



Lawmakers hear sobering account of opioid crisis

by Jim Hannah
LRC Public Information

FRANKFORT – At one Kentucky hospital, people are actually bringing in heroin and shooting up with patients.

That's one example of the "very desperate situation" the opioid-abuse crisis has created, Kentucky Chamber of Commerce President Dave Adkisson said while testifying before a panel of state legislators in the Capitol Annex.

He was among more than 25 people from across the country who testified on Sept. 21 about the best policies to attack the crisis at a rare six-hour meeting of both the Interim Joint Committee on Health and Welfare and Family Services, and the Medicaid Oversight and Advisory Committee.

"Today is a snapshot," meeting co-chair Rep. Addia Wuchner, R-Florence, said of the topics on the agenda that included prevention, treatment and criminal justice issues.

Co-chair Rep. Kimberly Poore Moser, R-Taylor Mill, said the point of combining the two committees' meetings was to show the complexity of the opioid-abuse crisis and need for a coordinated, long-term strategy to tackle it.

"We know that everything we have heard about the opioid use disorder problem, heroin problem, is real to many families and our communities," she said, "and it cuts across all demographics. It touches everyone. We know it doesn't matter where you live. Addiction doesn't care how smart you are, where you went to school or how much money you make."

Office of Drug Control Policy Executive



Rep. Danny Bentley, R-Russell, asks a question concerning the scope of the state's opioid crisis during a joint meeting of the Interim Joint Committee on Health and Welfare and Family Services and the Medicaid Oversight and Advisory Committee.

Director Van Ingram testified that 1,404 Kentuckians died of a drug overdose last year. He said the introduction of the synthetic opiate fentanyl into the heroin supply was largely driving the death rate. In addition, fentanyl has been present in 53 percent of the drug overdoses recorded in Kentucky so far this year.

He said the Kentucky General Assembly passed a number of measures in the last five or six years to address opioid abuse, but it takes time for the full impact of those laws to be seen.

"People do get better," Ingram said. "People do recover, although for those people on the

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State prosecutors warn against budget cuts

by Rebecca Hanchett
LRC Public Information

FRANKFORT—Kentucky prosecutors told state lawmakers during a Sept. 15 Judiciary Committee meeting that they have little to nothing to cut from their budgets.

Governor Matt Bevin requested that most state agencies plan to cut around 17 percent from their current budgets in a letter recently sent to state officials. The cuts are expected to save the state around \$350 million, state officials say. But prosecutors like Kenton County Commonwealth's Attorney Rob Sanders said the cuts would "not only eliminate (specific programs). They would shut down our offices."

Commonwealth's attorney and county attorney office budgets both fall under the Executive branch, which the Governor oversees.

"We're talking one in three employees in our office if we implement cuts October 1," said Sanders. By January, he said possibly 50 percent of his employees would have to be let go, under the plan. Warren County Commonwealth's Attorney Chris Cohron said the same scenario would likely play out across the state, with prosecutors in the largest judicial circuits affected the most.

"The bigger jurisdictions are going to bear the brunt of it. Our conservative estimate is the larger offices would have to look at laying off 60 to 70 percent of our total staff. That's just not do-

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front lines, it doesn't seem that way."

In what he described as a "rare bright spot," there were 70 million fewer dosage units of opioids prescribed last year in Kentucky than in 2011. (That percentage doesn't include buprenorphine, a semisynthetic opioid that is used to treat opioid addiction.) There are still about 300 million dosage units of opioids being prescribed in Kentucky.

"This whole problem is the overexposure of opioids to our country and state," Ingram said. "We are reducing that overexposure."

He said the passage of House Bill 333 earlier this year would further drive down the number of opioids prescribed. It prevents doctors from prescribing more than a three-day supply of opioid painkillers, with some exceptions allowed. It also increased penalties for trafficking in opioids and authorized the state Office of the Inspector General to investigate trends in drug usage and trafficking.

Department for Medicaid Services Medical Director Dr. Gil Liu testified on the impact of opioid abuse disorder on Kentucky's Medicaid program.

At the beginning of 2014 Kentucky spent about \$56 million in Medicaid money on behavioral health and substance abuse treatment, he said. By the end of 2016, Kentucky was spending about \$117 million in Medicaid money on those treatments.

Rep. Danny Bentley, R-Russell, asked what percent of people with substance abuse disorder

have a behavioral health disorder, outside of the drug issue.

"Well over half of the people," Liu said

Addison said the impact of the opioid crisis on Kentucky's health was staggering.

"Less obvious, however, is the toll that is taken on the state's economic growth and development," he said. "In Kentucky the opioid crisis has contributed to a low workforce-participation rate.

"At a time when job openings and investment in Kentucky are reaching record highs, we must provide the healthy productive workforce needed to grow the economy"

Rep. Mary Lou Marzian, D-Louisville, asked how the state could fund the mental health, treatment and prevention programs needed after the governor recently proposed cuts of 17 percent for most state agencies in the current fiscal year to make up for an expected budget shortfall.

Department for Behavioral Health, Developmental and Intellectual Disabilities Medical Director Dr. Allen J. Brenzel said grant money is helping to pay for programs to tackle the opioid crisis.

"The good news ... is that resources are coming," he said. "That is something I don't often say. We have received funding from the legislature, the governor's budget and we have received a significant number of grants."

Kentucky was recently awarded a \$10.5 million federal grant to help on programs for opioid overdose victims, pregnant and parenting women, individuals re-entering society upon release from criminal justice settings and adolescents and young adults at risk of addiction.

"Now, what is very critical, is that we use those dollars, and guide those dollars to the most effective evidence-based intervention," Brenzel



Rep. Joni Jenkins, D-Shively, comments on the state's opioid crisis during a joint meeting of the Interim Joint Committee on Health and Welfare and Family Services and the Medicaid Oversight and Advisory Committee.

said.

Wuchner said the grant money couldn't come fast enough.

"Opioid addiction is a ravenous beast because its increasing tolerance requires individuals to take higher doses to stave off withdrawal and addiction spiral can happen quickly," she said. "It fractures families, lives, communities and futures. It fills our headlines daily. It fills our courtrooms, our jails, our hospital ERs, our NICUs (neonatal intensive care unit). It fills our court dockets, and it fills our morgues."

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able," he told the committee.

Cohron said staff cuts would negatively impact the state's heroin "Rocket Docket"—an efficiency program in place in over 30 of the state's 57 judicial circuits that puts treatment ahead of incarceration for certain drug offenses. Local jails statewide are on track to save around \$50 million by the end of fiscal year 2018 due to the success of the Rocket Docket program, he said.

Staff cuts could also restrict funding for advocacy of elderly, children and domestic violence victims, Cohron said, since criminal prosecution comes first. All non-court personnel, including victim advocates, would "have to be looked at being reduced immediately," he said, adding that court appearances and timely disposition of cases would also be impacted by reductions.

"There are human costs to this," he said.

Henderson County Attorney Steven Gold, who is also the president of the Kentucky County Attorneys Association, said the state's 120 county attorney offices collect child support, serve as a financial watchdog, and advise and assist county governments. They are also a key player in all criminal cases in the Commonwealth, he said, "plus mental health, guardianship, child dependency/neglect/abuse, truancy and runaway" cases and more. While Gold said county attorneys "embrace" their work, they need the funding to meet their obligations. Budget reductions would work counter to that, he said.

"If we are to believe that out of the crucible that is court comes justice, we must have good people—well-funded, well-trained people—on both sides to make that justice a result," he told

the panel.

Rep. Jason Petrie, R-Elkton, asked how much of a cut the prosecutorial system could withstand. None, Sanders said.

"How much of a cut we can sustain when we're talking about budget reduction? Zero. Because...we're already going to be short on funds. We're already going to be laying people off," he said.

Rep. Robert Benvenuti, R-Lexington, said government's top priority is public protection. He encouraged prosecutors to make that clear when working with lawmakers in coming months.

"Don't be shy about saying 'why is the state spending money on this when we don't have enough law enforcement officers on the street? When we don't have enough prosecutors?'" Benvenuti said.

Survey shows satisfaction on the rise at the LRC

FRANKFORT -- The Legislative Research Commission (LRC) is enjoying across-the-board improvements in staff satisfaction and morale, according to a survey conducted by the National Conference of State Legislatures (NCSL).

LRC employees are increasingly likely to agree that the agency follows consistent hiring practices, provides useful feedback to employees, addresses problems, acknowledges employee excellence and promotes a culture of innovation.

Those are the findings of a survey NCSL conducted this year with employees of the LRC, which is the research and support staff arm of the Kentucky General Assembly. The survey mirrored one that NCSL conducted with LRC staff members in 2014, providing an opportunity to quantify the growth of employee satisfaction in recent years.

"Our staff deserves a tremendous amount of credit for embracing change and working together in a shared spirit of collaboration and public service," said LRC Director David Byerman. "By authorizing us to update these survey results, the President and Speaker have given us the ability to objectively document the remarkable progress LRC has made over the last two years. LRC staff remains unified and focused on providing highly professional support to our legislators and the legislative institution."

The area that showed biggest change between 2014 and 2017 reflected increased confidence that LRC's hiring practices are consistent for all job openings. On a four-point scale, employee responses on that topic were almost nine-tenths of a point higher in this year's survey.

Similar improvements in employee satisfaction were found in response to survey questions on whether the LRC uses non-monetary

The area that showed biggest change between 2014 and 2017 reflected increased confidence that LRC's hiring practices are consistent for all job openings.

rewards to acknowledge staff performance excellence and whether the agency promotes a culture of employee innovation.

The 2014 and 2017 surveys were identical but for one exception: The 2017 survey added a question on whether employees approve of the way LRC Director David Byerman handles his job. By nearly a three-to-one margin, workers reported approval for the way Byerman, who joined LRC in October, 2015, leads the agency.

A comparison of the 2014 and 2017 surveys show improvements in 49 of the 54 areas in which employee satisfaction was measured. The three areas that showed slight dips and the two where satisfaction levels stayed the same all focused on the agency's information technology services, where satisfaction levels were already recorded as being high in 2014 and remained high in 2017.

NCSL is a bipartisan organization that provides research, technical assistance and information-sharing opportunities to state legislatures. The organization has headquarters in Denver and offices in Washington, D.C.

Local foods gain ground in both state, university purchasing

by Rebecca Hanchett
LRC Public Information

FRANKFORT—Food has made its way from farms to dinner tables in Kentucky for over 200 years, but it's only been in the last few decades that state agencies and universities have made Kentucky-sourced products a priority.

Consider the Kentucky International Convention Center (KICC) in Louisville, now under renovation, which will feature an in-house garden and messaging to teach visitors the importance of Kentucky farms when it reopens in 2018, Levy Convention Centers representative Matthew Moss told the Interim Joint Committee on Agriculture on Sept. 13. Levy is the concessions and catering operator for KICC, which has been closed for renovations since last year.

Moss told the committee that increased emphasis on catering at KICC will allow more creativity, and more chances to partner with local food producers.

"We're going to set a target by 2020 to be purchasing 30 percent of all our products locally," Moss told lawmakers.

At the University of Kentucky, local food purchasing is a key part of the university's contract with food supplier Aramark. Scott Smith with The Food Connection—a UK agency focused on food sustainability—said the uni-

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Lawmakers explore telehealth care for veterans

by Jim Hannah
LRC Public Information

FRANKFORT – In the heart of the Daniel Boone National Forest, a rural Kentucky community is creating a unique program that could help solve the nationwide problem of veterans having a hard time getting in to see a doctor.

"I understand what we are introducing to you today is probably the first of its kind in the whole country," Rep. Marie Rader, R-McKee, said while testifying before a Sept. 16 meeting of the Interim Joint Committee on Veterans, Military Affairs and Public Protection. "Maybe no other community has this opportunity."

What Rader introduced is an initiative that

will allow veterans to use video communication technology at the Jackson County Public Library to receive medical care from VA doctors, a practice broadly known as clinical video telehealth.

"I think it will provide incredible access and allow for the VA to enhance our delivery of that

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INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 2nd Meeting of the 2017 Interim July 12, 2017

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Agriculture was held on Wednesday, July 12, 2017, at 10:00 AM, at Kentucky State University. 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 Jared Carpenter, C.B. Embry Jr., Stan Humphries, Dennis Parrett, Stephen West, and Whitney Westerfield; Representatives Myron Dossett, Derrick Graham, David Hale, Mark Hart, James Kay, Kim King, Sannie Overly, Jason Petrie, Phillip Pratt, Brandon Reed, Rob Rothenburger, Dean Schamore, Wilson Stone, Walker Thomas, James Tipton, and Tommy Turner.

