES

Logsdon Auction Group, LLC, 2000000470. Tony Dunbar discussed the contract with the committee. A motion was made by Representative Lee to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

KY COMMUNITY TECHNICAL COLLEGE SYSTEM

Horizon Group International, 780. Tonya Peters, Ray Gillaspie, and David Schuermer discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

TOURISM - OFFICE OF THE SECRETARY

Lofthouse Enterprises, 2000000492. Jay Hall, Melissa Brewer, and Evan Jones discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT FOR MEDICAID SERVICES

Wakely Consulting Group, 1800001667. Genevieve Brown and Tom Stratton discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Lee seconded the motion, which passed.

DEPARTMENT OF CORRECTIONS

KPMG, LLP, 1900002851. Heather Wagers and Stacy Woodrum discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:**

ADMINISTRATIVE OFFICE OF THE COURTS

Western Kentucky Regional Mental Health & Retardation Advisory Board, 1900004710. Ashley Hooker discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

DEPARTMENT OF EDUCATION

Education and Workforce Development, 1900004233; Campbellsville Independent School District, 2000000207. Charles Harman, Lea Ann Lewis, an Karla Tipton discussed the contracts with the committee. A motion was made by Representative Lee to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

DEPARTMENT OF EDUCATION

Bullitt County Board of Education, 2000000471; Campbell County Board of Education, 2000000472; Covington Independent School District, 2000000473; Dayton Independent School District, 2000000474; Eminence Independent Board of Education, 2000000475; Harlan County Board of Education, 2000000476; Jefferson County Board of Education, 2000000477; Jessamine County Board of Education, 2000000478; Letcher County Board of Education, 2000000479; Newport Independent School District, 2000000480; Pike County Board of Education, 2000000481; Webster County Board of Education, 2000000482; Whitley County Board of Education, 2000000483. Charles Harman and Tara Rodriguez discussed the contracts with the committee. A motion was made by Representative Lee to consider the contracts as reviewed. Representative Fugate seconded the motion, which passed.

**EXEMPTION REQUEST:**

CABINET FOR HEALTH AND FAMILY SERVICES:

The Division of Procurement and Grant Oversight, on behalf of The Department of Community Based Services requested an exemption from Committee Policy Statement 99-4, which prohibits contracts and agreements from extending beyond biennium for an MOA with God's Pantry Outreach. A motion was made by Representative Lee to grant the request to September 30, 2020. Representative Hart seconded the motion, which passed without objection.

There being no further business, the meeting adjourned at 11:40 AM.

## KENTUCKY CAREER AND TECHNICAL EDUCATION TASK FORCE

**Minutes of the 5th Meeting of the 2019 Interim**

October 2, 2019

**Call to Order and Roll Call**

The 5th meeting of the Kentucky Career and Technical Education Task Force was held on Wednesday, October 2, 2019, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Mike Wilson, Chair, called the meeting to order, and the secretary called the roll.

Present were: David Horseman, Assistant Commissioner, Kentucky Department of Education (KDE).

Members: Senator Mike Wilson, Co-Chair; Representative Bobby McCool, Co-Chair; Senators David P. Givens, Jimmy Higdon, and Johnny Ray Turner; Representatives Kevin D. Bratcher, C. Ed Massey, and Reginald Meeks; and Steven Thomas.

LRC Staff: Jo Carole Ellis, Yvette Perry, Lauren Busch, Seth Dawson, Chuck Truesdell, and Christal White.

**Approval of Minutes – September 11, 2019**

On a motion by Senator Turner and a second by Representative Bratcher, the minutes of the September 11, 2019, meeting were adopted.

**Recap of Task Force Testimony**

Senator Wilson provided a summary of the Kentucky Career and Technical Education (KCTE) Task Force meetings, including an overview of Kentucky's Career and Technical Education (CTE) system, an overview of CTE funding, and the study of CTE systems in other states. The specific objectives addressed by the task force included inequity to access, inequity in the funding of various centers, and inequity in pay structures.

**Discussion of Strategies for the Future of Kentucky's Career and Technical Education System**

Dr. Horseman discussed KDE's recommendations and strategies for the future of Kentucky's CTE system. He said the worst disparities within the CTE system include the funding structure and providing equal opportunities for students. Due to demographic and geographic differences throughout the state, the overall structure of CTE funding should relate to economic development, workforce boards, and regional workforce needs coupled with a positive education alignment. Dr. Horseman said the overall vision includes cooperative centers with regional approaches, joint governances, and the sharing of resources including partnerships with postsecondary institutions. KDE has utilized the New Skills for Youth (NSFY) program, inter-local agreements, fund sharing, and district and local leadership partnerships.

Moving from five methods of funding to one system is critical. Based on KDE's calculations, Dr. Horseman estimated $3 million would cover the unfunded programs and centers.

Referring to the KDE OCTEST Superintendent Survey for Local ATC Management, Dr. Horseman said it is important to understand, determine, and identify districts willing and able to operate their own centers. Of the 11 single-feeder Area Technology Center (ATC) respondents, six districts stated they would be willing to assume management of their state-operated ATC, with the condition that current funding, increased funding, or adequate funding is provided. The remaining five districts indicated they would not want to assume management of their state-operated ATC, voicing funding as the underlying reason or concern. Of the 27 multiple-feeder districts that completed the survey, 12 superintendents indicated they would consider assuming total control of ATCs as long as adequate funding is made available. All 12 districts expressed a need of assurance that currently participating districts would still have access through either a similar system or through inter-local agreements and contracts. The remaining 15 superintendents said they were open to considering a shared governance with current participating districts or a regional governance structure. Specifically, two respondents stated a preference in structures currently being built through Kentucky's NSFY regional career academy approach. Although an error in the survey did not allow multiple-feeder districts to answer "no" as to whether they would like to assume management of their state-operated ATC, the feedback was abundantly clear that lack of adequate funding would be a major deterrent.

Dr. Horseman said KDE recommended providing funding for currently unfunded programs that are part of the Local Area Vocational Education Centers (LAVECs). Another KDE recommendation is to establish policies and procedures for requesting, approving, and closing programs within centers. KDE wants to be included in the structural conversation for establishing new LAVECs similar to the process with ATCs, offering approval for programs that would qualify for funding and including local business and industry in the funding model. This would allow KDE a process to replace programs that are no longer beneficial for a particular district or move them to an area with a greater need.

KDE is working on language to correct the existing funding formula conflict between statute and regulation.

KDE's recommendation includes transferring ATCs that agree to local operation. Dr. Horseman said if all funding is distributed evenly between LAVECs and ATCs, the full-time equivalent (FTE) amount would be $3500. Support for supply needs and increasing operational costs for district buildings comes from the current 20 percent SEEK funding. Dr. Horseman said KDE has seen success with a dozen ATCs who contracted with local district principals to operate the centers. The principals are on loan from the district and KDE contracts provide most of the districts a flat-rate, entry-level salary for the positions. Districts provide the retirement and additional salary and benefit expenses. With approximately 65 percent of the funding provided in this model, each district would provide $200,000. Understandably, this amount is more manageable in multiple-feeder districts than single-feeder districts.

Dr. Horseman said that using the formula provided in KRS 156.844 to transition an ATC to local operation would provide $200,000 for LAVECs. He said phasing in eight to 10 districts could provide $1 million to $1.5 million to LAVECs who have received no additional funding over the last 10 years. As other districts are phased in over a five- to ten-year period, districts would have time to decide whether to operate on their own. Dr. Horseman said any statutory changes should require inter-local agreements for LAVECs to achieve equity and access. He said the phased-in approach is suggested as a cautious approach to address any changes in a manner as to not disturb the success in other centers.

In response to a question from Senator Wilson, Dr. Horseman explained FTEs are calculated by multiplying the number of students by the number of hours per day a student attends and dividing that amount by 6, the number of periods in a day.

Responding to a question from Senator Higdon, Dr. Horseman said over the years five or six ATC centers have converted to LAVECs. In response to a follow-up question, Dr. Horseman said the language states that 100 percent of the funds would go to the district for a year and then be deposited into the LAVEC reserve, and all LAVECs would draw from those funds. Responding to a follow-up question, Dr. Horseman said becoming a district employee during the first year does not grant continuing status. State ATC employees fall under KRS 156 while district employees are under KRS 161. Under KRS 156, the interpretation by KDE is that a job change from district to district creates a one-year probation status without requiring continuing status. With an ATC conversion to local control, Dr. Horseman said districts determine whether to grant employees continuing status. Dr. Horseman said district needs and availability of funds determine if tenure will or will not be granted, creating a huge concern for teachers and principals. Senator Wilson said guidelines under the Education Professional Standards Board (EPSB) provide for alternative certification. Dr. Horseman said the ranking system is akin to the system used for general education teachers.

Representative McCool expressed concern regarding tenured or continuing status teachers being terminated without cause. He agreed with the need to provide additional funding to LAVECs and continued support of ATCs. Representative McCool said identifying high-cost programs with community needs should be the driving force. With changing market demands, Dr. Horseman said the review of regional labor market data, traffic patterns, and the needs of business and industry partners is critical. He suggested levels of funding could vary for particular programs. Representative McCool said his concern lies with equal access for students if program locations are moved. Dr. Horseman said inter-local agreements for the operation of centers and partnering districts with fund sharing will ensure efficiency and opportunities for everyone.

To eliminate confusion, Senator Givens requested Dr. Horseman submit KDE's interpretation written in a one-page report and return it to the task force. He asked for the report to include how the conversion from a state center to a local center impacts employees, the normal mode of operation of a state center from one year to the next, and how that affects certified staff and credentialed employees.

Senator Wilson said the KCTE Task Force results and recommendations will be presented to the ICE on November 20th.

Senator Givens recommended the task force provide a finalized work product in the form of a review of discovery, a solution, and draft legislation that can be amended as changes are suggested. He said the guiding principles should be what is best for teachers, students, and taxpayers but the competing interests and loss of money for ATCs if LAVEC models are added to the FTE equation will be a difficult decision.

Dr. Horseman said a continuous-improvement model used for accountability in ATCs and CTCs evaluates data for industry-recognized certifications, enrollment, and completion of programs to determine the standards of quality programs. Senator Givens said the current system is flawed and long-term outcomes are needed.

Senator Givens recapped the recurring consensus of testimony heard by the task force as being: 1) equitable funding mechanism consistent with a phase-in system; 2) one governance model with a regional framework; 3) local driven curriculum and delivery; and 4) substantial coordination oversight and approval by the state with phasing in change. He cautioned against disturbing the success of the current successful programs throughout the state.

Dr. Horseman said the NSFY grant was more efficient when working through inter-local agreements by bringing academic teachers to a central location and providing required academic instruction, reducing travel time for students. He said six inter-local agreements are currently being reviewed, new pathways are being added, and access on a pro-rated basis of available funds are being used.

Senator Givens said a conscious effort to focus on a regionalized approach cannot be overstated. Although he said phasing in change is wise, the 10-year plan would fail current students. Dr. Horseman predicted 60 to 70 percent could most likely be completed within a five-year plan. In rural areas, KDE is considering work-based learning through a virtual workspace within the schools or through engaging students in other ways.

Senator Givens said once sufficient funding is provided for regional entities to deliver quality curriculum, technology, and education to future workers, a performance-funding solution driven by good credentials and good jobs would benefit businesses and taxpayers.

Dr. Horseman said Kentucky has been asked to work on a Credentials of Value Institute with heads of the National Association of Manufacturers to determine what certifications are valuable based on regional needs. He said Kentucky's involvement with business and industry is recognized nationally.

Senator Givens said Perkins money requires performance and quality measures. Dr. Horseman said the performance-based indicator KDE will be using moving forward will be based on industry-recognized credentials.

Senator Givens charged the co-chairs to create a bill draft to create conversation regarding questions. He welcome input from principals and superintendents on the draft legislation.

Senator Wilson said geographical areas are challenging. He said performance-based funding must be based on regional needs and remote areas should not be penalized if the top-five pathways in those areas differ from the top five pathways in other regions. Senator Wilson agrees that the phase-in time of 10 years will put Kentucky further behind and once the need evaluation is clearly in place, the performance-based funding is crucial for the success of programs. He encouraged members to provide input relating to legislation drafted by KDE.

**Other Business**

Co-chairs will discuss if another meeting is needed prior to the IJCE presentation on November 20th.