Guests: Representative Chad McCoy, Dr. Debbie Thomas, Provost, Kentucky State University, Tyler Madison, Kentucky Department of Agriculture, Grape and Wine Program, Bruce Kunze, Kentucky Grape and Wine Council Representative, Logan Leet, Chair, Kentucky Grape and Wine Council, Dr. Kirk Pomper, Kentucky State University, Director of Land Grant Programs and Dr. James Tidwell, Kentucky State University, Chair of the Division of Aquaculture.

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

The June 14, 2017 minutes were approved, by voice vote, without objection, upon motion made by Representative Graham and second by Representative Thomas.

Chairman Heath asked Representative Thomas to update the committee on NNN levels for dark-fired tobacco. Representative Thomas explained that HCR 48 was passed urging the United States Food and Drug Administration to withdraw its proposed standard for nitrosonornictine (NNN) levels on ingredients and constituents in smokeless tobacco products. The restrictions are so tight that the NNN level is unachievable for growers. By regulation, the USDA is trying to put the smokeless tobacco industry out of business. The comment period had been extended due to the responses.

Representative Thomas encouraged members to take advantage of the comment period to urge the USDA to repeal the restriction.

Senator Humphries stated that dark-fired tobacco in western Kentucky has an economic impact of approximately \$180 million. The proposed restriction is almost impossible to achieve.

Welcome

Dr. Debbie Thomas, Provost, welcomed members to the Kentucky State University. She explained that the College of Agriculture, Food Science and Sustainable Systems is known for excellent agricultural research and extension programs that influence students and impact farmers across the state. KSU is home to a world-renown Aquaculture Program of Distinction, ranked Top 5 in the United States.

Representative Graham noted that Dr. James Tidwell, Chairman of the Division of Aquaculture was recruited several years ago by the Republic of Ireland to develop their aquaculture program.

Update on Meetings Related to Agriculture Tax Reform

Senator Hornback and Representative Heath discussed agriculture tax reform. Representative Heath said he and Senator Hornback have conducted meetings to address tax reform with the agriculture commodities groups. Senator Hornback stated that everyone agreed that the top priority was HB 44, which pertains to a 4 percent growth in revenue for property taxes. It is important for everyone to know that the investments made with HB 611 has paid more dividends in this state than anything else. HB 611 should not be a part of the discussion in tax reform. Senator Hornback said that another issue of interest is the highway tax through the gas tax. It is important that rural roads and bridges be maintained for transporting products to the markets. There is a problem with waterways, which need to be maintained. Senator Hornback said that he and Senator Thayer are working on language with the equine industry pertaining to auctions where horses are sold out of state and no sales tax is charged. There is interest in the Georgia Agricultural Tax Exemption Program, which is a certification for farmers to be tax exempt for farm supplies. This would eliminate the need for retailers to hire auditors and extra employees to do audits. He and Representative Heath had met with John Chilton, State Budget Director, explaining the issues regarding agriculture.

Representative Heath said that Mr. Chilton was glad to join a meeting with representatives from the commodity groups. He has a better understanding of the tax exemptions for farmers.

In response to Representative Tipton, Representative Heath stated that the issue of agricultural property tax assessments was discussed but no plan of action was presented. Senator Hornback said it was discussed, but in talking to PVAs it was his opinion that it was not a huge problem. Because of zoning regulations, Lexington experienced some problems with its agricultural property tax assessments regarding large tracts. The statute defines agricultural use and agricultural potential and therefore the property can be assessed as agricultural.

Representative Stone said he attended a rural electric meeting recently and they were in the process of rallying the troops against the homeowners' sales tax on electric bills. Representative Heath said he experienced the same thing at his rural electric meeting.

Discussion on Potential Legislation for the 2018 Regular Session

Representative Chad McCoy said that the presenters would be discussing a problem that was more than likely a problem all over the state. He said that the solution would be pro-economic development and pro-vertical integration. Most importantly, the Kentucky Grape and Wine Council was not asking for any money.

Bruce Kunze, Kentucky Grape and Wine Council, Logan Leet, Chair, Kentucky Grape and Wine Council and Tyler Madison, Kentucky Department of Agriculture, Grape and Wine Program discussed a proposal for a Vineyard Expansion Grant Program. Mr. Leet explained that the Grape and Wine Council was formed in 2002 for the purpose of promoting growth within the industry. In 2007, the Council first received funding from the legislature in the amount of \$400,000 yearly. Until 2014, the industry had been steadily growing but extremely cold temperatures in 2014-2015 and 2015-2016 resulted in widespread vine mortality. Other reasons for the decline is that most vineyards are less than 5 acres, making it not profitable for the grower and the winery wanting to purchase in bulk. Mr. Leet noted that 80 percent of the wine made in Kentucky in 2016 was produced with grapes from out-of-state. The Grape and Wine Council wants to create a vineyard expansion grant program within the existing statute by removing specified funding requirements for existing programs in order to allow the KGWC flexibility to set annual distributions. The KGWC would also like to offer the program to existing vineyards. Mr. Leet reiterated that the KGWC does not need more funding.

In response to Representative Thomas, Mr. Madison stated that any money left over at the

end of each year rolls over. KGWC proposes taking some money from other grants to fund the proposal for a Vineyard Expansion Grant Program.

In response to Senator Hornback, Mr. Leet said that in past years the KGWC has been able to obtain grant money from Agriculture Development Funds. Mr. Madison said that vineyards do fall under the county agriculture investment program. There are 118 counties eligible for funds. He stated that it would be great if a vineyard could get money from the Agricultural Development Board. It would also be good to have a supplemental fund for vineyards.

In response to Representative Heath, Representative McCoy stated that at this time there are no specific ideas as to how to spend the \$400,000. The proposal includes giving KGWC the flexibility to set annual distributions based upon need.

In response to Representative Tipton, Mr. Kunze said the cost to produce wine could be between \$3,000 and \$5,000 per acre. He said that generally it is possible to get a partial harvest by the third growing season. It is a long-term investment, but the vines can produce anywhere from 15 to 40 years. Mr. Leet stated that there is a demand for grapes.

Overview of Kentucky State University Programs and Tour of Aquaculture Facility

Dr. Kirk Pomper, Kentucky State University, Director of Land Grant Programs said that the Land Grant Program was established in the 1890s to resolve agricultural, educational, economic, and social problems of the people of the Commonwealth of Kentucky, especially limited-resource persons and families. KSU partners with the University of Kentucky even though the missions may be slightly different. The Land Grant Program included three main areas: aquaculture, organic and sustainable agriculture and human health, nutrition and food safety, family and consumer sciences. Aquaculture is a program of distinction and ranks in the Top 5 in the United States. The organic program is ranked among the Top 20 in the United States Land Grant Programs. The sustainable projects, to name a few, include vegetable and grain production, fruit and nut crops, and a large meat goat production program. The Human Health, Nutrition and Food Safety, Family and Consumer Sciences is researching obesity and health issues, DNA technologies for assessing food safety, youth leadership, and community development. KSU has an undergraduate degree in Agriculture and Master of Science degrees in Aquaculture Studies and Environmental Studies. KSU Extension has an award winning small farm program and Third Thursday Workshop series. KSU Extension and Research personnel

have collaborations with over 1,850 farmers and stakeholders. Through the efforts of the legislature, a 100 percent state match to USDA Federal Funds has helped tremendously.

Dr. James H. Tidwell, Professor and Chair, Division of Aquaculture, explained that the aquaculture program has just reached the point at which half of its research is from wild culture and the other half from aquaculture. Worldwide, aquaculture is the fastest growing animal food production activity and is projected to actively grow for approximately 20 years. Five years ago, aquaculture surpassed beef production worldwide in producing protein and dollars as an agricultural product. The United States is the world's largest importer of seafood. Over 91 percent of the seafood consumed in the United States is imported. Food safety is a concern in importing seafood. Roughly 2 percent is examined by the FDA and approximately 90 percent comes from Asia. China is the biggest producer and exporter of fish products. As of now, China cannot export fresh seafood. It is important to be able to produce shrimp that only travels 6 miles instead of 6,000 miles to market. Aquaponics is a system that combines production of fish in tanks, in a recirculating type system. This system is one of the most water efficient and nutrient efficient systems that has been developed. The program has worked with the West Sixth Brewing Company by taking the brewers grain and making it into fish feed.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 3rd Meeting of the 2017 Interim

August 4, 2017

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Friday, August 4, 2017, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Joseph M. Fischer, Co-Chair; Senators Danny Carroll, Alice Forgy Kerr, John Schickel, Wil Schroder, and Dan "Malano" Seum; Representatives Robert Benvenuti III, Tom Burch, McKenzie Cantrell, Daniel Elliott, Stan Lee, Chad McCoy, Jason Nemes, Jason Petrie, Brandon Reed, and Ken Upchurch.

Guests: Representative Lynn Bechler, Ed Monahan, Rebecca DiLoreto, and Jenna McNeal.

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

Criminal Defense Issues and Concerns

After being recognized by committee members for his years of service and accomplishments at the Department of Public Advocacy (DPA), Ed Monahan thanked the committee for its support of DPA. He stated that the General Assembly has always welcomed DPA's policy suggestions and has been understanding with the budget. Without the support of the General Assembly, DPA would not be able to do its job.

Mr. Monahan testified about realigning increasingly expensive incarceration costs with more treatment options. This could be done by:

- Reducing admissions, including revocations to prison from probation and parole; and

- Reducing length of stay including the length of stay for those convicted of serious and violent crimes.

Mr. Monahan stated that while there are some people who need life sentences, many people are serving long incarceration sentences, and evidence shows that there is no benefit.

DPA, on invitation from the Justice Cabinet, had an initial meeting with the Justice Cabinet and the Department of Corrections to discover if the alternative sentencing worker program, which is being used as a national model, could assist with probation issues. There are more than 24,000 people in prison in Kentucky, which is the state's largest prison population ever. The expense for this amount of inmates is greater than what was budgeted.

Mr. Monahan discussed trends in Kentucky. From 1985 to 2015, the crime rate declined by 19 percent, and the violent crime rate declined by 28 percent. From 1985 to 2014, the US imprisonment rate increased 133 percent, and Kentucky's imprisonment rate increased 371 percent. When looking at these statistics on a case-by-case basis, there are 45,602 fewer criminal cases and 14,733 fewer DUI cases. This is a decline of over 5,000 cases per year.

Mr. Monahan shared policy suggestions that DPA believed would improve the Kentucky justice system. These suggestions include:

- Realigning existing correctional resources towards scientifically-informed treatment;

- Lowering crimes and penalties;

- Incentivizing release of low and moderate risk persons;

- Increasing re-entry support;

- Reforming penal code;

- Finding a way to have a financially unified statewide correctional system;

- Increasing theft levels; and

- Modifying mandatory minimum for persistent felony offenders.

Mr. Monahan advocated for the

creation of gross misdemeanors. A gross misdemeanor would be more serious than a Class A misdemeanor but not a felony. The characteristics could include a sentence up to 24 months, presumptive probation, supervision up to 36 months, expungeable, and extraditable. A gross misdemeanor system would save money and relieve stress on the justice system.

DPA asked the General Assembly to consider making changes to the death penalty. According to a comprehensive 2011 program audit of the administration of the death penalty in Kentucky, there are several areas that need improvement. These areas include a high error rate, excessive caseloads and low pay for public defenders handling death penalty cases, capitol juror confusion, and lack of data for cases. Mr. Monahan stated that not only was this problematic, but it is also a financial burden to Kentucky.

DPA has 36 public defender offices, with some offices covering up to eight counties at a time. Last year, DPA was appointed to 162,485 new trial cases and provided counsel at the cost of \$276 per new trial case. DPA handled 4,538 cases that were contracted out to private attorneys for conflict cases, with funding at \$319 per conflict case. This is an extremely high case load with no additional attorneys or additional financial relief. Mr. Monahan stated that, although DPA gets its job done, it is a huge stress on the agency. DPA would like the General Assembly to provide help, including reducing workloads, increasing compensation to private attorneys doing conflict representation, increasing salaries for DPA staff, and allowing DPA attorneys to have cell phones while visiting clients who are incarcerated.

Responding to a question from Senator Westerfield, Mr. Monahan stated that the divergence between the increase in incarceration and the decline in the crime rate is that, on one hand, less crime is committed when more people are incarcerated, but on the other, research is that only about 25 percent of the decline in crime is attributable to increase in incarceration.

Rebecca DeLoreto, with the Kentucky Association of Criminal Defense Lawyers (KACDL), presented suggestions and requests. KACDL is the only statewide, all-inclusive organization of criminal defense lawyers. KACDL's mission includes:

- Protection of constitutional liberty interests;

- Fairness and justice for all persons accused of crimes in the Commonwealth;

- Comprehensive and sensible criminal justice reform; and

- Sharing the perspective of their clients and their families.