**Adjournment**

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

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

**Minutes of the October Meeting**

October 8, 2019

**Call to Order and Roll Call**

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 8, 2019, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

**Present were:**

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

Guests: Beau Barnes, Teachers' Retirement System; Jeff Allen, Board of Dentistry; Sean Alteri, Melissa Duff, Department for Environmental Protection; Amy Barker, Brandon

Lynch, Department of Corrections; Matthew Henderson, Jon Johnson, Larisa Plecha, Connie Semones; Department of Transportation; Stephanie Brammer-Barnes, Steve Davis, Jill Lee, Office Inspector General; Jonathan Scott, Department for Medicaid Services; Cindy Seip

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

Administrative Regulation Review Subcommittee met on Tuesday, October 8, 2019, and submits this report:

Pursuant to KRS 13A.030(2), the subcommittee determined that the following administrative regulation was deficient:

TRANSPORTATION CABINET: Department of Vehicle Licensing: Driver Improvement

601 KAR 13:100. Medical standards for operators of motor vehicles.

This administrative regulation was found deficient and deferred for further consideration at the November meeting of the subcommittee. Please see this administrative regulation in the deferred or removed section of these minutes for discussion and action information.

*Compiler's Note: Pursuant to KRS 13A.335(3), a new Section 13 was added to this administrative regulation to reflect the finding of deficiency.*

Administrative Regulations Reviewed by the Subcommittee:

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

102 KAR 1:032. Bona Fide Retirement. Beau Barnes, deputy executive secretary and general counsel, represented the system.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Sections 2 through 4 to clarify requirements. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Dentistry

201 KAR 8:540. Dental practices and prescription writing. Jeff Allen, executive director, represented the board.

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

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division for Air Quality: Attainment and Maintenance of the National Ambient Air Quality Standards

401 KAR 51:010. Attainment status designations. Sean Alteri, deputy commissioner, and Melissa Duff, director, represented the division.

In response to questions by Co-Chair West, Ms. Duff stated that this administrative regulation updated the regional status of Kentucky's attainment of ambient air quality standards. This administrative regulation was not more restrictive than U.S. EPA requirements and did not implement a specific control strategy. Regional status classifications included attainment, nonattainment, and unclassifiable. Attainment regions were in compliance with national ambient air quality standards, nonattainment regions were not in compliance with national ambient air quality standards, and unclassifiable regions lacked sufficient data to make a determination as to compliance. Louisville and Northern Kentucky were the primary regions where nonattainment was an issue. There was also a region undesignated as attainment, nonattainment, or unclassifiable, which included Webster County and a small portion of Henderson County.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:060. Northpoint Training Center. Amy Barker, assistant general counsel, and Brandon Lynch, program administrator, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, and CONFORMITY paragraph, Section 1, and the material incorporated by reference to: (1) conform with other departmental policies; and (2) comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:140. Bell County Forestry Camp.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 and material incorporated by reference to: (a) conform with other departmental policies; and (b) comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 and BCFC 24-01-01 to require annual review of the social services and counseling program to ensure that the needs of inmates are met. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Audits and Investigations: Controlled Substances

902 KAR 55:070. Emergency medication kits in long-term care facilities. Stephanie Brammer – Barnes, regulation coordinator; Steve Davis, inspector general; and Jill Lee, pharmacist, represented the division.

Department for Medicaid Services: Payments and Services

907 KAR 3:170 & E. Telehealth service coverage and reimbursements. Jonathan Scott, regulatory and legislative advisor, represented the department.

In response to a question by Senator Clark, Mr. Scott stated that the department was monitoring cost savings possibilities related to telehealth.

In response to a question by Representative Frazier, Mr. Scott stated that telehealth was already in the scope of practice for optometrists.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 4(2)(e) to include optometry as a reimbursable store and forward telehealth service. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or removed from the October 8, 2019, subcommittee agenda:

COUNCIL ON POSTSECONDARY EDUCATION: Nonpublic Colleges

13 KAR 1:020. Private college licensing.

STATE BOARD OF ELECTIONS: Forms and Procedures

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

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:095. Pharmacist interns.

Real Estate Authority: Real Estate Commission

201 KAR 11:002. Repeal of 201 KAR 011:030, 201 KAR 011:045, 201 KAR 011:062,

201 KAR 011:090, 201 KAR 011:095, 201 KAR 011:100, 201 KAR 011:110, 201 KAR 011:115, 201 KAR 011:135, 201 KAR 011:145, 201 KAR 011:147, 201 KAR 011:175, 201 KAR 011:180, 201 KAR 011:195, 201 KAR 011:215, 201 KAR 011:225, 201 KAR 011:230, 201 KAR 011:232, 201 KAR 011:235, 201 KAR 011:240, 201 KAR 011:245, 201 KAR 011:250, 201 KAR 011:300, 201 KAR 011:350, 201 KAR 011:400, 201 KAR 011:410, 201 KAR 011:440, 201 KAR 011:450, and 201 KAR 011:460.

201 KAR 11:011. Definitions for 201 KAR Chapter 011.

201 KAR 11:105. Advertising.

201 KAR 11:121. Standards of professional conduct.

201 KAR 11:170. Education provider requirements.

201 KAR 11:190. Consumer and administrative complaints; discipline; administrative hearings.

201 KAR 11:210. Licensing, education, and testing requirements.

201 KAR 11:220. Errors and omissions insurance requirements.

201 KAR 11:461. Repeal of 201 KAR 011:420.

Real Estate Appraisers

201 KAR 30:130. Education provider, instructor, and course.

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

301 KAR 2:185. Hunter education.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Wells

401 KAR 6:001 & E. Definitions for 401 KAR Chapter 006.

401 KAR 6:211. Repeal of 401 KAR 006:200.

401 KAR 6:310 & E. Water supply well construction practices and standards.

401 KAR 6:320 & E. Certification of water well drillers and water well driller assistants.

401 KAR 6:350 & E. Monitoring well construction practices and standards.

Water Quality Standards

401 KAR 10:001. Definitions for 401 KAR Chapter 010.

401 KAR 10:026. Designation of uses of surface waters.

401 KAR 10:029. General provisions.

401 KAR 10:030. Antidegradation policy implementation methodology.

401 KAR 10:031 Surface water standards.

JUSTICE AND PUBLIC SAFETY CABINET: Asset Forfeiture

500 KAR 9:011. Repeal of 500 KAR 009:010, 500 KAR 009:020, 500 KAR 009:030, and 500 KAR 009:040.

Motorcycle Safety Education Commission

500 KAR 15:010 & E. Motorcycle safety education program.

TRANSPORTATION CABINET: Department of Vehicle Licensing: Driver Improvement

601 KAR 13:090. Medical Review Board; basis for examination, evaluation, tests. Matthew Henderson, commissioner; Larisa Plecha, staff attorney; and Connie Semones, coordinator, Medical Review Program, represented the department. Cindy Seip, Franklin County resident, appeared in opposition to these administrative regulations.

In response to questions by Co-Chair West, Ms. Seip stated that she had an incomplete homonymous hemianopia, which she developed thirty-eight (38) years ago. She had obtained a driver's license for at least thirty (30) years in both Ohio and in Kentucky. The visual field standards established in 601 KAR 13:100 were outdated and unsupported by scientific evidence. An individual with a homonymous hemianopia would most likely be prohibited from obtaining a driver's license due to failure to meet those visual field standards. It was not necessarily unsafe for these individuals to drive; therefore, they should be given the opportunity to prove driver suitability through a road assessment. Ms. Seip took and passed two (2) road tests, for a total of nearly five (5) hours of assessment time, demonstrating her suitability to drive. If 601 KAR 13:100 became effective as currently drafted, the cabinet would be authorized to suspend or revoke her judge-ordered driver's license. Ms. Seip and the cabinet were in the fourth year of litigation regarding this issue. Alexa Beilman, who also had an incomplete homonymous hemianopia was able in 2012 to become a licensed driver in Kentucky after litigation, and the determination in her case should have served as a precedent. One (1) hearing officer had ruled in favor of Ms. Seip in this case, but that determination was rejected by the cabinet. Franklin Circuit Court then determined that Ms. Seip was safe to drive and remanded the case back to the cabinet for further proceedings. The cabinet conducted a second hearing, which included the two (2) road tests. There were other individuals with this condition who were licensed to drive in Kentucky. Ms. Seip was aware of six (6) individuals with this condition, but there might be many more. The cabinet was alerted of Ms. Seip's condition after a physician reported the matter to the cabinet.

In response to questions by Co-Chair Hale, Ms. Seip stated that, as a result of surgery in 1983, an incomplete homonymous hemianopia affected the left peripheral vision in each of her eyes. Eye movement while driving could compensate for lost peripheral vision. All drivers should maintain eye movement while driving. The visual field test assessed peripheral vision from a fixed point only. Most individuals with a homonymous hemianopia were safe to drive and should be afforded the opportunity for a road test. The cabinet required a road test in Louisville; however, the cabinet refused to provide a copy to Ms. Seip. As a result, Ms. Seip requested a second intense, bioptic driving assessment, which she successfully passed. If this administrative regulation became effective as currently written, the cabinet would most likely suspend or revoke her judge-ordered driver's license. This administrative regulation was being amended in response to the litigation of Ms. Seip and Ms. Beilman.

In response to a question by Senator Kerr, Co-Chair West stated that, while the Senate had unwritten general guidelines to avoid legislation regarding issues that involved ongoing litigation, there did not seem to be a prohibition against the subcommittee acting on this administrative regulation.

In response to a question by Representative Marzian, Mr. Henderson stated that this administrative regulation did not relate to bioptic visual issues pertaining to driver's licenses.

In response to questions by Co-Chair West, Mr. Henderson stated that Medical Review Board cases could be appealed in Franklin Circuit Court, as had occurred in Ms. Seip's situation. Ms. Seip's case was not subject matter specific; therefore, the language in 601 KAR 13:100 was not the main issue in that situation. The commissioner's office received reports about possible Medical Review Board cases. The board, which was composed of medical professionals, relied on medical information to make determinations. The board included optometrists and ophthalmologists, among other medical professionals. These administrative regulations were being revised for clarity and ease of use, independent of any particular situation. The medical professionals on the board and in broader medical associations with which the cabinet conferred, initially indicated that hemianopia was such a serious medical condition that it should preclude someone from driving in Kentucky. States varied regarding hemianopia and visual field standards. After public comments, the cabinet opted to remove the reference to hemianopia and retain the existing visual acuity and field of vision standards. 601 KAR 13:100 regulated many conditions beyond visual impairment. A diagnosis of hemianopia would not automatically preclude a person from obtaining a driver's license. Seizure conditions had statutory prohibitions pertaining to driving. Ms. Plecha clarified that the initial proposed amendment to 601 KAR 13:100 referenced hemianopia; however, that reference was deleted in response to public comments. The visual field standards were the same as those in place since the initial promulgation of 601 KAR 13:100. Mr. Henderson stated that these administrative regulations also established processes for the Medical Review Board and those with cases before the board. The process included multiple avenues of appeals. Ms. Plecha stated that a person with a case could resubmit new medical information at any time because the board understood that conditions could improve or worsen. Mr. Henderson stated that some standards in these administrative regulations were specific and some were more general.

In response to questions by Co-Chair West, Ms. Seip stated that a person with a hemianopia would most likely be unable to meet the visual field standards required by 601 KAR 13:100. The point of fixation required to test the visual field would preclude a person with hemianopia from meeting the visual field standard. A driver would not be visually fixed while driving.

In response to questions by Co-Chair West, Mr. Henderson stated that failure to meet the visual field standard in 601 KAR 13:100 would preclude a person from obtaining a driver's license. This standard was not changing from the previous effective version of 601 KAR 13:100. There were many reasons besides just hemianopia why a person might not meet the visual field standard. Ms. Plecha stated that the previous visual standards were implicit and this version clarified the same standards.

Representative Frazier stated that many people only had visual testing at the initial application for driver's licensing. It was important that people be able to reach their full potential while still maintaining the safety of Kentucky's roadways. Ms. Plecha stated that the cabinet was trying to meet that same balance of inclusion and public safety.

In response to questions by Senator Clark, Ms. Semones stated that hemianopia affected a portion of the field of vision in both eyes. How much of the field of vision in each eye was affected depended on whether the homonymous hemianopia was complete or incomplete.

In response to a question by Senator Kerr and Co-Chair West, Mr. Henderson stated that the cabinet was following the order of Franklin Circuit Court but was not authorized to discuss these administrative regulation with Ms. Seip due to the pending litigation.

Senator Kerr made a motion, seconded by Co-Chair Hale to find 601 KAR 13:100, as amended, deficient. Ms. Plecha requested to defer consideration of these administrative regulations to the November meeting of the subcommittee. In response to a question by Co-Chair West, Senator Kerr declined to withdraw her motion to find 601 KAR 13:100 deficient. A roll call vote was conducted and, with five (5) votes to find the administrative regulation deficient and three (3) votes against deficiency, 601 KAR 13:100, as amended, was found deficient.