Ms. DeLoreto stated that KACDL cares that Kentucky statutes are constitutional and take

into account the appropriate role of counsel. KACDL wants the laws to be guided by data and research to ensure the best possible outcomes for everyone. She thanked the General Assembly for its consideration and efforts to improve the justice system.

KACDL appreciates the work that has been done with the juvenile justice system in Kentucky. The savings that come from juvenile justice are important to note. The number of youth placed in out-of-home facilities has decreased by 43 percent over the last two years. Not only are these youth being kept at home and with loved ones, they are also receiving treatment and support with evidence-based interventions. This allows the more costly residential beds to be opened to more serious offenders. This juvenile justice reform is expected to save taxpayers about \$24 million in the first five years.

Ms. DeLoreto discussed expungement, which KACDL supports. Although expungement is working well for many, KACDL hopes that the legislature will consider recalculating the fees required.

Ms. DeLoreto expressed appreciation for Governor Matt Bevin's "Don't Let Them Die" (DLTD) initiative. As part of this initiative, Governor Bevin's office will place painted rocks around Kentucky to raise awareness for Kentucky's opioid epidemic. Painted rocks matter because of their personalization, and it is important to remember that people who are incarcerated--many for drug use--are still people. She urged the committee to place money into law enforcement and communities instead of placing so much money into longer incarceration time for many inmates.

Ms. DeLoreto discussed crime offense levels. Kentucky cannot just look at low level offenders. The entire range of offenses and sentence lengths must be examined because it impacts cost. Some suggestions from KACDL include:

- Addressing and reducing expensive locked custodial care of elderly prisoners;

- Redirecting more of correction's dollars towards noncustodial rehabilitation and residential substance abuse;

- Stop enlarging the pool of 85 percent parole eligibility.

Ms. DeLoreto stated that one area of penal reform that should be targeted to reduce costs is to end the transfer of juveniles to adult court. Evidence-based studies show that children are developmentally different than adults, and the US Supreme Court has urged that punishment for children be different than punishment for adults. She said that, if members will not end transfers to adult court, they should end automatic transfers, which is important because of the racial disparity with the kinds of cases affected.

The second suggestion for penal code reform is the examination of the young adult offender population. Offenders aged 18 to 25 are the most likely to commit offenses, and that Kentucky should be focused on providing treatment for them. Giving them a chance at treatment and recovery, versus placing them in prison with older inmates who can influence them to commit more crimes, is not only beneficial to the children but will also save the justice system money in the long term.

Ms. DeLoreto discussed pretrial release and fine and court costs. KACDL is concerned people are gaining pretrial release based on their wealth and that nonfinancial conditions of release needs to be considered. She asked the committee to consider fines and court costs, which KACDL is concerned is leading to debtors prisons.

Ms. DeLoreto discussed amendments to Kentucky's constitution. Marsy's Law should be heavily considered since it is coming from out-of-state sources and the impact could be great. Ms. DeLoreto stated that KACDL expects that Marsy's Law will be interpreted to be against the rights of the accused, and that this will be a problem because courts of law must be balanced. She suggested that, instead of changing the Constitution, the General Assembly could into consideration locations where victims are not being heard. KACDL is not against victims but believes the justice system must remain fair and balanced.

Ms. DeLoreto discussed Kentucky's sex offender registry. KACDL believes that the registry needs to only be for offenders who need to be placed on it, and that offenders who could be removed should be. KACDL believes this would make the registry more effective.

Senator Westerfield responded that there is nothing in Marsy's Law that takes away the presumption of innocence for the accused, but the law creates rights for victims.

Representative Benvenuti responded by asking members to support Marsy's Law because it gives victims a voice.

Senator Schroder responded by stating he has concerns about Marsy's Law and hopes to hear more from judges, prosecutors, and the defense bar.

Amending Kentucky's Age of Consent

Jenna McNeal, Commissioner of the Kentucky Multidisciplinary Commission on Child Abuse, discussed a possible bill that would amend Kentucky's consent laws by outlawing a 16 or 17 year old from being able to "consent" to sexual intercourse with a person who is at least ten years older. Ms. McNeal thanked the committee for its time and told the story of how she is a teenage rape survivor.

Ms. McNeal stated that her proposal to include the ten year age gap is statistically

supported nationwide. Mental development between a 16 or 17 year old is scientifically different than that of an adult who is ten or more years older. Teenagers lack full cognitive growth, harm avoidance, and full understanding of lifelong consequences. Teenage decision making is based on motivation by reward, while adult decision making is based on motivation by harm avoidance; this makes the decision for consent extremely unbalanced between the two. Older teenagers are some of the most high-risk for being sexually assaulted, and often their perpetrators are in their late twenties or older.

Ms. McNeal also spoke on rape in the third degree. Rape in the third degree in Kentucky protects people age 15 and under who are victims of people who are 21 years or older and in a position of power, such as a teacher or coach. Because of this, 16 and 17 year olds are not protected and must prove lack of consent in a court. Ms. McNeal stated that cases where lack of consent must be proven are exceptionally difficult, but if Kentucky changes rape in the third degree, teenagers can have a fallback for protection when there is a ten year age difference between the victim and perpetrator.

Ms. McNeal spoke about questions and concerns some people may have about this law. While people might have a fear of over criminalizing teenagers having sexual intercourse with other teenagers, this law will not have any effect on those situations. This law would only criminalize adults having sexual intercourse with a teenager with a ten year or more age difference. Twenty-two states already have a similar protection.

Sanctuary Cities: 2017 RS HB 501

Representative Lynn Bechler testified about 2017 RS House Bill 501, which he sponsored. He said the intent of the bill is to preclude that any political subdivision, such as a county, city, or institution of higher learning, from having a sanctuary policy. This bill established monetary penalties for entities and individuals who chose to have such a policy.

Representative Bechler stated that there are about 50,000 illegal aliens living in Kentucky. This is about 1.1 percent of Kentucky's total population, 30 percent of Kentucky's total immigrant population, and 1.7 percent of Kentucky's labor force. Since 1990, the illegal alien population has risen more than 45,000 people, many of whom are now living in urban metro areas.

Representative Bechler stated that the illegal alien population has had positive and negative impacts. On the positive side, it is estimated that illegal aliens pay a little over \$20 million in sales tax, over \$11 million in individual income tax, and more than \$5 million in property taxes. On the negative side, Representative Bechler stated

that one study estimated that the state and local government incur costs of about \$124 million in K-12 education, \$25 million in limited English proficiency education, \$22 million in justice costs, and \$54 million in other costs. He stated that there was a less troubling fiscal note produced by the Legislative Research Commission in 2011 that stated Kentucky only spends about \$30 million on illegal aliens. Representative Bechler stated that the numbers demonstrate that the negatives outweigh the positives.

Another potential impact could come from offering in-state tuition rates to illegal aliens. Kentucky law requires that illegal aliens shall be charged the in-state tuition rate. Representative Bechler stated that this conflicts with Section 505 of the federal Illegal Immigration Reform and Immigrant Responsibility Act. Representative Bechler said that it is important to note that, while no universities are listed as sanctuary schools, there have been troubling signs.

Representative Bechler discussed crime and illegal aliens. He said that studies of all immigrants have shown the incarceration rate among immigrant males between the ages of 18 to 39 is 1.6 percent. Drugs, physical violence, and gang activity is often prevalent in sanctuary cities and states.

This bill would not be the first of its kind. Seven other states have laws banning sanctuary cities; of these, two include universities in their bans. In 2017, 22 other states introduced legislation banning sanctuary cities.

Responding to a question from Representative Burch, Representative Bechler stated that he is open to making changes in the legislation, but if 2017 version of the bill would have been carried out by the Justice Cabinet if the bill had passed.

Responding to a question from Representative Burch, Representative Bechler stated that he supports immigration but not illegal immigration.

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

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 4th Meeting

of the 2017 Interim

August 18, 2017

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Friday, August 18, 2017, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Adam Koenig, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Joe Bowen, Tom Buford, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Dan “Malano” Seum, and Damon Thayer; Representatives Al Gentry, Dennis Keene, Chad McCoy, Jerry T. Miller, C. Wesley Morgan, David Osborne, Ruth Ann Palumbo, Sal Santoro, Arnold Simpson, Walker Thomas, and Susan Westrom.

Guests: Wendell Strode, Executive Director, Christy Thomas, Finance and HR Director, National Corvette Museum; Representative James Kay, Professor Seth DeBolt, Ph.D., University of Kentucky, Peter Weiss, Alltech; Scott Ward, Orrick, Herrington and Sutcliffe.

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

Minutes

The minutes of the July 14, 2017 meeting were approved without objection.

Proposed changes to charitable gaming statutes.

Wendell Strode, Executive Director of the National Corvette Museum said that over 200,000 visitors tour the museum annually, including people from all 50 states and 60 foreign countries. The museum holds 25 raffles per year to generate revenue. This has been a major factor in the museum’s success in the past 20 years. The museum has purchased over 230 acres to expand and build a motor sports park that will have a 3.15 mile road course. There are three Corvettes and two Camaros available to drive on the track. The museum teaches teenage driver safety to young drivers, and it allows law enforcement agencies and first responder teams to use the park for training. The museum has a positive tourism impact for Kentucky.

The museum has recently reduced the number of raffles to comply with exemption guidelines for a 501(c)(3), and has been advised by the Office of Charitable Gaming that it reduce the number further. Most raffles are limited raffles, at \$100 to \$500 per ticket and with a limited number of tickets. These are sold on the museum’s website and outside Kentucky. Some states allow 501(c)(7) organizations to conduct this type of raffle. The museum is asking for this in Kentucky. The 501(c)(7) is primarily a social or recreational organization. By allowing 501(c)(7) organizations to hold raffles and donating the majority of the net proceeds from these events back to the National Corvette Museum, the museum could reduce the number of raffles it conducts, but still meets its funding needs.

In response to a question from Representative Koenig, Mr. Strode said the raffles held as a 501(c)(3) benefit the museum. By allowing a 501(c)(7) organization to hold

raffles and donate the proceeds to a 501 (c)(3), it could expand the museum’s ability to operate in the Commonwealth.

Christy Thomas, Finance and HR Director, said the museum is an exempt purpose revenue, but gaming is not an exempt purpose revenue. The museum balances its educational revenue by educating the public through tours and other things that the museum does. Current gaming statutes in Kentucky do not allow for a 501(c)(7).

In response to a question to from Representative Miller, Mr. Strode said a \$10 raffle ticket is sold at admission to the museum.

Senator Buford offered suggestions for public protection such as limiting the cost of a single ticket and setting the amount of the prize awarded.

In response to a question from Senator Bowen, Mr. Strode said that the museum pays sales tax on items sold at the gift shop and the café as well as employment tax. Adding a 501(c)(7) will not expand any tax exemptions.

In response to a question from Representative Santoro, Ms. Thomas said there are no owners or stockholders. Mr. Strode added that non-profits are started with exempt status. Once that is established there are members who can join the non-profit. However, if the National Corvette Museum is dissolved, any net proceeds have to be given to other non-profit organizations.

Senator Higdon said the definition of a 501(c)(7) is broad and could allow other organizations to apply for that status. Ms. Thomas said the Department of Charitable Gaming is in charge of approval of applications for all organizations and retains the right to deny an organizations request.

Representative Westrom commented that hearing from the Department of Charitable Gaming is in order.

Universities serving alcoholic beverages in culinary arts programs.

Representative James Kay said Midway University has a culinary degree program that includes bourbon distilling, and is considering adding craft brewing and local vinting. Under current statutes this program is not allowed to serve alcohol. The university is asking for a special license that pertains to educational programs, at accredited institutions only. This would allow the program to have alcohol and serve it to students who are of legal drinking age. Kentucky has an opportunity to take an education step to create a pipeline for the workforce to fill these skilled jobs.

Professor Seth DeBolt, Ph.D., Director of the Distillation, Wine and Brewing Program at the University of Kentucky, said UK had supported development of the wine industry and grains development through extension for the last 20

years. Since 2012 there has been a concerted effort in work force development and training for the students to enhance their knowledge and to help them get better jobs locally. Classes have been developed such as Kentucky Bourbon Tourism and directed classes on distillation, brewing and on viniculture and wine making. There are approximately 300 students per year in these classes. Kentucky’s universities have formed a coalition to ensure that all industries are represented.

Pete Weiss, Alltech Brewing and Distilling, said Alltech has partnered with Western Kentucky University to further the education of craft brewers and distillers that are coming into the state. The brewery is actually located on the campus of WKU under the Alltech license. The students in the program use the brewery as a lab class. This allows for hands on experience involving the science of brewing and distilling. Students learn how to run a small business in the classroom. Two students have been hired as brewer assistants. A product called College Heights Ale that is made through the WKU program.