In response to a question by Co-Chair West, Ms. Plecha stated that the cabinet would agree to defer consideration of these administrative regulations to the November meeting of the subcommittee. A motion was made and seconded to defer consideration of 601 KAR 13:090 and 13:100, found deficient, to the November meeting of the subcommittee. A roll call vote was conducted and, with six (6) votes to defer these administrative regulations, one (1) vote against deferral, and one (1) member passing, these administrative regulations were deferred.

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

601 KAR 13:100. Medical standards for operators of motor vehicles.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 and 3 through 11 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 11 to clarify that the visual acuity standard includes 20/61 "or worse." Without objection, and with agreement of the agency, the amendments were approved.

*Compiler's Note: Pursuant to KRS 13A.335(3), a new Section 13 was added to this administrative regulation to reflect the finding of deficiency.*

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Oil and Gas

805 KAR 1:001 Definitions for 805 KAR Chapter 001.

805 KAR 1:020. Protection of fresh water zones.

805 KAR 1:030. Well location and as-drilled location plat, preparation, form and contents.

805 KAR 1:050. Bonds, requirements, cancellation.

805 KAR 1:060. Plugging wells.

805 KAR 1:080. Gas storage reservoirs; drilling, plugging in vicinity.

805 KAR 1:110. Underground injection control.

805 KAR 1:120. Operating or deepening existing wells and drilling deeper than the permitted depth.

805 KAR 1:140. Directional and horizontal wells.

805 KAR 1:170. Content of the operations and reclamation plan.

805 KAR 1:180. Production reporting.

805 KAR 1:190. Gathering lines.

805 KAR 1:200. General information associated with oil and gas permits.

Sanctions and Penalties

805 KAR 9:011. Repeal of 805 KAR Chapter 009.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjustors

806 KAR 9:020. False or deceptive names, titles, prohibited.

806 KAR 9:030. Adjuster licensing restrictions.

806 KAR 9:061. Repeal of 806 KAR 009:060.

806 KAR 9:070. Examinations.

806 KAR 9:110. Agent's rights after contract

termination.

806 KAR 9:190. Disclosure requirements for financial institutions authorized to engage in insurance agency activities.

806 KAR 9:200. Volume of insurance agent exchange of business.

806 KAR 9:310. Life settlement licenses.

806 KAR 9:321. Repeal of 806 KAR 009:320.

806 KAR 9:341. Repeal of 806 KAR 009:341.

806 KAR 9:350. Recognition of financial planning certification and designation for receipt of fees and commissions.

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

902 KAR 20:036. Operation and services; personal care homes.

902 KAR 20:370. Operations and services; private duty nursing agencies.

902 KAR 20:430 & E. Facilities specifications, operation and services; behavioral health services organizations for mental health treatment.

Division of Policy and Operations: Behavioral Health

907 KAR 15:005 & E. Definitions for 907 KAR Chapter 015.

907 KAR 15:010 & E. Coverage provisions and requirements regarding behavioral health services provided by individual approved behavioral health practitioners, behavioral health provider groups, and behavioral health multi-specialty groups.

907 KAR 15:015 & E. Reimbursement provisions and requirements for behavioral health services provided by individual approved behavioral health practitioners, behavioral health provider groups or behavioral health multi-specialty groups.

907 KAR 15:020 & E. Coverage provisions and requirements regarding services provided by behavioral health services organizations for mental health treatment.

907 KAR 15:022 & E. Coverage provisions and requirements regarding services provided by behavioral health services organizations for substance use disorder treatment and co-occurring disorders.

907 KAR 15:025 & E. Reimbursement provisions and requirements regarding behavioral health services provided by behavioral health services organizations.

Division of Protection and Permanency: Child Welfare

922 KAR 1:320 & E. Service appeals.

The subcommittee adjourned at 2 p.m. The next meeting of the subcommittee is tentatively scheduled for November 12, 2019, at 10 a.m.

## TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

**Minutes of the 7th Meeting of the 2019 Interim**

October 2, 2019

**Call to Order and Roll Call**

The 7th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, October 2, 2019, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Dennis Parrett and Robin L. Webb; Representatives Kim King, Rick Rand, and Brandon Reed.

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy (GOAP); Bill McCloskey, Deputy Executive Director, GOAP; B. Mark Evers, M.D., Director, University of Kentucky Markey Cancer Center (MCC); and Jason Chesney, M.D., Ph.D., Director, University of Louisville James Graham Brown Cancer Center (BCC).

LRC Staff: Nathan Smith, Tanya Monsanto, Kelly Ludwig, and Rachel Hartley.

**Governor's Office of Agricultural Policy Report**

Warren Beeler provided a brief overview of the largest project funded by the Kentucky Agricultural Development Board. The University of Kentucky Grain and Forage Center of Excellence was funded with $15 million.

KADF has funded three hemp projects on a trial basis. Sunstrand, Atalo Holdings, and Victory Foods were funded, but are currently struggling due to processors not purchasing the product.

Senator Webb stated a contingency plan should be implemented during the next budget cycle to assist the hemp producers until the market stabilizes and to determine what percentage of producers are affected.

In response to a question from Representative Dossett, Mr. Beeler stated hemp production is increasing in Kentucky. There were 12,000 acres approved for hemp production last year, and this year 62,000 acres were approved.

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

The requested program amendments discussed included:

Magoffin County Agricultural Investment Program requested an additional $18,000 in Magoffin County funds for CAIP. The board recommended approval, which would bring the program total to $116,444.

Hancock County Conservation District requested to increase its maximum producer amount limit to $2,000. The board recommended approval, which would bring the program total to $111,083.

The projects discussed included:

The Nicholas County Extension District Board was approved for $3,000 in Nicholas County funds to construct a ham house for use by the Nicholas County 4-H ham project participants.

Kentucky State University was approved for up to $990,000 in state funds over a two-year period for personnel, demonstration projects, and mini-grants to underserved, small, and limited resource farmers.

Buffalo Skull Ranch was denied $250,000 in state funds to build a greenhouse examining the effectiveness of various water management practices. The On-Farm Water Management Committee recommended denying the application based on the 2019 Kentucky Agricultural Development Board's hemp policy.

**University of Kentucky Markey Cancer Center**

B. Mark Evers, M.D., stated the mission of MCC is to reduce cancer mortality through cancer research, treatment, education, and community engagement with a particular focus on the underserved population of Appalachian Kentucky. The ultimate goal of MCC is to reduce cancer mortality by 50 percent.

MCC was awarded an initial designation by the National Cancer Institute (NCI) in 2013, and the designation was renewed in 2018. In 2022, MCC plans to apply for comprehensive status.

Due to the initial NCI designation, there has been an increase in cancer patient volume and funding. The inpatient cases have grown 12.4 percent, and the outpatient cases have grown 19.5 percent since 2013. The total funding has increased from $28.4 million in 2012 to $46.2

million in 2019. The tobacco settlement funding for MCC decreased from $3.5 million in 2019 to $3.34 million in 2020. The additional $160,000 could have been used by MCC to provide more colon cancer testing, to give additional support for affiliate sites, to administer more HPV vaccinations, and to hire an outreach coordinator for western Kentucky.

There are 19 MCC affiliate network sites and seven research network sites in Kentucky. The MCC directly or indirectly cares for 59 percent of all new cancer cases in Kentucky.

**University of Louisville James Graham Brown Cancer Center**

Jason Chesney, M.D., Ph.D., stated the majority of cancer is caused by bad luck. DNA copying mistakes are responsible for an estimated 66 percent of cancer diagnoses, 29 percent are due to environmental factors, and five percent are due to heredity.

Improved cancer screening and research has reduced the cancer death rate by 27 percent from 1991 to 2016; however, cancer diagnoses are expected to rise from 1.7 million to 2.1 million per year by 2030. The additional 400,000 cancer patients are expected due to the aging population and increased rates of thyroid cancer, melanoma, and uterine cancer. To meet this demand, the Brown Cancer Center (BCC) is currently renovating to expand its pharmacy and to increase the number of infusion chairs.

With the support of the tobacco settlement funds, BCC has created a new position, Cancer Screening Navigator, to work with providers in Kentucky to facilitate cancer screenings. The funds also supported the development of the Kentucky Innovative Cancer Screening Program. The objective of the program is to develop new methods for early cancer detection.

BCC received a $12 million grant from the Centers of Biomedical Research Excellence with funding anticipated to start in 2020. The grant is renewable for up to 15 years with total funding not to exceed $30 million. The grant will support the new Center for Cancer Immunology and Immunotherapy with an emphasis on conducting biomedical research to harness the power of an individual's immune system to eradicate cancer.

In response to a question from Senator Webb, Dr. Evers stated there is uncertainty if there is a cancer risk to vaping although it is a concern. There have been more cases involving lung disease due to vaping in recent months.

In response to a question from Representative Dossett, Dr. Chesney stated farmers typically are treated for melanoma rather than glyphosate-related lymphoma.

There being no further business, the meeting was adjourned.

## MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

**Minutes**

October 7, 2019

**Call to Order and Roll Call**

The 5th meeting of the Medicaid Oversight and Advisory Committee was held on Monday, October 7, 2019, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Daniel Elliott, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Daniel Elliott, Co-Chair; Senators Ralph Alvarado, Danny Carroll, and Jimmy Higdon; Representatives Jim Gooch Jr., Melinda Gibbons Prunty, and Steve Sheldon.

Guests: Dr. Julia F. Costich, JD, PhD, Professor of Health Management and Policy, University of Kentucky College of Public Health; Dick Barlett, Trauma and Emergency Preparedness Coordinator, Kentucky Hospital Association; Carol Steckel, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Dr. Judy Theriot, Medical Director, Department for Medicaid Services, Cabinet for Health and Family Services; Emily Ferrell, Epidemiologist, Department of Public Health, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, Lead Staff, Chris Joffrion, Hillary McGoodwin, Dana Simmons.

**Approval of Minutes**

A motion to approve the September 9, 2019 meeting minutes was made by Senator Alvarado and seconded by Representative Sheldon, and approved by a voice vote.

**Kentucky Trauma Care Systems**

Dick Barlett, Trauma and Emergency Preparedness Coordinator, Kentucky Hospital Association stated the movement to create a statewide trauma care system was originally led by Dr. Paul Kearney, trauma surgeon at the University of Kentucky and Dr. Mary Fallat, a pediatric trauma surgeon at Kosair Children's Hospital in 2007. The goal was to create a voluntary governing body that oversaw trauma certifications throughout the state to increase the trauma care capacity in rural regions throughout the state. In 2008, KRS 211.499- 211.486 was enacted to create the Kentucky Trauma Advisory Committee which developed criteria for in-state verification of Level II-IV trauma centers. There was no provision for state funding.

Mr. Bartlett stated that the long range goals for the Kentucky Trauma System are to decrease the death rate from injury, decrease morbidity and disability, and decrease the overall healthcare impact trauma has on the Commonwealth. Mr. Bartlett stated that since 2008, Kentucky has 22 trauma centers with two to three regional hospitals in central Kentucky that are in the process of receiving Level III designation and four hospitals across the state working on Level IV designations. Mr. Bartlett added that Pikeville Medical Center is currently working on developing a pediatric trauma center.

Mr. Bartlett stated that there are 13,000 trauma records in the registry with men making up 60 percent of the entries and isolated hip fractures being the most common traumatic injury. The data reflected that trauma is seasonal as the high volume of trauma registry entries happen in the spring and summer months. 17 percent of all trauma entries are medically classified as severe. 75 percent of trauma cases in the registry were admitted into the operating room, and 13.7 percent were severe enough to need to be transferred to another hospital. The data reflected that 38.24 percent of cases were covered by commercial insurance, 26.95 percent were covered by Medicare, 25.85 percent were covered by Medicaid, and 6.4 percent were either self-pay or uninsured.

Mr. Bartlett stated that the short term goal of the Kentucky Trauma Care System is to secure funding to support the growth and operation of the system. Through legislation, several sources of funding could be found in measures like Georgia's Super Speeder Law, enhanced distracted driving fines, and having a trauma registry add-on to the Kentucky motor vehicle registration forms. The funding would help with employing a full-time program manager, a full time trauma educator, adding software support for the registry, increasing basic operating costs, and facilitating more educational programming.

Dr. Costich stated that the registry currently receives funds from a National Highway Traffic Safety Administration grant which covers annual compilation and analysis of the registry's data. Annual data shows that there are very few trauma deaths in Kentucky due to the rising number of hospitals that can accommodate trauma cases. However, the data does not reflect the cases of motor vehicle deaths in rural areas that never make it to the hospital to be captured in the registry. A comprehensive approach to preventing trauma in rural areas and expanding rescue and trauma resources in rural Kentucky is imperative to preventing deaths.

In response to questions and comments from Senator Meredith, Mr. Bartlett stated that by investing in the trauma system, the state would see savings through the stabilization of patients in their communities. Also communities could, with the help of the Kentucky Hospital Association invest in adequate ground transport so air transportation is not the main transportation method for trauma cases. Mr. Bartlett stated that air transportation costs the state $20,000-$40,000 per event, and is often not a medical necessity but merely the only means of transportation available. Senator Meredith stated that he would like to see a graph of the future savings in proportion with the investments.