In response to a question from Representative Koenig, Dr. DeBolt said the universities work through the three-tier system to source alcohol for the wine appreciation class. Representative Kay added that having a license would make it clear that the educational programs are allowed to have alcohol on the premises for use in classes and that they not required to discard product after brewing or distilling.

In response to a question from Senator Seum, Representative Kay said this raises the responsibility profile of the industry. Midway has a culinary arts program that includes specific alcohol related degrees. These programs require students to taste products. However, none of the products produced in the classes are served to the public.

Representative Westrom said that this is more of a workforce development program.

Proposed changes to alcohol statutes; HB 136, HB 155, 2017 Regular Session.

Representative C. Wesley Morgan said he has been in the retail alcohol business for 36 years. During that time he developed software used by approximately 500 retail outlets across the eastern part of the United States. Until 2010 his retail business had the second highest volume store in Kentucky. He believes that his retail experience is beneficial to the state. HB 136 relates to a law requiring all wholesalers to suspend sales to any retailers who are 30 days late on paying an invoice to a wholesaler. The retailer can still purchase with cash. Wholesalers maintain a list of all retailers and know who is 30 days out paying their invoice. This law obstructs

the free flow of commerce in that one wholesaler can restrict a retailer from purchasing from other wholesalers.

Adam Blau, Fort Thomas, KY, said that each distributor delivers one type of alcohol. If Southern Wine and Spirits sells Makers Mark, a person cannot buy Makers Mark from Republic National Distributing Company Kentucky. The mail is slow at times, so his payment may go over 30 days. Distributors visit the store the day before a shipment is scheduled. If he is told the day before his shipment is due that he is on the “no ship” list, he has to figure out how to make the payment by 1:00 PM in order to come off the list and have the order shipped the following day. The majority of his alcohol comes from Southern Wine and Spirits, which delivers on Friday. If he cannot pay by Thursday at 1:00 PM, he will not have alcohol to sell that weekend. As a small business, it is important to have inventory on Friday.

In response to a question from Senator Bowen, Representative Morgan said the retail stores were at one time cash only. Ken Lewis, owner of Party Source in Bellevue, KY, challenged the Department of Alcoholic Beverage Control in court to be allowed to accept shipments on credit.

Senator Schickel commented that Representative Morgan’s legislation will get all due consideration in the Senate. He noted that Representative Morgan presents a unique perspective on the retail alcohol business.

In response to a question from Senator Higdon, Representative Morgan said he objected to one wholesaler having the right to stop a retailer from purchasing from another wholesaler.

Senator Buford commented that some states only have one or two wholesalers in an entire state dealing all the products. Also, regarding credit, fair trade is gone. The legislature needs to be mindful of the small retailer getting cut off from buying any products.

Dan Meyer, General Counsel, Southern Wine and Spirits Wholesalers, said the laws are not particular to Kentucky. Most states have credit or COD laws for wholesale sales to retailers of spirits and wine. Federal law prohibits extending credit beyond 30 days. This ensures that the large retailers do not have an advantage over the small retailers. Wholesalers would like to work with retailers to address the problems so that sufficient notice is given before putting retailers on COD list. In most states the ABC maintains this list. However, in Kentucky the Wholesalers Association maintains this list.

On a different topic, Representative Morgan said there is a section in statute that allows a retailer to legally take a shipment of alcohol from a wholesaler Louisville to Whitesburg.

Additionally, a retailer that has a business on Jefferson/Bullet County line and another business on the Jefferson/Shelby County line can transport alcohol from one end of Jefferson County to another with no problem. However, if a retailer crosses a county line he is in violation of the law. This is an over reach by the state to control crossing county lines and the movement of alcohol. The Department of Alcohol Beverage Control is able to allow for transportation of alcohol across county lines. In December 2015, a court in Clay County ruled that this was unconstitutional. A court in Knox County recently agreed with the Clay County decision.

HB 155 2017 RS, would have created a requirement for a retailer with common ownership in multiple stores to purchase a new license giving the retailer authority to transport alcohol from one licensed store to another. Wholesalers have been against this; however, this is after the product has gone through the three tiers of the three tier system. Liquor Barn will send collector bottles to all their stores. If the store in Lexington sells out of the bottles but the store in Bowling Green has a supply, the company stands to lose money because it cannot transport the cases across county lines. Liquor Barn could apply for permission from the ABC but that is unfair because ABC could allow some to ship and deny that privilege to others. Passage of HB 155 would have required the purchase of a special license that must be displayed on the vehicle transporting the alcohol and retailers must keep an inventory list of all product being transferred. The license applies to two stores together.

Bryan Edwards, retail store owner, Murray, KY, said the time it takes to send a request to ABC for permission to transport across county lines and for ABC to respond is cumbersome.

In response to a question from Representative Osborne, Representative Morgan said the new license would have a size limit on the truck that would be making the delivery from one retail store to another.

Regulating daily fantasy sports.

Scott Ward, attorney for Orrick, Herrington and Stuchlik, spoke representing FanDuel and DraftKings, two members of a growing fantasy sports industry. Approximately 700,000 Kentuckians play fantasy sports every year. Fantasy sports has evolved from being played with friends on pencil and paper to playing on the internet with not only friends and co-workers, but competitors from across the country. This product has out-grown laws that were originally written with fantasy sports in mind.

Players select a team and pay an entry fee that amounts to a prize for the winner. This allows the “armchair quarterback” a chance to imagine himself a general manager. Fantasy sports tests

the players skill at putting together the best team in football, baseball, basketball and other sports based on statistics of players in real games. The outcome of the real world game is not counted in fantasy sports, rather the stats of the players are converted to points. The team with the most points, with the best individual performances by the most players, wins.

Fifteen states have passed laws defining and regulating fantasy sports, including four of Kentucky’s border states. Each state has the same basic three elements. First, a tight definition of fantasy sports. The definition does not allow for expansion beyond fantasy sports and is based on a federal law passed over 10 years ago that excludes it from internet gambling. Second, consumer protection is mandated. Contests are limited to 18 and over; and employee play and college sports are banned. Player funds must also be held differently from operating funds. Finally, each law clearly states that fantasy sports are legal and are not gambling. There is no systemic element of chance nor outcome determinative in fantasy sports. Fantasy sports are offered by Disney through ESPN, by CBSsportsline, NFL, MLB, DraftKings and FanDuel.

In response to a question from Representative Miller, Mr. Ward said each state regulates differently. Most states have a licensure or registration fee. Few states have an additional tax on the adjusted gross revenue of the companies that pay into the state.

Representative Simpson said regulation is a concern since collection of taxes and registration fees could cause a burden to the small fantasy leagues have existed for years.

Representative Koenig said that the bill states there is a threshold of 100 players to be regulated. Therefore the small teams that have been playing for years will not be included in the current legislation. Mr. Ward said that the bill is designed to define fantasy sports and is intended to regulate commercial operators.

Representative Koenig said that the next meeting will be at Buffalo Trace Distillery on September 8th and 10:00 AM.

There being no further business to come before the committee the meeting was adjourned at 11:26 AM.

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

Minutes of the 3rd Meeting of the 2017 Interim

August 17, 2017

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, August 17, 2017, at 10:00 AM, in Room 154 of

the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Jim DeCesare, Co-Chair; Senators Perry B. Clark, Rick Girdler, Denise Harper Angel, Ernie Harris, Jimmy Higdon, Stephen Meredith, Wil Schroder, and Reginald Thomas; Representatives Lynn Bechler, McKenzie Cantrell, Daniel Elliott, Al Gentry, Dennis Horlander, Joni L. Jenkins, James Kay, Adam Koenig, Russ A. Meyer, Jerry T. Miller, C. Wesley Morgan, Jason Nemes, Jason Petrie, Phillip Pratt, Steve Riley, Rob Rothenburger, Dean Schamore, Diane St. Onge, Wilson Stone, Russell Webber, Scott Wells, and Addia Wuchner.

Guests: Deputy Secretary Brad Montell, Education and Workforce Development Cabinet; Jessica Fletcher, Executive Director of Communications, Education and Workforce Development Cabinet; Andy Hightower, Senior Policy Advisor, Education and Workforce Development Cabinet; Mardi Montgomery, Legislative Liaison, Education and Workforce Development Cabinet; Taylor Sawyer, Government Affairs Director, Big Ass Fans Company; Judy Taylor, Legislative Agent, Big Ass Fans Company; and Amy Porter, Plant Manager, Corning Incorporated.

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

Approval of Minutes

A motion to approve the minutes of the June 15, 2017 meeting was made by Senator Denise Harper Angel, seconded by Representative Dennis Horlander, and approved by voice vote. A motion to approve the minutes of the July 5, 2017 meeting was made by Representative Russell Webber, seconded by Representative Wilson Stone, and approved by voice vote.

Consideration of Referred Administrative Regulation

The following administrative regulation from the Education and Workforce Development Cabinet was on the agenda for consideration: **787 KAR 2:040 & E**. The amendments set forth a policy for hiring staff of local workforce development boards and required a written agreement for entities performing with more than one function for a local workforce development board. The amendments also updated two incorporated materials. A motion to accept the referred administrative regulation was made by Senator Ernie Harris, seconded by Representative Rob Rothenburger, and approved by voice vote.

Education and Workforce Development Cabinet Update

Deputy Secretary Brad Montell asserted that although the state has recently made

significant announcements and progress in the area of economic development, that momentum will be halted if Kentucky does not have a skilled workforce to fill the positions that will become available with new and expanding companies. Statistics compiled in 2015 showed that 15 percent of jobs in Kentucky were low skill level jobs, 58 percent were middle skill level jobs, and 27 percent required a high skill level. A low skill level job is one that requires a high school diploma or less. Only one in 100 of newly created jobs is a low skill level job according to Deputy Secretary Montell. A middle skill level job is one that requires above a high school diploma but less than a baccalaureate degree. The state has about 10 percent less middle skill workers than middle skill jobs, which equates to about 150,000 unfilled positions. A high skill level job would be one that requires a four year degree and above. There are almost an equal amount of high skill workers and high skill jobs in the state. Alternatively, there are far more low skill level workers than there are low skill level jobs.

The Cabinet has started to use a 360-Degree Approach to continue to grow jobs and face the challenge of building a skilled workforce. The first component is the Dual Credit Program that allows for students to be engaged and guided towards a particular pathway while still in high school. In comparison to the 2015-2016 school year, there was a 51 percent increase in students enrolled in dual credit courses in the 2016-2017 school year. In the 2015-2016 school year there were 42,384 dual credit courses taken compared to 73,338 dual credit courses taken in the state for the 2016-2017 school year. Deputy Secretary stated that the Cabinet would like for dual credit courses to become a high school graduation requirement.

In 2016 the General Assembly approved a \$98.9 million bond pool for the Work Ready Skills Initiative to be invested in the infrastructure of the state's training facilities to provide top of the line training to more than 47,000 Kentuckians annually in five core sectors. There were more than \$500 million in requests and 40 projects were approved for funding. The awards leverage at least \$146.2 million in matching funds, for a total of just under a quarter of a billion dollars invested. Overall, there will be 29,372 additional individuals trained annually with an average expected wage of \$34,413 for an annual total of over \$1 billion.

The Work Ready Scholarship was approved in 2016 in the amount of \$15.9 million. The scholarship is administered by the Kentucky Higher Education Assistance Authority (KHEAA) and offers tuition for up to 32 credit hours for a job certification in more than 60 careers in five high demand industry sectors. It is unique in that it is for adults and is a skills

training scholarship. Any Kentuckian with a high school diploma or GED without an associate's degree or higher is eligible for the scholarship. The scholarship is a last dollar scholarship, which means any student that applies for the scholarship must complete a Free Application for Federal Student Aid (FAFSA) application and use any Pell Grant funds if eligible before the Work Ready Scholarship could be used. Deputy Secretary Montell highlighted the Help Wanted Campaign, which is the Cabinet's educational outreach campaign.

The last two components of the 360-Degree Approach of the Cabinet were briefly discussed. The Kentucky Work Matters Task Force was established to develop policies and review practices that make the workforce more inclusive and accessible for people with disabilities, people who have been incarcerated, and citizens who have successfully battled substance abuse. The Medicaid Community Engagement is intended for adults without dependents who are not pregnant or medically frail. The Medicaid waiver has been applied for and is awaiting approval. In order to qualify a person must work, attend school, or study at least 20 hours a week. The initiative will be driven through career centers, which have recently been reorganized due to Workforce Innovation and Opportunity Act (WIOA) regulations. There are now 20 career center offices, 12 being hub offices and eight being satellite offices.