In response to questions and comments from Representative Sheldon, Mr. Bartlett stated he would meet with Representative Sheldon and Representative Tipton to discuss their proposed distracted driving bill, 20RS BR 156, to see if the trauma system can be a designated recipient of revenue from the proposed bill.

In response to questions and comments from Representative Prunty, Mr. Barlett stated that in western Kentucky, Bowling Green is working towards a Level III designation since Vanderbilt is just down the road as a Level I trauma center. Mr. Bartlett stated that in Paducah, the struggle has been with the buy-in from the medical team for the on-call hours needed to qualify for trauma status. Mr. Barlett stated that the trauma system and hospitals across the state would benefit from a cap on Medicaid transport, a review of surprise billing for trauma cases and a review of cost for the air transportation system.

**Maternal Health and Wellness for New Mothers and Their Children**

Carol Steckel, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services stated that the state is working diligently to ensure that resources are maximized for Medicaid beneficiaries, even if that means using multiple agencies. Commissioner Steckel stated that there were 56,000 live births in Kentucky in 2018, 46 percent were paid for by Medicaid which is lower than the national average of 55 percent. In Kentucky, in 2018, there were 27,542 Medicaid covered babies and 24,839 covered mothers.

Dr. Judy Theriot, Medical Director, Department for Medicaid Services, Cabinet for Health and Family Services, stated that Kentucky leads the country with 35 percent caesarean section births compared to the national average of 32 percent. Kentucky's pre-term birth rate is 11 percent which is 3 percent higher than the national average. Dr. Theriot stated that Kentucky is second in the nation behind West Virginia in the percentage of pregnant mothers who smoke.

Dr. Theriot stated that 700 women die each year and 60 percent of those deaths are preventable. Pregnancy related mortality is based on the time while the mother is pregnant, the few weeks after, and up until a year post-partum. Kentucky is thirteenth in the nation for maternal deaths with 22.9 percent per 100,000 compared to the national average of 17.2 percent per 100,000. This number is up significantly from 25 years ago when the national average was 12 percent. Mothers today have a greater chance of dying from childbirth related causes than their own mothers, 25 years prior.

Dr. Theriot stated that infant mortality rate in Kentucky is 6.8 per thousand births and most causes of infant deaths are preventable. Infant death causes range from sudden infant death syndrome, which often occurs due to co-sleeping or not using age appropriate bedding, birth defects that are often caused during gestation through substance use and smoking, complications from pre-term births, and accidents/injury. Educating new and expecting mothers is the key to preventing many maternal and infant deaths. The Department for Medicaid Services (DMS) is working with the Department of Public Health and Managed Care Organizations (MCO) to educate mothers and families.

Dr. Theriot stated that the state is emphasizing the "Healthy Babies are Worth the Wait" initiative which advocates for mothers to not elect to give birth before 39 weeks. Most Medicaid mothers are covered by a MCO which means they receive case management and resources that meet with the mothers pre-birth and up to twelve months post-partum. The MCOs support the "Healthy Babies are Worth the Wait" initiative, because if a recipient was to elect to give birth, prior to being 39 weeks pregnant and without medical necessity, the MCO would not get paid. Together with the MCOs and doctors, the state is trying to incentivize pre-birth and post-partum doctor's visits and using this time to educate the mothers on safe sleeping, healthy habits, as well as informing mothers of their option to receive long acting reversible contraception (LARC). Only 62 percent of Medicaid mothers attended their post-partum doctor's visits. Only 42 percent of Medicaid mothers who gave birth to drug exposed babies attend their follow-up visits.

Dr. Theriot stated that the Centers for Disease Control reported that ensuring healthy intervals between births increases the likelihood of a healthy child and lowers the rate of maternal deaths. In 2018, the LARC was given to only 4.2 percent of mothers between the ages of 15 to 44 years of age. Dr. Theriot attributed this to the low attendance percentage for post-partum doctor visits where those options can be addressed. Commissioner Steckel stated that in the 2020 contract for MCOs, there will be strict accountability and outcomes measures for healthy mothers, incentivizing providers to utilize available programming.

Emily Ferrell, Epidemiologist, Department of Public Health (DPH), Cabinet for Health and Family Services, stated that the cabinet utilizes several in-home services to new mothers and families. The HANDS program is a home visiting program available to women and families during pregnancy and through early childhood. HANDS provides nurses, social workers and community health workers to help prepare families for the challenges of parenthood while also connecting them to resources. Ms. Ferrell stated that the First Steps program is also a service that the state brings to new families to help aid the healthy development of their infants and to help identify any conditions and developmental barriers the children have while connecting them with additional resources.

Ms. Ferrell stated that under the Department for Public Health, a multi-disciplinary maternal morality review committee has been established. Additionally, DPH has several maternal health based review boards: the Public Health Child Fatality Program, Sudden Infant Death Syndrome Fatality review program, and the Neo-Natal Abstinence Syndrome review. These review boards will aggregate topic issued data that will be used to develop a standardized method of care for hospitals and agencies.

In response to questions and comments from Senator Meredith, Dr. Theriot stated that pre-natal compliance is an issue that can be helped by cooperation and involvement from the

MCOs and by offering incentives for the patient. Dr. Theriot stated that since the percentage of mothers who attend their post-partum visits is low, it would be very useful to educate mothers during the pre-natal visits about the benefits of LARC, all the preventable causes of infant death, and the resources they have available to them.

In response to questions and comments from Representative Prunty, Dr. Theriot stated that the fear physicians have of getting sued may contribute to the volume of doctor's consenting to pre-term, C-section births but that she does not have the data on hand to support that claim. Commissioner Steckel stated that since transportation is a Medicaid covered expense, that should not be a barrier to mothers attending their doctor's visits and if it is, it is on a case by case basis.

**Adjournment**

There being no further business, the meeting was adjourned at 11:30AM.

# LRC Publications

## Research Reports

**462_U** Program Review and Investigations--Nonacademic Barriers Facing Kentucky Community And Technical College Students (2019)

**461_U** Office of Education Accountability--Revenues And Expenditures For Career And Technical Education In Kentucky (2019)

**460** Program Review and Investigations--Kentucky Child Fatality And Near Fatality External Review Panel 2018

**459** Office of Education Accountability--Kentucky District Data Profiles School Year 2018

**458** Program Review and Investigations--Tuition, Fees, And Other Costs At Kentucky Public Universities (2019)

**457** Office of Education Accountability--State And Local Funds Distributed To Higher Poverty Schools (2018)

**456** Program Review and Investigations--Surplus Real Property In Kentucky (2019)

**455** Office of Education Accountability--Textbooks And Instructional Materials (2018)

**454** Office of Education Accountability--Homeschooling In Kentucky (2018)

**453** Office of Education Accountability--Kentucky District Data Profiles School Year 2017

**452** Program Review and Investigations -- Kentucky's Foster Care System

**451** Office of Education Accountability--High School Indicators Of Postsecondary Success (2017)

**450** Office of Education Accountability--Preschool Program Review And Full-Day Kindergarten (2017) (Revised 7/10/2018)

# 2020 Prefiled Bills

**BR4** - Representative Rob Wiederstein
(9/25/2019)

AN ACT relating to legislative accountability by providing for the expanded use of cost estimates, a regulatory impact assessment of pending legislation, and the limitation of bill introductions during a regular session.

Create new sections of KRS Chapter 6 to define "fiscal note," "machine-readable," and "regulatory burden"; establish requirements for fiscal notes; allow the waiver of the fiscal note requirements; establish responsibilities of the Legislative Research Commission in regard to fiscal notes; allow for the validity of any measure duly passed by the legislature even if fiscal note or bill limit requirements are not met; create a new section of KRS Chapter 6 to establish bill filing limitations for regular sessions and allow exemptions; amend various KRS statutes for technical corrections and conforming changes.

(Prefiled by the sponsor(s).)

**BR6** - Representative Diane St. Onge
(4/18/2019)

AN ACT relating to cruelty to equines.

Create a new section of KRS Chapter 525 to prohibit cruelty to equines, including situations involving abuse or neglect; make cruelty to equines a Class D felony and provide for the termination of ownership; list exceptions; establish a short title of "Klaire's Law."

(Prefiled by the sponsor(s).)

**BR7** - Representative Danny Bentley
(6/4/2019)

AN ACT relating to voluntary non-opioid directives.

Create a new section of KRS Chapter 218A to define terms and to establish a voluntary non-opioid directive form to inform practitioners that an opioid drug shall not be prescribed, ordered, or administered to a patient who has filed the form with the Cabinet for Health and Family Services; amend KRS 218A.172 to require a practitioner to determine if a patient has filed a voluntary non-opioid directive and to provide the patient with a copy of the form prior to prescribing an opioid drug; amend KRS 218A.202 to establish that the electronic monitoring system established in this section shall permit the cabinet to report and document receipt of a voluntary non-opioid directive and to permit a practitioner to determine if a patient has filed a voluntary non-opioid directive.

(Prefiled by the sponsor(s).)

**BR23** - Representative Charles Booker
(5/3/2019)

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to restore voting rights to persons convicted of felonies upon completion of their sentence; submit to the voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR27** - Representative Attica Scott
(5/10/2019)

AN ACT relating to historical instruction.

Create a new section of KRS Chapter 158 to require African history instruction in certain middle and high school world history and civilization courses; require Native American history instruction in certain middle and high school United States history courses; require the Kentucky Board of Education to promulgate administrative regulations establishing academic standards for the required historical instructions; require local school boards to adopt curricula for required instruction; require the Department of Education to collaborate with the Kentucky African American Heritage and the Kentucky Native American Heritage Commission to develop recommended curricula and instruction guidelines for the required historical instruction, elective high school course offerings in African history and Native American history, and relevant professional development materials.

(Prefiled by the sponsor(s).)

**BR31** - Representative Derek Lewis
(7/2/2019)

AN ACT relating to teachers and making an appropriation therefor.

Create a new section of KRS Chapter 164 to define terms; establish a student loan forgiveness program for STEM teachers employed at a public school district within a federally designated promise zone; authorize the Kentucky Higher Education Assistance Authority to promulgate administrative regulations to administer the program; create the STEM teacher promise zone scholarship fund; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR32** - Representative Jerry Miller
(8/21/2019)

AN ACT relating to the taxation of tobacco products.

Amend KRS 138.130 to define terms; amend KRS 138.140 to impose an excise tax on vapor products; amend KRS 138.143 to impose a floor stock tax; EFFECTIVE 11:59 p.m. on June 31, 2020.

(Prefiled by the sponsor(s).)

**BR36** - Representative John Sims Jr
(7/12/2019)

AN ACT relating to an increase in tax rates.

Amend KRS 139.200 to provide for a sales and use tax rate of eight percent (8%) on or after January 1, 2021; amend KRS 139.230 and 139.310 to conform; amend KRS 139.471 to provide a six percent (6%) sales tax rate on property purchased for use in the performance of a lump sum, fixed fee contract, sales made under a fixed fee contract, or sales made under a fixed price contract, if the contracts were executed on or before July 10, 2019; amend 138.460 to provide for a motor vehicle usage tax rate of eight percent (8%) on vehicles purchased on or after January 1, 2021; amend KRS 138.463 to provide for an eight percent (8%) U-Drive-It tax rate for rental and leasehold contracts entered into after January 1, 2021; amend KRS 139.260 and 139.470 to conform.

(Prefiled by the sponsor(s).)

**BR37** - Representative Randy Bridges, Representative Brandon Reed
(10/1/2019)

AN ACT relating to crimes against sports officials.

Amend KRS 518.090 to make assault of a sports official a Class D felony; create a new section of KRS Chapter 518 to establish the offense of intimidation of a sports official as a Class A misdemeanor; state that the restrictions of KRS 6.945(1) do not apply.

(Prefiled by the sponsor(s).)

**BR45** - Representative Jason Nemes
(6/19/2019)

AN ACT relating to fire districts.

Amend KRS 75.040 to deem

that emergency ambulance service provided by a fire protection district, volunteer fire department district, or subdistrict, is the primary emergency ambulance service within the district or subdistrict in the boundaries of the county containing the largest population within the district boundaries; add a method for boards of trustees to declare that the district or subdistrict is not the primary provider of emergency ambulance service within the district; declare status for secondary providers of emergency ambulance service; require that the additional tax moneys allowed for being a primary provider are no longer allowable; and require local governments providing secondary emergency ambulance service within the district or subdistrict within the boundaries of the county containing the largest population within the district boundaries to credit the amount of taxes paid by taxpayers of the district or subdistrict for emergency ambulance service to the taxes owed to the local government by the taxpayer.

(Prefiled by the sponsor(s).)

**BR47** - Representative Les Yates
(9/12/2019)

AN ACT relating to vacancies in elective office.

Amend KRS 83A.165, 118.115, 118.165, 118.365, 118.375, and 118A.100 to extend by ten calendar days the deadline for filing nomination papers to fill an unexpired term if the vacancy occurs five calendar days or less before the prescribed deadline; amend KRS 118.225 to conform; amend KRS 132.380 to require an examination whenever there is a vacancy in the office of property valuation administrator and to direct that the certificates of any examination shall remain valid for four years.

(Prefiled by the sponsor(s).)

**BR61** - Representative Attica Scott, Representative Mary Lou Marzian, Representative Charles Booker, Representative Joe Graviss, Representative Kathy Hinkle, Representative Nima Kulkarni
(7/9/2019)

AN ACT relating to public charter schools.

Amend KRS 156.095 and KRS 158.4416 to remove references to public charter schools; repeal KRS 160.1590, 160.1591, 160.1592, 160.1593, 160.1594, 160.1595, 160.1596, 160.1597, 160.1598, 160.1599, and 161.141.

(Prefiled by the sponsor(s).)

**BR72** - Representative Melinda Prunty
(9/10/2019)

AN ACT relating to the recognition and registration of professional employer organizations.

Create new sections of KRS Chapter 336 to declare that professional employer organizations provide a valuable service to commerce and should be properly recognized and regulated; define "client," "co-employer," "co-employment relationship," "covered employee," "professional employer organization group," "person," "professional employer agreement," "professional employer organization," "professional employer services," "registrant," and "temporary help service"; indicate that covered employees shall be deemed employees of the client for purposes of determining tax credits or economic incentives; require a person providing professional employer services to be registered and to set forth the registration requirements; require professional employer organizations to pay a registration fee; require a professional employer organization to either maintain positive working capital or provide a bond, letter of credit, or security; set forth the rights and responsibilities of parties to a co-employment agreement; set forth the health insurance obligations of professional employer organizations; set forth the workers' compensation requirements of professional employer organizations and the client; set forth the unemployment insurance obligations of the professional employer organization and the client; prohibit a person from knowingly providing professional employer services without becoming registered and set forth actions that may be taken by the Labor Cabinet against any person in violation; amend KRS 336.990 to provide a civil penalty; amend the definition of "premium" in KRS 342.0011 to include co-employment relationships with a professional employer organization; amend KRS 342.990 to delete references to KRS 342.615; repeal KRS 342.615; state that the provisions of this Act are severable.

(Prefiled by the sponsor(s).)

**BR76** - Representative Rob Wiederstein
(10/1/2019)

AN ACT relating to evidence-based budget allocations by providing for the formation of the Office for Program Evaluation and Quality Assurance within the Office of State Budget Director, the establishment of an evidence-based program inventory, the regular evaluation of state programs, the elimination of ineffective state programs, and the creation of an evaluation officer position within state agencies.

Amend KRS 11.068 to abolish the Governor's Office for Policy Research and to create the Governor's Office for Program Evaluation and Quality Assurance within the Office of State Budget Director; create new sections in KRS Chapter 11 to define terms, require an inventory of evidence-based programs, create the evidence building workgroup, require reporting by the program agencies, and lapse state funding for any program if the program agency does not comply with the reporting requirements; amend KRS 48.110 and 48.180 to conform.

(Prefiled by the sponsor(s).)

**BR79** - Representative Attica Scott
(5/23/2019)

AN ACT relating to the investigation of a shooting or deadly incident by a law enforcement officer.

Create new sections of KRS Chapter 15A to provide definitions and establish an Officer Shooting Review Board to investigate any shooting of an individual by a law enforcement officer or officers or any deadly incident involving law enforcement; set requirements for board members; provide duties of the board; specify requirements related to investigatory work performed by the Kentucky State Police Critical Incident Response Team on behalf of the board; establish investigatory procedures and protocols; provide requirements for submission of the board's report to the Commonwealth's attorney of the jurisdiction in which the shooting or deadly incident took place or to the Attorney General; provide requirements for independent investigation of any shooting of an individual by a law enforcement officer or officers or any deadly incident involving law enforcement.

(Prefiled by the sponsor(s).)

**BR80** - Representative Dennis Keene
(5/8/2019)

AN ACT relating to the expansion of gaming and making an appropriation therefor.

Create a new section of KRS Chapter 154A to state the findings of the General Assembly; amend KRS 154A.010 to define, "authorizing location," "casino," "county," "county legislative body," "department," "full casino gaming," "gaming licensee," "gross gaming revenue," "handle," "licensee," "limited casino gaming," and "principal"; amend KRS 154A.030 to expand the Lottery Corporation board membership and duties; amend KRS 154A.040 to include casino licensees; amend 154A.063 to remove prohibition against casino gaming; create new sections of KRS Chapter 154A to require a local option election in any precinct wanting to host a casino; describe the duties of the county clerk and sheriff in a casino gaming local option election; state requirements for local option elections held on a day other than a regular election day; require the corporation to advertise an invitation to bid for casinos; require the corporation to evaluate all proposals for full casinos; establish initial licensing fees for full casinos at $50 million with an initial licensing period of ten years and annual renewal thereafter at $6 million per year; permit limited casino gaming at horse racing tracks licensed under KRS Chapter 230; establish requirements for limited casinos; establish requirements for any track holding a limited casino license; establish requirements for principals of any corporation granted a casino license; create license application requirements for casino, manufacturer's, or supplier's licenses; prohibit anyone not licensed from selling, leasing, or otherwise furnishing gaming supplies; prohibit anyone under the age of 21 from participating in casino gaming; require the Lottery Corporation to determine occupations related to casino gaming that require licensure and establish criteria for occupational licensing; permit the corporation to initiate disciplinary action against applicants and license holders; establish an appeal process; create new sections of KRS Chapter 138 to establish wagering and admissions taxes to be remitted by gaming licensees and full and limited casinos; create new sections of KRS Chapter 154A to establish the casino gaming revenue distribution trust fund and limit that money to the benefit of the state retirement systems for the first ten years; establish the regional tourism and infrastructure development fund and provide criteria for projects seeking money from the fund; waive 15 U.S.C. secs. 1172, 1173, and 1174 for devices authorized by this Act; require the corporation to promulgate administrative regulations to define and limit games and devices permitted for gaming in casinos; provide guidelines for exclusion or ejection of certain persons; define "cheat" and provide penalties for those who cheat at casino games; amend KRS 243.500 to exempt limited or full casino gaming; amend KRS 525.090 to exempt persons engaged in casino gaming; amend KRS 528.010 to exempt gambling activity and devices licensed under KRS Chapter 154A; amend KRS 528.020 to conform; amend KRS 528.070 to exempt activity licensed under KRS Chapter 154A; amend KRS 528.080 to exempt those with the appropriate license required under KRS Chapter 154A; amend KRS 528.100 to exempt limited or full casino gaming licensed under KRS Chapter 154A; APPROPRIATION; EFFECTIVE DATE DELAYED.

(Prefiled by the sponsor(s).)

**BR82** - Representative Rob Rothenburger, Representative Mark Hart
(6/10/2019)

AN ACT relating to tuition benefits and making an appropriation therefor.

Amend KRS 164.2841, relating to college tuition benefits for spouses and children of specified emergency response personnel and public employees who have died in the course of their duties to specify that the beneficiary is eligible for up to a maximum of 128 credit hours of undergraduate instruction; amend KRS 164.2842, relating to college tuition benefits for spouses and children of specified emergency response personnel and public employees who have been totally and permanently disabled in the course of their duties to specify that the beneficiary is eligible for up to a maximum of 128 credit hours of undergraduate instruction.

(Prefiled by the sponsor(s).)

**BR83** - Representative Rob Rothenburger, Representative Mark Hart
(5/9/2019)

AN ACT relating to ground ambulance service providers and making an appropriation therefor.

Create new sections of KRS Chapter 205 to define terms; establish the Medicaid ground ambulance service provider assessment; require ground ambulance service providers to pay a Medicaid ambulance service provider assessment quarterly; authorize the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement the Medicaid ground ambulance service provider assessment; create the ambulance service assessment revenue fund; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR85** - Representative C. Ed Massey
(6/18/2019)

AN ACT relating to the Honor and Remember flag.

Create a new section of KRS Chapter 2 to designate the Honor and Remember flag as the state's emblem of the service and sacrifice of the brave men and women of the United States Armed Forces who have given their lives in the line of duty; specify locations, dates, and circumstances under which the flag may be displayed.

(Prefiled by the sponsor(s).)

**BR94** - Senator John Schickel
(6/4/2019)

AN ACT relating to criminal damage to rental property.

Create a new section of KRS Chapter 512 to specify that a tenant who, having no right to do so or any reasonable ground to believe that he or she has such right, intentionally or wantonly defaces, destroys, or damages residential rental property is to be charged with violating KRS 512.020, 512.030, or 512.040 as appropriate.

(Prefiled by the sponsor(s).)

**BR95** - Representative Thomas Huff
(9/9/2019)

AN ACT relating to motor vehicle titles.

Amend KRS 186A.170, to require delivery of a motor vehicle title upon which there is a security interest to the holder of the security interest rather than the owner of the vehicle; amend KRS 186.045 to require the holder of a security interest who has possession of a vehicle title to transmit that title to the owner when the security interest has been paid in full; set forth procedures for cases when the title is not transferred; amend 186A.180 and 186.170 to conform.

(Prefiled by the sponsor(s).)

**BR102** - Representative R. Travis Brenda
(9/12/2019)

AN ACT relating to the taxation of certain services.

Amend KRS 139.200 to exclude mowing, fence cleaning, and other pasture maintenance services performed on agricultural or horticultural land for a farmer or retired farmer from landscaping services; EFFECTIVE August 1, 2020.

(Prefiled by the sponsor(s).)

**BR105** - Representative Danny Bentley
(6/4/2019)

AN ACT relating to prescription insulin.

Amend KRS 304-17A.148 to cap the cost sharing requirements for prescription insulin at $100 per 30 day supply; EFFECTIVE January 1, 2021.

(Prefiled by the sponsor(s).)

**BR107** - Representative Attica Scott
(7/11/2019)

AN ACT relating to an exemption of feminine hygiene products from sales and use taxation.

Amend KRS 139.010 to define feminine hygiene products; amend KRS 139.480 to exempt from sales and use tax the sale or purchase of feminine hygiene products; apply to sales or purchases made after August 1, 2020, but before August 1, 2024; require Department of Revenue to report to the Interim Joint Committee on Appropriations and Revenue the amount of exemptions claimed.

(Prefiled by the sponsor(s).)

**BR109** - Representative Regina Huff
(9/25/2019)

Direct the Transportation Cabinet to designate mile-point 22 on Interstate 75, in Whitley County as the "Veterans Suicide Memorial Mile"; erect the appropriate signage denoting this designation.

(Prefiled by the sponsor(s).)

**BR113** - Representative Jason Nemes
(6/6/2019)

AN ACT relating to call centers.

Create a new section of KRS

Chapter 337 to require an employer intending to relocate a call center from Kentucky to a foreign country to notify the secretary of the Labor Cabinet at least 120 days prior to such relocation; require the secretary to compile a list of employers that have relocated a call center to a foreign country; amend KRS 337.990 to create a civil penalty of not more than $1,000 for each violation; provide short title.

(Prefiled by the sponsor(s).)

**BR117** - Senator C.B. Embry Jr.
(8/20/2019)

AN ACT relating to the taxation of pension income.

Amend KRS 141.019 to increase the pension income exclusion from $31,110 to $41,110.

(Prefiled by the sponsor(s).)

**BR118** - Senator C.B. Embry Jr.
(9/5/2019)

AN ACT relating to solid waste.

Amend KRS 224.40-310 to modify the definition of “waste disposal facility” to specify that all residual landfills are included in the process of local determination and remove the exception for private facilities that dispose of waste on their own private property; amend KRS 224.40-315 to remove the exception for private facilities that dispose of their own waste on their own property from the requirements to obtain approval from local governing body when a municipal solid waste disposal facility seeks to expand or construct a facility.

(Prefiled by the sponsor(s).)

**BR119** - Senator C.B. Embry Jr.
(8/20/2019)

AN ACT relating to road safety.

Amend KRS 512.070 to include, as criminal littering, permitting unsafe amounts of leaves or mowed grass to remain on a highway.

(Prefiled by the sponsor(s).)

**BR120** - Representative Steve Riley, Representative Jason Nemes, Representative Lisa Willner
(7/9/2019)

AN ACT relating to corporal punishment in schools.