Deputy Secretary Montell closed by giving an update on the Unemployment Insurance Trust Fund. In January 2012 the trust fund was at a -\$948.7 million deficit but as of July 2017 the balance was \$401.7 million. In previous years employers were responsible for paying a surcharge to pay back interest on the loan but due to the progress in recent years, that surcharge was removed this year. Employer tax rates have decreased and benefits have increased. He noted the goal was to increase the balance to at least \$80 million.

After Representative Dean Schamore expressed several concerns regarding the Work Ready Scholarship funds not being allocated until September, Ms. Fletcher said that KHEAA has been working with FAFSA to calculate what funds will be available after the last dollar is utilized. Deputy Secretary Montell said that with the program being new there is a delay in the funds but it is a problem that needs to be resolved. Answering a follow up question, he said that eventually unemployment insurance assistance at the career centers will be over the phone.

Responding to Senator Stephen Meredith, Mr. Hightower said a mobile based technology based system is being developed to make it easier for Medicaid recipients to access services.

Additionally, the Department of for Community Based Services and the career centers are being analyzed to determine where the best locations are for additional offices. Addressing another question, Mr. Hightower said that the individuals involved with the Work Ready Communities Initiative are meeting regularly to design what will be what will be the next generation of a Work Ready Community.

Replying to Representative Addia Wuchner, Ms. Mardi Montgomery said the Cabinet had received 16 inquiries regarding the reduction of career and technical education classes through KCTCS and Secretary Hal Heiner had met with school administrators in an effort to find a solution, along with the Council on Post-Secondary Education. This reduction has effected the Dual Credit Program and the Work Ready Skill Initiative.

Representative Jerry Miller expressed concerns about the functioning of KCTCS and the approval of eligibility for dual credit courses and stated any issues needed to be resolved as soon as possible.

Answering an inquiry from Senator Jimmy Higdon, Ms. Mardi Montgomery explained that last year the Cabinet received funding called the New Skills Youth Initiative Grant which has components similar to the Work Ready Skills Initiative with collaboration with area technology centers, KCTCS sites, and the workforce.

Responding to Representative Joni Jenkins, Ms. Mardi Montgomery said that AmeriCorps is a federally funded program that is not involved with the Dual Credit Program, but it is a program that the state utilizes. Mr. Hightower said the AmeriCorps is a required partner in the American Job Center system.

Big Ass Fans Company

Mr. Sawyer stated that Big Ass Fans started in 1999 as HVLS Fan Company and produced high volume, low speed fans with diameters of 18, 20, and 24 feet. In 2003 the company changed its name to Big Ass Fans Company. In its early years, the company had clients predominately in the agriculture industry but now has more than 350,000 Big Ass Fans and 167,000 Big Ass Lights installed worldwide. It is the only fan company to design, engineer, manufacture, test, and install all of its products and is a leader in innovation with over 230 patents.

U.S. based operations include its headquarters located in Lexington, which is made up of locations dedicated to research and development, which are LEED Gold Certified, manufacturing, and administrative offices. There are also field offices in Texas, Florida, Georgia, and California. International operations include subsidiary offices in Australia, Canada, Malaysia, and Singapore. Its fans are sold in more than 160 countries. A factory direct business model is

used which allows for direct access to customers to plan and problem solve. In 2016 it generated \$240 million through Big Ass Fans, Big Ass Lights, and Haiku, which is the residential division. There are over 700 Kentucky based employees that include over 60 engineers and 175 production employees and field service technicians. The starting salary of an employee is 33 percent higher than the Kentucky state average and Big Ass Fans is an eight time "Best Places to Work in Kentucky" recipient.

Mr. Sawyer gave an overview of the product time line of Big Ass Fans. The introduction of the first research and development facility was made in 2009. In 2012 production of an electromagnetic motor began to offer silent operation for public locations such as churches, schools, and libraries. The Haiku division was also developed during this time which are residential fans, and later in 2014 the company launched Big Ass Lights to its product line which include LED fixtures. The Artisan line of Haiku was introduced in 2017 that incorporates artwork from Lexington artists. Mr. Sawyer closed by going over particular projects that Big Ass Fans has worked on throughout the state such as Woodall Dairy Farms in Lewisburg, Montgomery County High School in Mount Sterling, Kentucky National Guard, and Ethereal Brewery in Lexington.

Answering a question from Representative Diane St. Onge, Mr. Sawyer said Big Ass Fans is not developing technology itself that will allow the fans to run off of a battery back up in the case of a black out or brown out, but they are being designed to be connected to that type of technology.

Responding to Representative Jerry Miller, Mr. Sawyer said a convention center would be a perfect application for the commercial line that are silent in operation. Replying to a follow up question, he said that it can be difficult finding skilled employees to fill certain positions.

Addressing Representative Wilson Stone, Mr. Sawyer explained that although the company will continue to service its agricultural and industrial client, it will also continue to expand its residential line of products. Big Ass Fans has most recently been working with Apple and Google on its Haiku line. Ms. Taylor extended an invitation to the committee to tour the facilities in Lexington.

Corning Incorporated

Ms. Porter explained Corning Inc. is one of the world's leaders in glass science, ceramics, and optical physics. It was founded in 1851 in Corning, New York and now has approximately 45,000 employees worldwide. Corning's core sales for 2016 were \$9.7 billion. It ranked 298 on the 2017 Fortune 500 Rankings. A large portion of funds are invested in research and development that takes place in Corning's Harrodsburg, KY

plant. The company initially began using a high speed process to produce light bulbs and has continued to build on its development of glass over the years by producing products such as LCD glass, glass for consumer electronics, and glass particle filters.

Over the years the focus of the company has adapted due to business needs, and it now concentrates on five core areas which include display technologies, optical communications, environmental technologies, life sciences, and specialty materials. In the 1980s and 1990s the Harrodsburg plant produced LCD glass for televisions and computers but now mainly focuses on display technologies and specialty materials such as Corning Gorilla Glass. The optical communications developments center on fiber cable and conductivity solutions. The environmental technologies area deals with ceramic substrates. Lastly, the life sciences division has been a part of Corning's foundation that started in the early 1900s supporting pharmaceutical and lab wear with Pyrex glass and has transitioned into other areas over the years. Corning operates on what it calls the 3-4-5 framework that includes its core technologies, manufacturing and engineering platforms, and market access platforms. The core areas of technology for the company are glass, ceramics, and opticals. The four platforms of manufacturing and engineering are vapor deposition, fusion forming, precision forming, and extrusion. The five areas of market access include optical communication, mobile consumer electronics, display, automotive, and life sciences.

Ms. Porter went into further detail about the production and understanding of Corning Gorilla Glass. Gorilla Glass is a chemically strengthened cover glass that is virtually scratch and break resistant and was first produced in Harrodsburg in 2007 for the iPhone. A majority of the Harrodsburg production is dedicated to Gorilla Glass. It is currently on 5 billion devices and over 40 major brands. Corning is continuously improving this product and has developed Gorilla Glass 5 which is the strongest cover glass for drop performance by offering damage resistance, optical clarity, and touch sensitivity. It was recently announced that Apple has awarded Corning an advanced manufacturing fund investment of \$200 million to support glass production methods.

The Corning Harrodsburg plant has been in operation since 1952 and has provided continuous production of specialty glass. The plant has received numerous accolades for environmental stewardship and a positive work environment. In 2015 it participated in the Energy Star Challenge where they were tasked with improving energy intensity by five percent in 10 years. The Corning Harrodsburg surpassed

that amount with a 30 percent reduction in two years. It also received the 2017 Energy Star Award for Partner of the Year in Sustained Excellence. Nine out of the last 10 years the plant has been ranked one of the Best Places to Work in Kentucky. The plant's workforce has an average of 14 years of service with over 80 percent holding at least a bachelor's degree and 26 percent holding at least a master's degree. Ms. Porter closed by expressing the need for a well trained workforce and the difficulties that Corning faces when hiring trained mechanical and electrical journeymen. She showed a short video about the Corning Harrodsburg plant.

Chairman Jim DeCesare voiced his excitement about the recent investments and Corning's research and development.

With no further business to come before the committee, the meeting was adjourned at 11:56 a.m.

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

Minutes of the 3rd Meeting of the 2017 Interim

August 25, 2017

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Friday, August 25, 2017, at 2:00 PM, in the Radcliff Veterans Center. Representative Tim Moore, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Tim Moore, Co-Chair; Senators, Perry B. Clark, Ernie Harris, Dennis Parrett, Whitney Westerfield, Will Coursey, Jeffery Donohue, Jim DuPlessis, Chris Fugate, Jeff Greer, Chris Harris, Mark Hart, Dan Johnson, DJ Johnson, Donna Mayfield, Brandon Reed, Rob Rothenburger, Dean Schamore, and Walker Thomas.

Guests: Air Force Sr. Master Sergeant Keary J. Miller; General Norman Arflack, Commissioner, Kentucky Department of Veteran Affairs; Mark Bowman, Executive Director, Office of Kentucky Veterans Centers; Israel Ray, Administrator, Radcliff Veterans Center; COL Patrick N. Kaune, Garrison Commander, Fort Knox; Richard Walton, DAV, VFW; and Corey Elder, House Leadership.

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

Senator Parrett moved to adopt the July 13, 2017, meeting minutes. Representative Greer seconded that motion. The minutes were adopted.

Pledge of Allegiance

Ralph Reese, 96 year old WWII Veteran, led the committee in the Pledge of Allegiance.

Distinguished Veteran

Keary J. Miller, Sr. Master Sergeant, testified about his career in the Air Force and his tour and survival on Takur Gar. Mr. Miller was the first survivor to be awarded an Air Force Cross for his heroism in 2002's Operation Anaconda. Chairman Moore presented him with a distinguished veteran coin for his remarkable heroism, dedication, and service.

Radcliff Veterans Center and the Veterans Center Program

General Norman Arflack, Commissioner of the Kentucky Department of Veterans Affairs (KDVA), gave a PowerPoint presentation on veterans' cemeteries, nursing facilities, and KyVets, KDVA's newest program. Commissioner Arflack discussed the veterans' cemeteries and stated that there are a total of 11,123 veterans and their dependents buried in the veterans cemeteries across Kentucky. He described the cemetery expansion projects for the Veterans Cemetery West in Hopkinsville. A \$361,841.00 contract was awarded to C & C Contracting which was \$93,406.00 below the total grant offer. The Kentucky Veterans Cemetery Central in Radcliff had a \$3,610,000.00 contract awarded to JAVE, LLC and was \$812,250 below the total grant offer.

Commissioner Arflack testified about the Radcliff Veterans Center (RVC). On May 9, 2017, the first veteran was admitted to the RVC; on May 25, the facility was licensed and certified for Medicare and Medicaid participation, and as of August 24 there were 22 veterans living at there. Commissioner Arflack invited all members of the committee to the November 9, 2017 dedication of the RVC, when it will be officially named the Carl M. Brashear Radcliff Veterans Center. A press release and invitations are being developed.

Commissioner Arflack discussed the community living center (CLC) model versus the KDVA traditional veterans nursing facility and said that there should be comparative data by the end of the calendar year. Oregon has shared its comparative data after one year of full operations, and the CLC model is still financially feasible.

Commissioner Arflack discussed the Kentucky Veterans Employment, Training, and Support (KyVETS), KDVA's newest program. KyVETS provides resources and support to assist veterans in gainful employment and training services. Kelli Carter Hogan directs the program. She has extensive experience with regard to veteran employment and a thorough understanding of the barriers they face in finding employment.

Mark Bowman, Executive Director, Office of Kentucky Veterans Centers, discussed funding

issues for the State Veterans Home construction program. FY 2018 has \$90 million dollars budgeted. Only 10 projects on the current list will be funded. The VA will not provide extra funding to decrease the backlog in the foreseeable future according to Secretary Shulkin. Mr. Bowman explained the project specific budget concerns and the Bowling Green project timeline and recommendations. SB 13 was enacted March, 2017, and the August 1, 2017 deadline cannot be met. August 1, 2018 is most likely the first opportunity for priority one consideration, and August 1, 2019 is the most realistic timeline for priority one consideration.

Fort Knox Briefing

Colonel Patrick N. Kaune, Fort Knox Garrison Commander gave a PowerPoint presentation and overview of Fort Knox & the U.S. Army Garrison-Fort Knox. Colonel Kaune discussed the Fort Knox "Gold Standard" Team. The Senior Commander is MG Christopher P. Hughes, U.S. Army Cadet Command, and the Garrison Commander is COL Patrick Kaune, US Army Garrison – Fort Knox.