Create a new section of KRS 158.440 to 158.449 to define “corporal punishment”; prohibit a person employed by a school district from using corporal physical discipline; amend KRS 158.444 to remove corporal punishment as a form of discipline in a school; amend KRS 503.110 to remove the exception that permitted the use of physical force by a teacher against a minor.

(Prefiled by the sponsor(s).)

**BR121** - Representative Steve Riley
(7/19/2019)

AN ACT relating to long-term care administrators.

Amend KRS 216A.070 to extend temporary permits from a period not to exceed 6 months to 9 months.

(Prefiled by the sponsor(s).)

**BR124** - Representative Regina Huff
(9/25/2019)

AN ACT relating to bus safety.

Amend KRS 186.560 to allow the Transportation Cabinet to revoke the license of any operator of a motor vehicle for a period of 90 days, upon receiving record of his or her conviction of illegally passing a school or church bus as outlined in KRS 189.370; amend KRS 189.370 to conform.

(Prefiled by the sponsor(s).)

**BR125** - Representative Michael Lee Meredith, Representative Patti Minter, Representative Tim Moore, Representative Jason Petrie, Representative Phillip Pratt, Representative Melinda Prunty, Representative Brandon Reed, Representative Steve Riley, Representative Bart Rowland, Representative Steve Sheldon, Representative Wilson Stone, Representative Walker Wood Thomas, Representative Ken Upchurch
(7/9/2019)

AN ACT relating to the Bowling Green Veterans Center, making an appropriation therefor, and declaring an emergency.

Appropriate to the Department of Veterans’ Affairs $2,500,000 from the General Fund in fiscal year 2019-2020 for design and preconstruction costs for the Bowling Green Veterans Center; stipulate that appropriations in this Act shall be paid from the General Fund Surplus Account or the Budget Reserve Trust Fund Account; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR126** - Representative Josie Raymond
(7/22/2019)

AN ACT relating to bullying.

Amend KRS 158.148 to include incidents that occur at non-school-sponsored events or through the use of technology in the definition of bullying; require a school district’s code of acceptable behavior to include notification procedures for parents in situations of alleged bullying; require the school district’s code of acceptable behavior to include procedures for restoring a student’s sense of safety.

(Prefiled by the sponsor(s).)

**BR127** - Representative Kevin Bratcher
(7/9/2019)

AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to exemptions from taxation.

Propose to amend Section 170 of the Constitution of Kentucky to exempt certain veterans’ organizations from property taxation; provide ballot question with proposed amendment; submit to voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR132** - Senator Reginald Thomas
(8/20/2019)

AN ACT relating to wages.

Amend KRS 337.010 to increase the applicable threshold of employees of retail stores and service industries from $95,000 to $500,000 average annual gross volume of sales for the employer; amend KRS 337.275 to raise the state minimum wage to $8.20 per hour on July 1, 2020, $9.15 per hour on July 1, 2021, $10.10 per hour on July 1, 2022, $11 per hour on July 1, 2023, $12.05 per hour on July 1, 2024, $13.10 per hour on July 1, 2025, $13.95 per hour on July 1, 2026, and $15 per hour on July 1, 2027, and to raise the state minimum wage for tipped employees to $2.13 per hour on the effective date of the Act, $3.05 per hour on July 1, 2021, $3.95 per hour on July 1, 2022, and $4.90 per hour on July 1, 2023; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.

(Prefiled by the sponsor(s).)

**BR133** - Representative Regina Huff
(6/12/2019)

AN ACT relating to road safety.

Amend KRS 512.070 to include, as criminal littering, permitting unsafe amounts of mowed grass to remain on a highway.

(Prefiled by the sponsor(s).)

**BR136** - Representative Robert Goforth, Representative Joe Graviss, Representative Jason Nemes, Representative Steve Sheldon, Representative Jim Stewart III
(8/1/2019)

AN ACT relating to school bus safety and making an appropriation therefor.

Create a new section of KRS Chapter 160 to define “owner,” “recorded images,” “school bus stop arm camera,” and “third party designee”; create a new section of KRS Chapter 160 to require each local school district to install and maintain school bus stop arm cameras on daily route school buses by August 1, 2023; allow districts to contract for purchase and maintenance of cameras; allow districts to contract for the processing of an alleged violation of KRS 189.370(1); require school districts to establish procedures or contract with a third-party designee prior to utilizing school bus stop arm cameras; provide an emergency exception to the stop arm requirement; permit school districts with a population density equal to or less than 100% of the state average to apply for special permission to suspend the stop arm requirement for up to five years; establish requirements for school districts granted special permission to suspend the stop arm requirement; require the Kentucky Board of Education to promulgate administrative regulations; create a new section of KRS Chapter 160 to establish annual on-site compliance inspections for school districts and penalties for noncompliance; create a new section of KRS Chapter 174 to define "'owner," "school bus stop arm camera", and "third-party designee"; require the Transportation Cabinet or third-party designee to review images for violations of KRS 189.370(1) recorded by school bus stop arm cameras after July 1, 2021, and issue civil citations for violations; establish civil penalties for a violation of KRS 189.370 recorded by a school bus stop arm camera after July 1, 2021; require the Transportation Cabinet to adopt a uniform civil citation form and establish the form's minimum contents; establish notification requirements; require a recipient of a uniform civil citation to pay civil penalty or submit proof of a criminal citation or appeal the uniform civil citation to the Transportation Cabinet within 30 days; grant the Transportation Cabinet appellate powers and authority; establish potential defenses the Transportation Cabinet may consider for uniform civil citations; allow for suspension of registration for failure to pay a fine, require third- party designee to notify the Transportation Cabinet of the need to release a suspension within 1 business day of payment; appropriate 80 percent of funds collected by the Transportation Cabinet for a uniform civil citation to the school district; allow a third-party designee to keep up to 80 percent of funds but no more than $160 per civil penalty collected by a third party designee; appropriate 10 percent of all funds collected from a uniform civil citation to the Kentucky Department of Education; appropriate 10 percent of all funds collected from a uniform civil citation to the Transportation Cabinet; appropriate any remaining funds collected by a third party designee to the local school district; provide that a uniform civil citation shall not result in points against a driving record; require the Transportation Cabinet to promulgate administrative regulations necessary to effectuate the purpose of administering stop arm camera use, enforcement, and calibration; amend KRS 189.990 to appropriate 80 percent of funds collected from criminal fines levied by law enforcement for violation of KRS 189.370 to the local school district, 10 percent to the Kentucky Department of Education, and 10 percent to local law enforcement.

(Prefiled by the sponsor(s).)

**BR139** - Representative Kim King
(6/14/2019)

AN ACT relating to assistance dogs.

Amend KRS 258.500 to prohibit the misrepresentation of assistance dogs; allow peace officers to investigate; amend KRS 258.991 to conform and to remove outdated references.

(Prefiled by the sponsor(s).)

**BR143** - Representative Lynn Bechler
(9/9/2019)

AN ACT relating to child abuse and declaring an emergency.

Amend KRS 500.050 to remove the five-year statute of limitations for misdemeanor sex offenses against minors and allow prosecution to be commenced at any time; amend KRS 413.249 to remove the ten-year statute of limitations for civil actions arising from childhood sexual assault or abuse and allow a suit to be commenced at any time; amend KRS 620.030, relating to the requirement to report child abuse, to limit the clergy-penitent exemption and make any person who intentionally fails to report guilty of a Class D felony; amend KRS 620.050, relating to the reporting of child abuse, to limit the clergy-penitent exemption; provide for severability; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR160** - Representative Kevin Bratcher, Representative Joe Graviss
(7/11/2019)

AN ACT relating to state symbols.

Create a new section of KRS Chapter 2 to name and designate as the official pets of Kentucky domestic cats and dogs that reside in or have been adopted from Kentucky animal shelters or rescue organizations.

(Prefiled by the sponsor(s).)

**BR166** - Representative James Tipton, Representative Steve Sheldon
(8/1/2019)

AN ACT relating to operating a motor vehicle.

Amend KRS 189.292 to provide that no person shall use a personal communication device while operating a motor vehicle; set forth exceptions; provide that persons under the age of 18 shall not use a personal communication device while driving, except for emergencies; amend KRS 189.990 to set forth penalties for the violation of KRS 189.292; amend KRS 186.452 and 186.454 to conform; repeal KRS 189.294.

(Prefiled by the sponsor(s).)

**BR176** - Senator Danny Carroll
(7/22/2019)

AN ACT relating to road safety.

Amend KRS 512.070 to include, as criminal littering, permitting unsafe amounts of mowed grass to remain on a highway.

(Prefiled by the sponsor(s).)

**BR178** - Representative Attica Scott
(9/11/2019)

AN ACT relating to taxation.

Amend KRS 139.010 to define "diapers"; amend KRS 139.480 to exempt from sales and use tax the sale or purchase of diapers, breast pumps, and certain baby products; provide that the exemptions apply to sales or purchases made after August 1, 2020, but before August 1, 2024; require the Department of Revenue to report to the Interim Joint Committee on Appropriations and Revenue the amount of exemptions claimed.

(Prefiled by the sponsor(s).)

**BR179** - Representative Jerry Miller
(9/9/2019)

AN ACT relating to the promotion of living donor human organ and bone marrow donation.

Create a new section of KRS Chapter 18A to allow full-time employees of the Commonwealth of Kentucky a paid leave of absence of 240 hours for donating a human organ and 40 hours for donating bone marrow and to set requirements for the paid leave of absence; amend KRS 141.010 to define "human organ" and "qualified organ donation expenses"; amend KRS 18A.025 and 18A.110 to conform; amend KRS 141.019 to allow a tax deduction in an amount equal to the qualified organ donation expenses incurred by a taxpayer up to $10,000 and require reporting by the Department of Revenue; amend KRS 131.190 to allow the Kentucky Department of Revenue to report organ donation tax deduction data to the Legislative Research Commission.

(Prefiled by the sponsor(s).)

**BR180** - Representative Patti Minter
(7/3/2019)

AN ACT relating to mandatory benefits for health benefit plans.

Amend KRS 304.17A-200 to extend health-status eligibility rules to individual and employer-organized association markets; authorize insurance commissioner to designate additional health status-related factors; prohibit adjustment of premium or contribution amounts for group health benefit plans on the basis of genetic information; amend KRS 304.17A-220 to remove requirements relating to preexisting condition exclusions; repeal and reenact KRS 304.17A-230 to define "preexisting condition exclusion"; prohibit health benefit plans in any market from imposing any preexisting condition exclusion; amend KRS 304.17A-155, 304.17A-250, 304.17A-430, 304.17A-706, 304.17B-001, 304.17B-019, and 304.18-114 to conform; provide that provisions of Act apply to all health benefit plans issued or renewed on or after January 1, 2021; EFFECTIVE January 1, 2021.

(Prefiled by the sponsor(s).)

**BR181** - Representative Brandon Reed, Representative Bart Rowland, Representative Danny Bentley, Representative John Bam Carney, Representative Chris Freeland, Representative Robert Goforth, Representative Regina Huff, Representative Derek Lewis, Representative Michael Lee Meredith, Representative Steve Riley, Representative Dean Schamore, Representative Steve Sheldon, Representative John Sims Jr, Representative Tommy Turner, Representative Russell Webber (7/1/2019)

AN ACT relating to time.

Create a new section of KRS Chapter 2 to adopt year-round daylight saving time in the state of Kentucky if authorized by the United States Congress; EFFECTIVE upon the first Sunday of November following passage of enabling legislation by Congress.

(Prefiled by the sponsor(s).)

**BR182** - Senator Danny Carroll (8/20/2019)

AN ACT relating to assisted-living communities.

Create a new section of KRS 194A.700 to 194A.729 to prohibit certification or certification renewal of an assisted-living community if it is owned, managed, or operated by any person convicted of certain crimes or listed on an abuse list; exempt owner of an assisted-living facility certified as of July 1, 2020; amend KRS 194A.700 to amend definitions; amend KRS 194A.707 to make changes to the appeals and renewal processes; amend KRS 194A.717 to prohibit on-site staff person from being shared with another level of care; amend KRS 194A.723 to permit the cabinet to initiate injunctive relief in Circuit Court.

(Prefiled by the sponsor(s).)

**BR187** - Representative Charles Booker (7/22/2019)

AN ACT relating to carrying concealed weapons.

Repeal KRS 237.109, which provides authorization to carry concealed deadly weapons without a license; amend KRS 527.020 and 237.115 to conform.

(Prefiled by the sponsor(s).)

**BR203** - Representative Mark Hart (8/20/2019)

AN ACT relating to arts education.

Create a new section of KRS Chapter 158 to require schools to offer all students instruction in the visual and performing arts, submit an annual report to the Department of Education, and implement school policies regarding visual and performing arts instruction; require the Department of Education to develop visual and performing arts program standards, guidelines on model programs, and strategies and initiatives for meeting the requirements of the section; require the Department of Education to provide resources, assessment tools, and a reporting checklist to schools; require the Department of Education to report to the Interim Joint Committee on Education by December 1, 2021, on the status of schools meeting the requirements of this section; amend KRS 158.6453 to require the school profile report to be included in the school report card and require the visual and performing arts program data to be included in the school profile report; amend KRS 160.345 and 158.153 to conform; cite the Act as the Arts Education Equity Act.

(Prefiled by the sponsor(s).)

**BR204** - Representative Jim Gooch Jr. (8/29/2019)

AN ACT relating to key infrastructure asset.

Amend KRS 511.100 to change the definition of "key infrastructure assets" to specify that natural gas or petroleum pipelines are the type of pipelines covered in the definition and include other types of infrastructure assets; amend KRS 512.020 to include tampering with, impeding, or inhibiting operations of a key infrastructure asset in the offense of criminal mischief in the first degree; create a new section of KRS 411 that a civil action may be maintained against a person that compensates or remunerates a person to violate KRS 512.020 and the compensated person is convicted of criminal mischief in the first degree.

(Prefiled by the sponsor(s).)

**BR205** - Senator C.B. Embry Jr. (8/20/2019)

AN ACT relating to veterinarians.

Creates a new section of KRS Chapter 321 to require that a veterinarian report abuse and to allow immunity for a good faith report; amends KRS 321.185 to allow veterinarians to release information in order to report abuse.

(Prefiled by the sponsor(s).)

**BR206** - Senator C.B. Embry Jr. (8/20/2019)

AN ACT relating to solid waste.

Amend KRS KRS 68.178 to delete incidental or residual waste facilities from the exclusion in the description of waste management facilities; allow fiscal courts to license solid waste landfills and residual landfills and assess increased fees for accepting wastes outside of the waste planning area; amend KRS 224.40-315 to delete the exclusions from the definition of "municipal solid waste disposal facility."

(Prefiled by the sponsor(s).)

**BR212** - Representative Regina Huff (10/2/2019)

AN ACT relating to operating a motor vehicle.

Amend KRS 189.292 to provide that no person shall use a personal communication device or stand-alone electronic device while operating a motor vehicle; set forth exceptions; provide that persons under the age of 18 shall not use a personal communications device while driving, except for emergencies; amend KRS 189.990 to set forth penalties for the violation of KRS 189.292; amend KRS 186.452, 186.454, and 189.2327 to conform; repeal KRS 189.294.

(Prefiled by the sponsor(s).)

**BR215** - Representative Regina Huff (8/5/2019)

AN ACT relating to the taxation of pension income, making an appropriation therefor, and declaring an emergency.

Amend KRS 141.019 to increase the pension income exclusion from $31,110 to $41,110; apply retroactively for taxable years beginning on or after January 1, 2018; require the Department of Revenue to automatically issue refunds; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR221** - Senator Phillip Wheeler (10/7/2019)

AN ACT relating to prescription insulin.

Amend KRS 304.17A-148 to cap the cost-sharing requirements for prescription insulin at $100 per 30-day supply; create a new section of KRS Chapter 315 to require pharmaceutical manufacturers and wholesale distributors to rebate individuals for a portion of their out-of-pocket expenses paid for prescription insulin; EFFECTIVE January 1, 2021.

(Prefiled by the sponsor(s).)

**BR231** - Representative Attica Scott
(7/26/2019)

AN ACT relating to discriminatory practices against a person.

Amend KRS 344.010 to provide definitions of "protective hairstyle" and "race" that include traits historically associated with race.

(Prefiled by the sponsor(s).)

**BR233** - Representative Attica Scott
(8/20/2019)

AN ACT relating to cosmetic services.

Amend KRS 317A.155 to permit a cosmetologist, esthetician, or nail technician to operate outside of a licensed establishment for persons with physical mobility limitations, as attested by a physician in writing, or for persons residing in a long-term care nursing facility or assisted living facility.

(Prefiled by the sponsor(s).)

**BR236** - Senator Julian Carroll
(8/20/2019)

AN ACT relating to sports wagering and making an appropriation therefor.

Establish KRS Chapter 239 and create new sections to define "amateur athletics," "collegiate sports contest," "commission," "principal," "professional sports contest," "sports wager," and "sports wagering"; create the Kentucky Gaming Commission; establish membership to be appointed by the Governor with the advice and consent of the Senate; establish the commission's responsibilities and authority; require the Governor to appoint an executive director and establish the executive director's responsibilities; require the commission to promulgate administrative regulations relating to sports wagering conducted by the Kentucky Lottery Corporation, racing associations licensed under KRS Chapter 230, and other locations; establish licensing fees; prohibit persons from wagering on an event in which they are a participant; establish the sports wagering distribution trust fund and the uses of the fund; establish penalties for tampering with the outcome of a sporting event and wagering on a sporting event by a participant; create a new section of KRS Chapter 138 to impose an excise tax on sports wagering at 25 percent of net sports wagering receipts; amend KRS 138.1817 to permit the Department of Revenue to work with the commission to restrict licensure in the event that sports wagering taxes are not paid; amend KRS 154A.010 to revise the definition of "amateur sports contest," and to define "collegiate sports contest," "professional sports contest," "sports wager," and "sports wagering"; amend KRS 154A.030 to conform and to prohibit the director or family member from being a part owner of a professional team or a board member of a college or university that engages in collegiate sports upon which sports wagers may be placed; amend KRS 154A.050 to include sports wagering; amend KRS 154A.060 to include sports wagering and to include contracts for the purchase of goods and services necessary for sports wagering; require monthly and annual reports to be submitted to the Kentucky Gaming Commission; amend KRS 154A.063 to permit sports wagering on collegiate and professional sports contests; amend KRS 154A.065 to prohibit accepting sports wagers on the outcomes of contests involving horses; amend KRS 154A.070 to include sports wagering and require contracts to be in accord with administrative regulations of the Lottery Corporation and the Kentucky Gaming Commission; amend KRS 154A.090 to stipulate that sports wagering retailers aggrieved by a decision of the board may appeal to the Kentucky Gaming Commission; amend KRS 154A.110 to include sports wagering; stipulate that unclaimed sports wagering prize money be added to the sports wagering distribution trust fund; to prohibit sports wagers from being accepted from members or coaches of professional or collegiate team; amend 154A.120 to include sports wagering; amend KRS 154A.130 to specify net sports wagering receipts collected by lottery to be used for expenses and moneys in excess of expenses shall be dedicated to the sports wagering distribution trust fund; amend KRS 154A.400 to include sports wagering and stipulate the criteria for selecting sports wagering retailers shall be developed in consultation with the Kentucky Gaming Commission; amend KRS 154A.420 to include sports wagering and permit the Lottery Corporation to require a retailer to establish separate sports wagering electronic funds transfer accounts; amend KRS 154A.430, 154A.440, 154A.600, and 154A.650 to include sports wagering; amend KRS 230.225 to permit the Kentucky Horse Racing Commission to oversee sports wagering at licensed racing associations; amend KRS 230.370 to require administrative regulations relating to sports wagering to be developed in consultation with the Kentucky Gaming Commission; amend KRS 243.500 to exempt the conduct of sports wagering licensed or permitted under KRS Chapter 239; amend KRS 12.020 to administratively attach the Kentucky Gaming Commission to the Public Protection Cabinet.

(Prefiled by the sponsor(s).)

**BR237** - Representative Kathy Hinkle, Representative Rocky Adkins, Representative Charles Booker, Representative Jeffery Donohue, Representative Derrick Graham, Representative Joe Graviss, Representative Chris Harris, Representative Joni Jenkins, Representative Nima Kulkarni, Representative Maria Sorolis, Representative Cherlynn Stevenson, Representative Buddy Wheatley, Representative Rob Wiederstein
(8/21/2019)

AN ACT relating to wages.

Amend KRS 337.010 to increase the applicable threshold of employees of retail stores and service industries from $95,000 to $500,000 average annual gross volume of sales for the employer; amend KRS 337.275 to raise the state minimum wage to $8.20 per hour on July 1, 2020, $9.15 per hour on July 1, 2021, $10.10 per hour on July 1, 2022, $11 per hour on July 1, 2023, $12.05 per hour on July 1, 2024, $13.10 per hour on July 1, 2025, $13.95 per hour on July 1, 2026, and $15 per hour on July 1, 2027, and to raise the state minimum wage for tipped employees to $2.13 per hour on the effective date of the Act, $3.05 per hour on July 1, 2021, $3.95 per hour on July 1, 2022, and $4.90 per hour on July 1, 2023; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.

(Prefiled by the sponsor(s).)

**BR240** - Representative Lynn Bechler, Representative Brandon Reed, Representative Danny Bentley, Representative Myron Dossett, Representative Joseph Fischer, Representative Chris Fugate, Representative Robert Goforth, Representative David Hale, Representative Richard Heath, Representative Thomas Huff, Representative Kim King, Representative Bobby McCool, Representative Steve Sheldon, Representative Walker Wood Thomas, Representative Tommy Turner, Representative Ken Upchurch, Representative Les Yates
(9/10/2019)

AN ACT relating to compliance with state and federal law.

Amend KRS 65.133 to require local law enforcement agencies and Kentucky State Police to enforce immigration laws; create a new section of KRS Chapter 65 to define terms, including "sanctuary" and "sanctuary policy"; prohibit local governments from adopting sanctuary policies; establish hearing procedures for determination of sanctuary status; provide for the withholding of state funding from sanctuaries; create new sections of KRS Chapter 164 to prohibit postsecondary educational institutions from enrolling employing or contracting with illegal aliens; require postsecondary educational institutions to keep records of immigration status; provide for the withholding of state funding from postsecondary educational institutions that enroll, employ, or contract with illegal aliens; limit who may be considered a Kentucky resident for in-state tuition purposes; EFFECTIVE in part January 1, 2021.

(Prefiled by the sponsor(s).)

**BR241** - Representative Joseph Fischer
(10/4/2019)

AN ACT proposing an amendment to the Constitution of Kentucky relating to abortion.

Propose to create a new section of the Constitution of Kentucky to state that Kentucky's Constitution does not secure or protect a right to abortion or funding of abortion.

(Prefiled by the sponsor(s).)

**BR247** - Representative Matthew Koch
(8/16/2019)

AN ACT relating to property taxes for veteran service organizations.

Create a new section in KRS Chapter 132 to exempt veteran service organizations from ad valorem taxation if over fifty percent of the organization's annual net income is expended on behalf of veterans and other charitable causes; amend KRS 132.010 to define veteran service organization; apply to property assessed on or after January 1, 2021.

(Prefiled by the sponsor(s).)

**BR252** - Representative Walker Wood Thomas
(9/17/2019)

AN ACT relating to the Kentucky Community and Technical College System, making an appropriation therefor, and declaring an emergency.

Create a new section of KRS Chapter 164 to establish the Kentucky Community and Technical College endowment match fund; transfer $3 million annually to the fund from general fund; authorize promulgation of administrative regulations.

(Prefiled by the sponsor(s).)

**BR257** - Senator Danny Carroll
(8/20/2019)

AN ACT relating to employees of quasi-governmental agencies.

Create a new section of KRS Chapter 18A to allow state hiring preference for employees of quasi-governmental agencies ceasing participation in the Kentucky Retirement Systems; require an employing state agency offer an interview to all finalist entitled to preference unless five or more of the finalists are entitled to preference; require that if more than five finalists are entitled to preference, the employing state agency shall offer an interview to no fewer than five.

(Prefiled by the sponsor(s).)

**BR258** - Representative Derek Lewis
(9/10/2019)

AN ACT relating to hunting coyotes.

Amend KRS 150.360 to require the administrative regulations promulgated by the Department of Fish and Wildlife Resources relating to the hunting of coyotes at night to: require hunters to carry a hunting license, unless license-exempt, allow the use of electronic or mouth calls and decoys, specify which weapons may be used, prohibit hunting of coyotes at night on wildlife management areas or during any deer gun or muzzle loading season, prohibit hunting coyotes at any time from a road or motor vehicle; prohibit hunting coyotes at night using white light, and place no bag limit on coyotes; and amend KRS 150.395 to allow the hunting of coyotes at night using only non-white light.

(Prefiled by the sponsor(s).)

**BR263** - Representative Bobby McCool
(8/21/2019)

AN ACT relating to wage theft.