COL Kaune stated that Fort Knox has an estimated workforce and other supported population of 90,981 within 40 miles. The estimated transient student and support cadre population is 28,325 students and 6,000 cadre in FY 2017. The estimated total annual economic impact of Fort Knox is \$2.6 billion dollars. COL Kaune shared the investments that Fort Knox has made for soldiers and their families' well-being. Over \$1.6 billion has been invested since 2005 to improve the infrastructure and facilities. Forty-five percent of the Garrison's annual operations budget is used to provide soldier and family well-being services and programs on Fort Knox. Some of the investments are Army family housing, schools, a tactical unit complex, gym and pool renovations and expansions, commissary enhancements, a tactical unit complex with a dining facility, company operations facilities, motor pool enhancements, consolidated barracks and a warrior transition battalion with a dedicated soldier and family assistance center, and 112 Americans with Disability Act compliant suites for 224 soldiers.

COL Kaune discussed installation energy efficiency at Fort Knox and program objectives to decrease consumption, increase use of renewables, and have secure energy sources. Fort Knox invested \$400 million in energy efficiency in FY 96 – FY 2017. The results have reduced energy consumption. There are over 50 energy star certified buildings, improving comfort and indoor air quality.

COL Kaune discussed the ranges and training areas and capacity and capabilities. Fort Knox has 55,846 acres of range and impact areas as well as specialized capabilities including

a bridge site, obstacle course, and aerial drop zones. Fort Knox is the third most utilized live range with specialized capabilities in the U.S.

Other Business

Israel Ray, Administrator at the Radcliff Veterans Center announced that members were welcome to tour the center after the meeting.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 3rd Meeting of the 2017 Interim

August 29, 2017

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Agriculture was held on Tuesday, August 29, 2017, at 10:00 AM, in Murray, Kentucky. 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 C.B. Embry Jr., Stan Humphries and Whitney Westerfield; Representatives Matt Castlen, David Hale, Mark Hart, Kim King, Suzanne Miles, Phillip Pratt, Brandon Reed, Steven Rudy, Walker Thomas and James Tipton.

Guests: Jed Clark, President, Kentucky Soybean Association, Davie Stephens, Chairman, Kentucky Soybean Promotion Board, Ryan Quarles, Commissioner, Kentucky Department of Agriculture.

LRC Staff: Tanya Monsanto, Kelly Ludwig, and Susan Spoonamore, Committee Assistant.

Welcome

Jed Clark welcomed members to his farming operation consisting mainly of soybeans, corn and dark-fired tobacco.

Effects of Dicamba Drift on Kentucky's Soybean Industry

Davie Stephens, Chairman, Kentucky Soybean Promotion Board explained that in 1967 the Environmental Protection Agency approved the use of dicamba as an herbicide application. Throughout the years, the EPA reduced the volatility of dicamba and in 2016 the EPA once again reduced the volatility. Farmers in several states have filed complaints and/or lawsuits against the manufacturers seeking compensation for crop losses caused by dicamba. When being applied, dicamba has the tendency to move offsite therefore reducing crop yields with neighboring farmers.

Mr. Stephens said that DuPont, Monsanto, and BASF sell dicamba that is not in the generic form. The companies are governed by EPA protocol subject to good label protection, the GOP. GOP is the gold seal of testing that imposes

stringent international standards for the product. Across the United States approximately 65,000 to 70,000 farmers and private applicators have been trained to use the product.

Mr. Stephens said the American Soybean Association (ASA) has been meeting with representatives from DuPont, Monsanto, and BASF discussing the complaints that have been filed by different states. The ASA and the United Soybean Board formed a task force to look at independent research from other states. Farmers need to know when and how to apply the products under certain weather conditions and other factors. Herbicides play a significant role in crop production so it is important to find out what went wrong and what can be changed to make the products on the market safer to use.

In response to Representative Rudy, Mr. Stephens said that he did not know the percentage of soybeans resistant to dicamba nor did he know what the crop loss would be. He was not aware of any products in the pipeline that could replace dicamba for fighting certain weeds.

In response to Senator Hornback, Mr. Stephens said that research was being done to see if the damage done to crops was due more to temperature inversions than the drifts. Although in other states, data is leaning towards both for being the cause of crop loss.

In response to Representative Pratt, Mr. Stephens said in Kentucky dicamba helps control palmer amaranth and in the northern states dicamba controls waterhemp. Farmers have been spraying dicamba in corn fields and pastures. Most farmers spray early on and do not spray during June and July because of the atmospheric chemistry. Spraying dicamba has probably been occurring in the summer months of June, July, and August without being diluted.

Chairman Heath stated that the label for dicamba has been approved for use through 2018. It is important to find a solution for using dicamba without causing crop loss. Mr. Stephens said he agreed that education for the farmers on the use and when and what time to spray dicamba would be a big help. Another option being considered would be to make dicamba a restricted chemical.

Mr. Clark stated that the main focus of the Kentucky Soybean Promotion Board (KSPB) is the exporting of Kentucky's soybeans. The board has been working with Thailand to export soybeans to their country. Thailand uses one million bushels of soybeans and they have specifically requested soybeans from Kentucky. The problem is getting the beans to Thailand and still maintaining a competitive advantage. Mr. Clark said that the board is also looking to export soybean to Central America by rail/container ship.

In response to Senator Hornback, Mr.

Clark agreed that NAFTA is still important to agriculture.

In response to Senator Humphries, Mr. Clark stated that his farming operation is 45 minutes away so he can truck his soybeans to the Mississippi River. Another goal of the KSPB is helping farmers in central Kentucky get their soybeans to the market for export.

Senator Humphries stated that maintaining the ports in Kentucky is important to farmers in order to be successful.

Update on Proposed NNN Levels on the Smokeless Tobacco Industry

Commissioner Ryan Quarles, Kentucky Department of Agriculture (KDA), stated that out of Kentucky's \$6 billion dollar cash receipts, western Kentucky contributes almost one-third. KDA has been getting strong production reports out of the western part of the state regarding early corn.

Commissioner Quarles stated that the proposed rule for NNN levels on smokeless tobacco is serious. He explained that the United States Food and Drug Administration issued a regulation that proposed an unrealistic and unachievable requirement to minimize the level of NNN for dark-fired tobacco. If this rule is not rolled back, it will create a direct negative reduction of farm cash receipts by \$173 million, primarily affecting the western part of the state. Kentucky's federal delegation has been active in protecting dark-fired tobacco producers. Commissioner Quarles said that the comment period concluded in July and now it is up to the FDA or the Health and Human Services Cabinet Secretary to reconsider the proposed rule.

Chairman Heath informed the members that Congressman Comer had filed an amendment pertaining to the FDA's proposed NNN tobacco rule on HR 3354. The amendment would prohibit funds from being used to finalize, implement, administer or enforce the FDA's proposed rule regarding the levels of NNN in smokeless tobacco. He said that HR 3354 is anticipated to be up for floor consideration by the full U.S. House of Representatives during the week of September 4th. If the FDA moves forward with the implementation of the rule, then the amendment would provide backup.

Representative Humphries stated that if the proposed rule were to pass, then it will put a lot of farmers out of business, especially in the western part of Kentucky.

Commissioner Quarles shared that there had been 14 complaints made to the KDA regarding dicamba compared to 900 complaints in Arkansas.

Discussion on Cottage Food Laws in Kentucky

Susan Zuccarell explained that she started baking and decorating cakes at an early age and

found that she loved it. She and her husband built a new home in 2014 which included a special room off the kitchen for decorating cakes and cookies. The only thing not in the special room was an oven.

Once she was made aware of Kentucky's Cottage Food Law restricting home bakers from selling products because they were not classified as farmers and did not grow the primary ingredients such as sugar, flour and eggs, she began the process of trying to have the law amended to include home bakers. She said that home bakers would also like to be considered for the Kentucky Proud logo and to advertise their baked goods for delivery in Kentucky.

In response to Representative King, Ms. Zuccarell said that the Health Department told her that in order to have a home bakery, she would have to have a separate room, involve plumbers for drawings and installation of three separate sinks (mop sink, grease trap, large sink) and employ an electrician to install the double-ovens. After the plans were finalized, they had to be submitted to the health department for approval and then submitted to Frankfort for approval. Farmers are allowed to sell their products at Farmers' Markets.

In response to Representative Tipton, Ms. Zuccarell stated that she talked to people at the University of Kentucky who told her that she had to go through her local health department. Because of where her house is located, she cannot contact the local planning and zoning commission for a home based business permit.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation

Minutes of the 1st Meeting of the 2017 Interim

July 27, 2017

Call to Order and Roll Call

The first meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 27, 2017, at 10:00 AM, in Room 131 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 Sal Santoro, Co-Chair; Senator Jimmy Higdon; Representatives Ken Fleming, Chris Fugate, Jeff Greer, Chris Harris, Kenny Imes, Robby Mills, Marie Rader, and Jim Stewart III.

Guests: Robin Brewer, Executive Director, Office of Budget and Fiscal Management,

Kentucky Transportation Cabinet (KYTC); and, Ron Rigney, Director, Division of Program Management, KYTC.

LRC Staff: Justin Perry, David Talley, and Jennifer Beeler.

Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC, and Ron Rigney, Director, Division of Program Management, KYTC, testified about toll credits.

In response to a question from Chair Wise, Ms. Brewer said it is estimated that toll credits would be depleted in fiscal year 2020; however, it is possible that the credits may not run out until 2021. Mr. Rigney added that it depends on available federal funding.

In response to questions from Senator Higdon, Ms. Brewer said toll credits are obtained through a long-term investment of capital improvements in the highway system. Funds used for those expenditures must be toll revenues, or borrowed funds that will be paid for with toll revenues. Mr. Rigney said toll credits being used since 2015 were carried over from the previous years as credits earned from the Louisville-Southern Indiana Ohio River Bridges (LSIORB) project. Ms. Brewer said that toll credits of approximately \$590 million were earned from expenditures on the LSIORB project that will be paid for with toll revenues. There were other parts of that project that were paid for with federal funds and that portion will not earn toll credits. The toll credits earned for payment of the obligation on the debt service on the bonds for that project. It would be many years before enough toll revenues would be generated in excess of those obligations in order to use them for other projects.

In response to a question from Chair Wise, Ms. Brewer said it could be possible to generate toll credits with the use of Public-Private Partnerships (P3s), depending on the legal arrangements made at the time.

In response to questions from Representative Fleming, Mr. Rigney said the federal program is a reimbursement program, not a grant program, and funds are reimbursed at 80 percent. Kentucky would need about \$120 million in state dollars per year to compensate if current toll credits run out.

In response to a question from Chair Wise, Ms. Brewer said Vehicle Regulation is its own appropriation unit, and funds cannot be moved from one appropriation unit to another. With a relatively flat maintenance budget for the past six to eight years, it has been a struggle staying within that budget. The maintenance budget lies within the overall Highways budget, which could present an opportunity to be flexible with the use of those funds. Mr. Rigney added that maintenance needs are increasing, and any reduction in the maintenance budget would be

detrimental.

Representative Harris said that new road projects are tremendously beneficial to the citizens of the Commonwealth, and it is imperative that those be maintained.

In response to questions from Representative Mills, Mr. Rigney said toll credits generated from the LSIORB project are being used and are expected to run out in 2020.

In response to a question from Chair Wise, Ms. Brewer said the use of road funds to match federal dollars does not impact the Maintenance of Effort Test due to being included in those expenditures.

Senator Higdon commented that the KYTC should consider efficiencies within the cabinet when discussing the upcoming budget.

There being no further business before the subcommittee, the meeting was adjourned at 10:47 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

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

Minutes of the 1st Meeting of the 2017 Interim

July 27, 2017

Call to Order and Roll Call

The first meeting of the Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 27, 2017, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Brian Linder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representatives Brian Linder, Co-Chair, and Suzanne Miles, Co-Chair; Senators Christian McDaniel, and Johnny Ray Turner; Representatives Tim Couch, Will Coursey, Myron Dossett, Jim Gooch Jr., Richard Heath, Kenny Imes, Kim King, Adam Koenig, Michael Meredith, Jerry T. Miller, Phil Moffett, Rick G. Nelson, and Jim Wayne.

Guests: Jennifer Linton, Executive Director, Office of Facility Development and Efficiency, Finance and Administration Cabinet (FAC); Andrew Carter, Energy Management Program Manager, Division of Facility Efficiency, FAC; Phillip Brown, Executive Director, Kentucky Communications Network Authority (KCNA); Steve Murphy, Chief Financial Officer, KCNA; Cindy Arlinghaus Martin, Boone County Property Valuation Administrator (PVA); and Mack Bushart, Executive Director, Kentucky PVA Association.

LRC Staff: Jenny Bannister, Liz Columbia, and Spring Emerson.

Finance and Administration Cabinet:

Finance Facilities Energy Management Programs

Jennifer Linton, Executive Director, Office of Facility Development and Efficiency, FAC, and Andrew Carter, Energy Management Program Manager, Division of Facility Efficiency, FAC, testified about Finance Facilities Energy Management Programs.