Create a new section of Chapter 514 to create the offense of theft of wages and establish penalties; define employer and employee; amend KRS 336.080 to indicate the secretary may enter places of employment without unreasonable delay to inspect a place of employment; amend KRS 337.020 to allow the commissioner to charge and collect past due wages; amend KRS 337.070 to require certain employers to include rate of pay, the number of hours worked, and the total amount of gross pay earned on wage statements provided to employees; amend KRS 337.320 to require employers to keep record for three years of the name, address, and occupation of each employee, the rate of pay and amount paid to each employee, a list of personnel policies provided to the employees, and a copy of the wage statement provided to each employee; create a new section of Chapter 337 to require employers to provide to an employee a written notice at the time of hire that sets forth the rate and method of pay, the employees employment status, accruals of time, deductions that may be made from pay, and the name and address of the employer, and require the employer to keep a copy of the notice signed by the employee; amend KRS 337.990 to include a civil penalty for failure to provide the written notice to employee and maintain a copy of the signed notice.

(Prefiled by the sponsor(s).)

**BR270** - Senator Johnny Ray Turner
(8/15/2019)

AN ACT relating to mining permits and making an appropriation therefor.

Create a new section of KRS Chapter 350 to require the Energy and Environment Cabinet to notify the Department of Workplace Standards of any applicant or permittee that may be subject to the performance bonding requirements of KRS 337.200; create a new section of KRS Chapter 337 to require the commissioner of the Department of Workplace Standards to notify the Energy and Environment Cabinet of any employer engaged in the severance, preparation, or transportation of minerals that is not compliant with the performance bonding requirements of KRS 337.200; amend KRS 350.085 to prohibit the approval of mining permit applications for applicants that are not compliant with the requirements of KRS 337.200; amend KRS 350.130 to make compliance with the requirements of KRS 337.200 a condition of a mining permit issued under KRS Chapter 350 or the administrative regulations promulgated thereunder; amend KRS 337.200 to remove references to liquidated damages and attorneys' fees as provided by law; amend KRS 337.994 to require that all penalties collected for violations of KRS 337.200 be paid to employees injured by the employer's failure to post the performance bond; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR275** - Senator Stephen Meredith
(8/20/2019)

AN ACT relating to Medicaid payments.

Amend KRS 304.17A-527 to require Medicaid managed care organizations to provide all payment schedules utilized to reimburse health care providers with whom they have maintained a contractual relationship for the previous three months to the Medicaid Oversight and Advisory Committee on a quarterly basis for the committee's review; create a new section of KRS Chapter 205 to require that services provided in rural counties be reimbursed at least at the median amount paid to an urban health care provider within the nearest metropolitan statistical area; establish a penalty that goes to the underpaid provider. .

(Prefiled by the sponsor(s).)

**BR278** - Senator Stephen Meredith
(8/20/2019)

AN ACT relating to Medicaid managed care contracts.

Create a new section of KRS Chapter 205 to limit the number of managed care organization (MCO) contracts to operate the Medicaid program to three.

(Prefiled by the sponsor(s).)

**BR285** - Representative Jim DuPlessis
(9/6/2019)

Urge Congress to require car manufacturers to install safety features to help prevent children from being left in hot cars.

(Prefiled by the sponsor(s).)

**BR288** - Representative Regina Huff
(9/25/2019)

AN ACT relating to veterinarians.

Create a new section of KRS Chapter 321 to require that a veterinarian report suspected animal abuse to an animal control officer; amend KRS 321.185 to allow veterinarians to report suspected animal abuse.

(Prefiled by the sponsor(s).)

**BR297** - Senator John Schickel
(8/20/2019)

Proclaim September 2020 as Prostate Cancer Awareness Month in Kentucky.

(Prefiled by the sponsor(s).)

**BR300** - Representative Rob Wiederstein
(10/14/2019)

AN ACT relating to adopting the most cost-effective alternative in administrative regulations having a major economic impact on the Kentucky economy.

Create new sections of KRS Chapter 13A to establish requirements and procedures for an administrative regulation that constitutes a major economic action; create the Regulatory Economic Analysis Advisory Group to consult on these regulations; set the group's membership, powers, and duties; require a promulgating agency to provide listed documents to the group and the public at least 60 days before filing the regulation; direct an agency to conduct and publish a detailed analysis of any major economic action regulation, including a cost-benefit analysis; establish filing requirements for these regulations; require an agency to publicly provide a framework for assessing the regulation; designate a short title of the "Kentucky Administrative Regulation Accountability Act of 2020"; amend KRS 13A.010 to define a major economic action; amend KRS 13A.030 to add a defective major economic action to the list of reasons a subcommittee may find a regulation deficient; amend KRS 13A.3104 to establish certification letter procedures for a major economic action regulation; stagger the initial terms of the appointed members of the advisory group.

(Prefiled by the sponsor(s).)

**BR315** - Senator Stephen Meredith
(8/20/2019)

AN ACT relating to copayments by medical assistance recipients.

Amend KRS 205.6312 to prohibit the cabinet or a managed care organization contracted to provide services from instituting copayments, cost sharing, or similar charges to be paid by any medical assistance recipients, their spouses, or parents, for any assistance provided pursuant KRS Chapter 205, federal law, or any federal Medicaid waiver; amend KRS 205.6485 to prohibit copayments to be charged in the Kentucky Children's Health Insurance Program.

(Prefiled by the sponsor(s).)

**BR334** - Representative Josie Raymond
(8/23/2019)

AN ACT relating to full-day kindergarten.

Amend KRS 158.060 to remove language that allows for half-day kindergarten programs; amend KRS 157.320, 157.360, and 158.030 to conform.

(Prefiled by the sponsor(s).)

**BR339** - Representative George Brown Jr
(8/27/2019)

AN ACT relating to the rural hospital tax credit.

Create a new section of KRS Chapter 141 to establish the rural hospital organization donation tax credit; amend KRS 141.0205 to order the new tax credit; amend KRS 131.190 to allow reporting by the Department of Revenue.

(Prefiled by the sponsor(s).)

**BR341** - Representative George Brown Jr
(9/4/2019)

AN ACT relating to firearms.

Create a new section of KRS Chapter 527 to make it a crime to unlawfully store a firearm; establish elements of the crime for recklessly allowing access to an unsecured firearm by a minor; establish the crime as a Class B misdemeanor unless a physical injury or death results, in which case it is a Class A misdemeanor.

(Prefiled by the sponsor(s).)

**BR342** - Representative George Brown Jr
(9/4/2019)

AN ACT relating to firearms and declaring an emergency.

Create new sections of KRS Chapter 237 to specify definitions for "assault weapons," "large-capacity ammunition-feeding devices," and "ammunition sellers"; require background checks for private firearms sales; require reporting to law enforcement of firearm and ammunition thefts and losses; require the safe storage of firearms; amend KRS 395.250 to require an estate's inventory to list each firearm; amend KRS 403.735 to require judges, when issuing an order of protection, to consider whether a person against whom the order is entered should be prohibited from possessing an firearm; amend KRS 504.030 to require judges in criminal cases where a person is found not guilty by reason of insanity to demand the surrender of the defendant's firearms; amend KRS 237.104 to conform; amend KRS 506.080 to specify that the offense of facilitation includes assistance in providing firearms; amend KRS 508.020 to include physical injury to a minor by virtue of the intentional discharge of a firearm within the offense of assault in the second degree; create a new section of KRS Chapter 527 to create the offense of criminal purchase or disposal of a weapon; amend KRS 527.040 to require that the sentence for a felon in possession of a firearm be served subsequent to any other felony sentence; amend KRS 527.070 to include postsecondary education facilities within the existing ban on firearms in schools; amend KRS 532.030 to require the judge pronouncing a defendant guilty but mentally ill to demand the surrender of the person's firearms; create a new section of KRS Chapter 237 to require the State Police to promulgate administrative regulations relating to the licensing of persons to possess handguns and assault weapons, the registration of handguns and assault weapons, and the logging of firearms and ammunition sales effective January 1, 2021; amend KRS 532.025 to conform; amend KRS 237.115 to conform; repeal KRS 65.870; EMERGENCY; some provisions EFFECTIVE January 1, 2021.

(Prefiled by the sponsor(s).)

**BR343** - Representative George Brown Jr
(8/27/2019)

AN ACT relating to criminal histories of job applicants.

Create a new section of KRS Chapter 344 to prohibit employers from considering or requiring disclosure of prior criminal history as part of the initial job application; title the Act "Ban the Box - The Criminal Record Employment Discrimination Act."

(Prefiled by the sponsor(s).)

**BR355** - Representative Jeffery Donohue
(9/9/2019)

AN ACT relating to tax credits for airport noise mitigation.

Create a new section of KRS Chapter 141 to establish a refundable income tax credit for the costs of mitigating noise from a commercial airport for taxable years beginning on or after January 1, 2020, but before January 1, 2024; amend KRS 131.190 to conform; amend KRS 141.0205 to order the credit.

(Prefiled by the sponsor(s).)

**BR356** - Representative Jeffery Donohue
(9/9/2019)

AN ACT relating to the sale or transfer of historic places.

Amend KRS 171.382 to require the Finance and Administration Cabinet to give notice to the Kentucky Heritage Council 90 days prior to the transfer or sale of a property nominated by the Kentucky Historic Preservation Review Board to be listed on the National Register of Historic Places; require the Kentucky Heritage Council to consult with the Finance and Administration Cabinet regarding the property's historic, cultural, and archeological resources; require the Kentucky Heritage Council to make a written recommendation to the Finance and Administration Cabinet on whether the property should have a preservation easement; if a preservation easement is recommended, no sale or transfer of the property shall take place until the easement is listed on the deed; amend KRS 82.660 to update council name.

(Prefiled by the sponsor(s).)

**BR357** - Representative Jeffery Donohue
(9/9/2019)

AN ACT relating to education.

Amend KRS 158.785, relating to the management of local school districts, to include criteria to review when completing a management audit; require the chief state school officer to provide a local district with written deficiencies found through the management audit and corrective actions and a time frame for completion in order to exit assistance; specify that a district can only be a "state managed district" after at least two years of unsuccessful assistance, criminal malfeasance, or insolvency; restrict the chief state school officer's authority during state management to only those specific items found through the management audit; amend KRS 156.029 to require the Kentucky Board of Education to include two at-large members who are current or retired elementary or secondary teachers; amend KRS 156.040 to clarify that a state board member cannot hold any elective federal, state, county, or city office.

(Prefiled by the sponsor(s).)

**BR403** - Representative Brandon Reed
(9/18/2019)

AN ACT relating to farmer suicide prevention and awareness.

Create a new section of KRS Chapter 2 to designate the Wednesday of National Farm Safety Week, which is the third week of September, as "Farmer Suicide Prevention Day".

(Prefiled by the sponsor(s).)

**BR407** - Representative Attica Scott
(9/13/2019)

AN ACT relating to providing free feminine hygiene products for women public postsecondary students.

Create a new section of KRS Chapter 164 to require each public postsecondary education institution to provide free feminine hygiene products to women students; require the governing boards of each public postsecondary education institution to adopt policies for the distribution of free feminine hygiene products; define feminine hygiene products.

(Prefiled by the sponsor(s).)

**BR412** - Senator Dennis Parrett
(9/19/2019)

AN ACT relating to veteran-owned nonprofit businesses.

Amend KRS 14A.1-070 to add a nonprofit business which is at least 51 percent unconditionally controlled by a veteran to the definition of "veteran-owned business"; amend KRS 14A.2-060 and KRS 14A.2-165 to conform.

(Prefiled by the sponsor(s).)

**BR423** - Senator Stephen Meredith
(10/1/2019)

AN ACT relating to the disposition of human remains.

Amend KRS 367.93117 to allow a court-appointed guardian or conservator to determine the disposition of remains after death if other alternatives have been exhausted; permit cremation under specified circumstances.

(Prefiled by the sponsor(s).)

**BR450** - Representative Attica Scott, Representative Charles Booker
(9/25/2019)

AN ACT relating to gang violence.

Amend KRS 506.120 to remove language related to "criminal gang syndicate;" repeal KRS 506.135 relating to definitions, KRS 506.140 relating to criminal gang recruitment, KRS 506.150 relating to criminal gang activity or recruitment, 506.160, relating to minimum service of sentence for defendant acting as a member of a criminal gang, KRS 506.170 relating to enhancement of penalty for conviction for criminal gang-related felonies, KRS 506.180 relating to cause of action by victim of criminal gang incident, and KRS 506.190 relating to criminal gang-related property subject to forfeiture; amend KRS 532.080 to conform.

(Prefiled by the sponsor(s).)

**BR482** - Representative Regina Huff
(10/4/2019)

Declare May 2020 to be Ehlers-Danlos Syndrome Awareness Month.

(Prefiled by the sponsor(s).)

**BR808** - Representative Thomas Huff, Representative Kevin Bratcher, Representative Jason Nemes, Representative Russell Webber
(10/10/2019)

Direct the Energy and Environment Cabinet and the Louisville Metro Air Pollution Control District to determine the environmental benefits, related costs, and potential alternatives to the federal reformulated gasoline requirements currently imposed in Jefferson County and partial areas in Bullitt and Oldham Counties.

(Prefiled by the sponsor(s).)

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