In response to questions from Chair Linder, Mr. Carter said that steps in the federal Energy Savings Performance Contracts (ESPC) process include working with facilities staff to verify the service contract numbers. The numbers affect savings by driving the importance to use historical data to verify the savings estimates are correct. Ms. Linton said that the projects are budget-neutral for state agencies, with financing being paid back with savings in utilities. Real-time metering is not used; rather, data is shipped out daily.

In response to questions from Representative Miller regarding new construction, Mr. Carter said the software vendor has reviewed the initial engineering designs of the Kentucky International Convention Center (KICC), making sure it adheres to the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) 36P new building standards of operation. All contracts on the KICC project have been let.

In response to questions from Representative Wayne regarding alternative energy resources, Ms. Linton said solar energy had been considered in the past, but on ESPC projects the agency wants to keep the payback within fourteen years, and solar energy would not cash flow within that period of time. Several solar energy projects have been installed for the Department for Military Affairs across the state because that agency provided up-front capital funds. Ms. Linton will provide additional information at a later date on the cost of installing solar panels.

In response to a question from Chair Linder, Ms. Linton said the payback period for solar energy exceeds twenty years.

Representative Gooch said he had recently attended a solar energy workshop in San Antonio, Texas, and the time has come for these renewable resources to stand on their own.

Chair Linder commented that, in 1996, the average kilowatt hour for a home was about five and one-half cents, and in 2012, it was a little over ten cents. Costs are rising and energy efficiency will pay itself back.

Kentucky Communications Network Authority:

KentuckyWired Initiative Update

Phillip Brown, Executive Director, KCNA,

provided a brief update of the KentuckyWired Initiative.

In response to questions from Chair Linder, Mr. Brown said he has been the Executive Director of KCNA for three and one-half months, and the project agreement for the KentuckyWired Initiative was signed in September 2015. Negotiators for the Commonwealth were from the prior administration.

In response to questions from Representative Moffett, Mr. Brown said there were no fines charged as a result of project delays, but delays resulted in extra costs. There was a fixed-fee arrangement where involvement and risk was higher but initial price lower, but the agency is moving to more of a cost-plus model thereby paying for cost, plus extras. Estimated cost overruns for supervening events would be tens of millions of dollars, payable promptly when vendors identify when those costs were incurred. The original concept behind the project was that the Commonwealth could ensure control over the necessary input to provide services, improve the quality of the services, and normalize the costs to remain somewhat steady over the life of the project. To date, there is no replacement for the \$11 million as part of the gap funding that has been provided so far by the General Assembly to help make the payments. The \$11 million is eRate funding, which is part of the Universal Service Fund which is designed to help reimburse schools and libraries for the cost of their internet connectivity. Representative Moffett commented that \$30 million in bonds were issued under fraudulent revenue projections, and the delays were foreseeable. He said public-private partnerships (P3s) are an interesting idea, but the risk has to be shared by both the taxpayers and the private sector.

In response to questions from Senator McDaniel, Mr. Brown said that \$11 million in eRate money had been anticipated to be available, but it is not. They are currently at approximately 89 percent completion on the pole attachment agreements, and there are 6,600 poles remaining that require access. A conservative estimate of the total project cost would be \$350 million to \$360 million, but that depends on total cost of easements and unknown supervening events. The original project budget was \$324 million; and, the total amount of funding for the project, which includes bonds, equity contributions and milestone payments, the Commonwealth's amount of \$30 million, availability payments, and interest, is \$413 million total. The Commonwealth has the option to dispute anything that it deems to be inaccurate, but the cost of supervening events is unknown. Customer pricing has not yet been determined. Mr. Murphy added that availability payments go to the special purpose vehicle, then are parsed

out for the different expenses that are due.

Senator McDaniel requested that the KCNA come before the Interim Joint Committee on Appropriations and Revenue at its next meeting on September 28, 2017 and provide more information on the KyWired project, including the original projected cost versus the actual cost; a detailed corrective action plan; and, a detailed shutdown plan.

In response to questions from Representative Meredith, Mr. Brown said the original intent was to use current infrastructure wherever possible. The KyWired network will make middle-mile transport capacity available to smaller providers, which gives them basic foundation access to a network they can lease and improve their own service without making the capital expenditure on their own. Every broadband network must have middle-mile transport capacity, and fiber is the best way to do that, and it will be available for a very fair cost. Actual sales contacts by Open Fiber Kentucky have not begun in earnest because, without the wholesale agreement being final, it would be premature to discuss pricing.

In response to a question from Representative Miles, Mr. Murphy said the KyWired budgeting and up-front payment information would be provided at a later date. Mr. Brown said there are far more communities wanting the KyWired network than not. If a community does not want to work with KyWired, the project can be redesigned to reflect those changes.

In response to questions from Representative Wayne, Mr. Brown said federal funds have been appropriated and are subject to the project being completed by 2020. Representative Wayne said that the Capital Projects and Bond Oversight Committee should look into this and request an audit.

Representative Gooch said that there are people without access to high-speed internet, and it seems that the service providers are not providing services.

In response to a question from Senator Carroll, Mr. Brown said future revenue from wholesale activity would be significant, although the mechanism for utilizing that revenue is undetermined at this time.

In response to a question from Representative Koenig, Mr. Brown said when service rings are turned on, revenues would start coming in. Mr. Murphy said that future flow availability payments would go to future debt service, payments to the service provider for servicing the network, a portion of the construction costs, and special purpose entity expenses. The agreement in northern Kentucky with Cincinnati Bell is the first third-party agreement. It uses existing infrastructure, and more is being built.

Representative Couch commented that

the idea for the middle-mile transport capacity came from Congressman Hal Rogers in order to provide internet access, and to assist with start-ups of small businesses in the eastern Kentucky area. The Appalachian Regional Commission (ARC) money must be spent in eastern Kentucky, east of I-75 and south of I-64.

In response to a question from Representative Coursey, Mr. Brown said \$23.5 million was made available through the ARC for the KyWired project.

Chair Linder commented that he has offered his help with the pole attachment issue through his utility contacts. He thanked the KCNA for its service.

Property Valuation Administrators: Agency Budget Update

Mack Bushart and Cindy Arlinghaus Martin provided a brief overview of the PVA and an update of the agency budget.

In response to a question from Representative King, Ms. Martin said KRS 132.590 is the referenced statute relating to PVAs.

In response to questions from Representative Koenig, Ms. Martin said the two employee requirement is in addition to the PVA, so each office would have a minimum of three employees. The Boone County PVA office has the PVA, six full-time employees, and eight part-time employees. The full-time equivalent of the eight part-time employees would be approximately three and one-half, with each working about 80 hours per month. Some of the more rural counties in Kentucky have more employees. Mr. Bushart said he believes there are no statutory limitations on county PVA offices working together and sharing their resources.

In response to questions from Representative Meredith, Ms. Martin said there would not be a decrease in personnel costs if every county had Pictometry available. Mr. Bushart said the tax roll has increased tenfold in the last 25 years, and the PVAs have fewer employees now. Representative Meredith commented that the Special Districts model has some merit. He said volunteer fire departments should be exempt under Chapter 273.

In response to a question from Representative Gooch, Mr. Bushart said House Bill 44 limits individual districts to funding of no more than four percent over the previous year. Representative Gooch introduced Jeff Kelley, Webster County PVA.

Chair Linder welcomed all the PVAs who were in attendance.

In response to a request from Representative Moffett, Ms. Martin said a list of the number of properties per county would be provided at a later date.

Representative Miles welcomed Clay Wells, Union County PVA. In response to a question

from Representative Miles, Mr. Bushart said there are a few PVAs that do not have a website. The fee schedule for commercial users is developed by the Department of Revenue. Ms. Martin added that the majority of foot traffic is related to motor vehicles.

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

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Education Minutes of the 1st Meeting of the 2017 Interim

July 27, 2017

Call to Order and Roll Call

The 1st meeting of the Budget Review Subcommittee on Education of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 27, 2017, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Regina Bunch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Regina Bunch, Co-Chair, James Tipton, Co-Chair; Senator Gerald A. Neal; Representatives George Brown Jr., David Hale, Jody Richards, and Steve Riley.

Guests: Brad Montell, Deputy Secretary, Education and Workforce Development Cabinet; Jessica Fletcher, Executive Director of Communications, Education and Workforce Development Cabinet; Dr. Carl Rollins, Executive Director, Kentucky Higher Education Assistance Authority; Charles Harman, Director, Division of Budget and Financial Management, Kentucky Department of Education; Sally Fletcher, Branch Manager, School Readiness; and Anthony Mires, Executive Director, AdvanceKentucky.

LRC Staff: Chuck Truesdell, Joe Lancaster, Jonathan Eakin, and Amie Elam.

Work Ready

Brad Montell, Deputy Secretary, Education and Workforce Development Cabinet, Jessica Fletcher, Executive Director of Communications, Education and Workforce Development Cabinet, and Dr. Carl Rollins, Executive Director, Kentucky Higher Education Assistance Authority (KHEAA), testified about the Work Ready Kentucky Scholarship Program. The presentation included information regarding eligibility requirements, statewide participation, and outreach. Mr. Montell spoke about the five industry sectors: Advanced Manufacturing, Business and Technology Information, Construction Trades, Health Care, and Transportation Logistics.

In response to a question from Chair Bunch, Dr. Rollins said that a student may have

an existing student loan and still qualify for the scholarship, as long as the loan is in good standing. Students wishing to apply for the scholarship may call 800-928-8926 for assistance.

In response to a question from Representative Richards, Dr. Rollins said that a representative from KHEAA would provide a breakdown of detailed construction worker positions across the state to the committee. Mr. Montell said that the average age of electricians across the state is 57 years old with no pipeline to fill these positions once workers reach retirement age.

In response to a question from Representative Tipton, Dr. Rollins stated that residency requirements are set at the discretion of individual institutions. Generally, students are required to live in Kentucky at least a year before they are eligible for scholarship money.

In response to a question from Representative Riley, Mr. Montell said that he thinks ages 18-58 are used to calculate the workforce participation rate but that he would provide the committee with the exact ages.

In response to a question from Representative Brown, Mr. Montell said that there are almost limitless career opportunities in the five career paths. Dr. Rollins added that changing the culture in Kentucky regarding the importance of education is imperative.

In response to a question from Representative Richards, Dr. Rollins said that there is a chance that students may leave rural areas to fill job vacancies in larger cities but the hope is that they will return to their communities with more education and training. Mr. Montell added that having a skilled workforce in Kentucky's rural communities will incentivize companies to move there.

Kentucky Department of Education

Charles Harman, Director, Division of Budget and Financial Management and Sally Shepherd, Branch Manager, School Readiness testified regarding the Preschool Partnership Grant. Mr. Harman said that the grant was used to incentivize public/ private partnerships between school districts and childcare providers to develop full-day, high-quality early childhood programs for Child Care Assistance Program eligible preschool children. Mr. Harman provided background information on the grant and the district implementation process.

In response to a question from Chair Bunch, Mr. Harman believes the reason there is very little participation in far eastern Kentucky is that many districts had difficulty finding good preschool partners.

In response to a question from Representative Richards, Ms. Shepherd said that quality learning is measured by Kentucky STARS, a quality rating and improvement system. She added that any

early childhood program that receives public funding must participate in this system.

In response to a question from Representative Tipton, Ms. Shepherd said that there are ways to measure kindergarten readiness for students in the grant program vs. traditional students. Ms. Shepherd said public preschool serves nearly 25 percent of Kentucky's preschool age students.

AdvanceKentucky

Executive Director, Anthony Mires gave an overview of the AdvanceKentucky program. Mr. Mires provided research regarding student success in the 119 participating schools.

There being no further business before the committee, the meeting was adjourned at 11:33 a.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 3rd Meeting of the 2017 Interim

August 28, 2017

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Education was held on Monday, August 28, 2017, at 1:00 p.m., in Grace Crum Rollins Fine Arts Center at the University of the Cumberlands. Representative John Carney, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Mike Wilson, Co-Chair; Representative John Carney, Co-Chair; Senators Danny Carroll, Stephen Meredith, Reginald Thomas, Johnny Ray Turner, Stephen West, and Max Wise; Representatives Mark Hart, Regina Huff, Reginald Meeks, Phil Moffett, Tim Moore, Rick G. Nelson, Melinda Gibbons Prunty, Steve Riley, Attica Scott, James Tipton, and Jill York.

Legislative Guests: Senator John Schickel

Guests: Terry Manuel, Commissioner, Department for Libraries and Archives; Elizabeth Milburn, Library Services Division Director, Department for Libraries and Archives; Steve Carter, Assistant Superintendent of District-Wide Services, Union County Schools; and Mark White, Editor, News Journal.

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

Chairman Carney welcomed members and thanked the staff of University of the Cumberlands for opening their doors to the committee, as did Representative Regina Huff.

Welcome and University of the Cumberlands Overview

Dr. Larry L. Cockrum, President, University of the Cumberlands, welcomed members and presented some brief facts about the university. He played a video created by students highlighting aspects of the school from a student perspective.

Chairman Carney informed members that data regarding the positive economic impact of Kentucky's 18 independent colleges and universities would be sent to their legislative addresses.

School-Based Decision Making Councils

Ronda Harmon, Executive Director, Kentucky Association of School Councils was present to provide an overview of the history and function of school councils, also called Site-Based or School-Based Decision Making Councils (SBDMs). She explained that the idea of a group of parents, teachers, and principals working together to increase student success predates the 1990 Kentucky Education Reform Act (KERA). However, KERA did formalize the process by which school councils would be formed and required them for a majority of Kentucky public schools. As of the 2016-17 school year, there were a total of 7,485 school council members, of which 2,545 were parent representatives. 501 of the parent representatives were further identified as minority parent representatives. Ms. Harmon stated that school councils empower parents, teachers, and principals and provide the venue for each group to have a voice and effect change.

There is an annual training requirement of six hours for new council members and three hours for experienced council members in Kentucky Department of Education (KDE) approved curriculum. For new members the curriculum includes an introduction to SBDM and an overview of member roles and responsibilities provided by the Kentucky Education Association. Experienced council members receive training in roles and responsibilities, teamwork for achievement, bylaws and policies, family and community engagement, tools for closing the disability gap, novice reduction, budgets for school councils, SBDM and the Every Student Succeeds Act, and formative assessment.

Ms. Harmon presented data which illustrates the positive impact of school councils. Teachers and administrators report more favorable conditions for effective school leadership on the 2017 TELL Kentucky Survey in schools with school councils. Additionally, she presented data from the annual Comprehensive School Survey in Jefferson County where 84 percent of school-based certified staff agreed or strongly agreed with the statement "School-Based Decision Making has helped improve my school" and 90 percent of parents agreed or strongly agreed with the statement "The Site-Based Decision Making Council has helped to improve my child's school." Finally, superintendents give principals and assistant principals high ratings as school leaders with zero percent receiving the lowest rating of "ineffective" on the 2016 Professional Growth and Effectiveness System evaluations.

Particularly emphasized was the impact of

SBDMs on addressing achievement gaps. Ms. Harmon said that there are signs of improvement in gap scores across Kentucky from 2014-2016, and she highlighted schools from each region with significant improvements. She then highlighted KRS 158.649(8) which states, "...if a local board determines that a school has not met its target to reduce the identified gap in student achievement for a group of students, the local boards shall require the council, or the principal if no council exists, to submit its revisions to the school improvement plan describing the use of professional development funds and funds allocated for continuing education to reduce the school's achievement gap for review and approval by the superintendent..." to illustrate the active role school councils have in addressing achievement goals. Evidence was provided that schools in districts who are exempt from school councils (those districts with only one school) are less likely to perform in the top half of Kentucky schools. While school councils are certainly not the entire solution to achievement gaps, councils put decision making capabilities in the hands of those most closely connected with students in terms of curriculum, staffing, and budgeting.

Ms. Harmon invited Michelle Burke, SBDM parent member, Madison Middle School, and Liz Erwin, Principal, Paint Lick Elementary School, to speak regarding their experiences on school councils. Ms. Burke said that, as a minority parent representative, she valued the opportunity to positively impact her children's education. She spoke of communicating concerns on behalf of other parents who were either unable or afraid to speak up to school leadership. Being a member of the council is an opportunity for her to model leadership skills for her children and encourage them to take an active role in the issues that concerned them at school. Ms. Erwin spoke about the valuable role school councils have in creating a community and a partnership between parents, teachers, and principals. As a new principal, she feels the involvement of the school council in her hiring provided an essential connection to the stakeholders of her school before she even began her employment. She was able to begin forming the connections that will be invaluable to her as she moves from being a parent and teacher to being a principal.

Senator John Schickel expressed concerns regarding SBDMs and areas that he feels need to be examined. Over the nine years he has been a state senator, he has grown aware of the importance of education to the future of the Commonwealth. Everyone pays for schools through taxes because the success of schools and education is the responsibility of everyone. Contrary to some criticisms he has heard, Senator Schickel said he does not feel that superintendents should be the sole decision-

making entities for schools. The elected school board which represents all the taxpayers, not just parents and teachers, should have the final say about what goes on in schools. While some SBDMs work well, and he has experienced that, some do not. His primary concern is that people making decisions about schools, particularly about the allocation of funds, do not always live in the taxing district. Senator Schickel agreed that parental involvement is critical, but statutorily, parents are a minority voice on school councils. Additionally, the current structure of SBDMs puts superintendents, who are hired by school boards, in an unfortunate position of being responsible for situations without having the tools to effect real change. The system, in his words, is dysfunctional at its core and is the result of an overcorrection to school board problems of the past.

Senator Schickel then invited Randy Poe, superintendent, Boone County Schools and Ed Massey, school board member, Boone County Schools to share their concerns. Mr. Poe explained that he is incredibly supportive of parental involvement in schools and the valuable opportunity provided by school councils to enhance parental empowerment. The statutes governing school councils need revision because of differing interpretations of the statutes over the more than 20 years the legislation has been in effect. He cited the ruling in *Board of Education of Boone County v. Bushee* where the courts said that school boards do not have any authority over site-based councils. This created an issue across Kentucky where school boards stopped taking an interest in SBDMs because they are unsure of their authority over SBDM actions. This has driven up costs, confuses taxpayers, and calls into question textbook and curriculum discrepancies among schools within the same district. Boards and superintendents are forced to spend limited funds on legal advice because they do not have clear rules on areas of responsibility. As an example, Mr. Poe informed the committee that the Office of Education Accountability (OEA) recently ruled that the Boone County superintendent and school board had usurped the authority of the school council when all the parties had been in agreement on a course of action, at the advice of the state SBDM trainer, KDE, and school board attorney. The OEA ruling further requires training for the principal and superintendent. He feels that legislative action needs to be taken to create a balance between parental engagement and board membership holding final authority in the district. Specifically, OEA should not have authority over disagreements between school councils and school boards because they do not have any stakeholders or understanding of the district.

Mr. Massey also spoke to the need for greater involvement by parents than is offered by the SBDM structure as it currently exists. Irrespective of the council, whether it is advisory or not, parents must be involved in much higher numbers than made possible by SBDMs. He reiterated the concern that school boards are held accountable for decisions, particularly budget decisions, made by school councils without the authority to influence the decisions. And finally, he was equally aggrieved by the OEA decision in Boone County and the lack of an appeal process. The school board is going to be required to pay for the training mandated for the principal and superintendent, as a result of conflicting information provided by state educational entities. The board was particularly concerned with the ruling that Mr. Poe had usurped the authority of the board and site-based council when they had given him express permission to take the action in question. Rather, individuals who were not members of either body made the complaint to OEA resulting in additional legal fees for the school district. Mr. Massey said good teachers and strong parental and community engagement are the keys to success in the classroom. School board members will continue to serve as liaisons to the community and involve parents in their actions, whether they are members of school councils or not.

Mr. Jim Waters, President and CEO, Bluegrass Institute, testified about school councils. He specifically pointed out the lack of research on SBDM councils and how they function in schools. The most current research was conducted by a former University of Kentucky professor, Jane Clark Lindle, in 2001, and many of the problems identified in her study have yet to be resolved. The first issue that Mr. Waters urged the committee to address was the need for an external management audit to be performed on SBDMs, especially those at priority schools. He gave an example of a high performing school that had difficulties with its SBDM council in regards to a digital learning program and authority over curriculum and contracts. This reinforced earlier statements that there is confusion regarding authority between school boards, superintendents, and SBDMs.

Mr. Waters indicated that there is little evidence that the SBDM model is fulfilling its statutory mandate to improve student achievement. Mr. Waters said that 31 of the 47 schools categorized as priority schools lost their site-based authority during the process of being named a priority school and only two have had site-based authority restored. Nine of the schools are eligible for restoration of site-based authority this fall, pending results of the most recent academic year, even though they left priority status in 2015. He conjectured

as to why it was taking so long for site-based authority to be restored including the possibility that the schools left priority status too soon (before they had reestablished site-based authority), an inconsistency in the priority and SBDM restoration policies, or possibly that the management audits indicated that the SBDMs were hindering needed reforms. As there were four schools where the management auditor specifically recommended disbanding of dysfunctional SBDMs, Mr. Waters felt that the final scenario was most likely.

Mr. Waters said that while there is evidence of progress in achievement throughout Kentucky, it has not been enough to close the achievement gaps and ensure the next generation is prepared. He directed members' attention to his written testimony, provided in their meeting packets, for further data and analysis. While teachers are in control of the councils, he questioned whether they are adequately trained for the complex and sophisticated decisions regarding the handling of local, state, and federal dollars. The six hours of training hardly seems adequate to prepare them to make informed decisions regarding finances, much less guide complex curriculum options with the rise in the use of digital learning options. Curriculum decisions are crucial to properly preparing students for their futures, and in nine of the management audits previously referenced "curriculum neglect" was a serious issue that needed addressing. He asked what the governance model of SBDMs had really accomplished in terms of improved school cultures and parental involvement across the state. Frequent complaints were referenced from schools across the state about difficulties finding parents to serve on SBDMs. Mr. Waters suggested that it was time for OEA and KDE to investigate parental involvement, especially in low-performing schools.

Chairman Carney said that questions would be limited as the issue of SBDMs would be addressed in more detail later in the year.

Senator Thomas stated that he had served as a president of his local school council and had experienced the many positive aspects that school councils had brought to the schools since the implementation of KERA. In his mind, the lack of funding for schools has been the biggest detriment to improvement in school achievement. He also stated his familiarity with historical abuses of school boards and had not seen those same abuses perpetrated by school councils. He asked what specific recommendations Senator Schickel had regarding school council legislation. In response, Senator Schickel said he had proposed several bills in the past to overhaul the SBDM system, and that he had yet to file anything for the upcoming session as he was wanting to open up discussion among all the

individuals present today. Primarily, he wanted to ensure that superintendents and school boards have authority commiserate with the responsibilities they currently have, particularly in terms of taxing and curriculum selection.

Senator Thomas said that Senate Bill 1 of the 2017 Regular Session, which is now in effect, does give superintendents the authority, within the first two years a school is identified as failing, to step in and take control of principal hiring.

In response to a question from Representative Scott, Ms. Burke said that she ensures that student voices are heard at the council by encouraging them to attend and provide public comment at the meetings rather than doing it herself for the students. She hopes that this gives them the empowerment to speak up for themselves. In response to the question about her decision to join the council, she had self-nominated herself as a council candidate and was elected by fellow parents who had been given the same opportunity to self-nominate as she had through an open request from the superintendent to the entire community of parents.

Approval of Minutes

Representative Nelson made a motion, seconded by Representative Scott, to approve the minutes of the July 10, 2017, meeting. The motion passed by voice vote.

Kentucky's Teacher Certification Program

Jimmy Adams, Executive Director, Education Professional Standards Board (EPSB), and Lauren Graves, Executive Staff Advisor, EPSB, discussed Kentucky's teacher certification program. Mr. Adams directed members' attention to the provided handout which included an "at-a-glance" overview of EPSB, a copy of the presentation, and a copy of the EPSB 2016-2017 Annual Report.

Ms. Graves said that EPSB consisted of a 15 member board of P12 educators, representatives of education preparation programs (EPPs), a public representative, and an appointee of the School Curriculum, Assessment, and Accountability Council. She shared the vision statement of EPSB which is that "every public school teacher and administrator in Kentucky is an accomplished professional committed to helping all children become productive members of a global society." She discussed the commitment to rigorous professional standards for preparation, certification, and responsible ethical behavior of all professional educators in Kentucky. To this end, EPSB sets standards and certifies educators who have met the standards in dispositions, ethics, skills, and knowledge.

Mr. Adams said that certification involves assessments, and if a candidate meets the minimum requirements, EPSB can assure parents that they are entrusting the welfare and

well-being to a qualified individual. If a teacher violates any of the standards, EPSB also has the authority to take action against the certification of a teacher up to and including revocation of the certificate. Ms. Graves explained that certification begins with the accreditation of EPPs and the approval of education programs for licensure. There are also candidate assessments to ensure pedagogy and content knowledge, for example the Praxis, and internship programs such as the Kentucky Teacher Internship Program (KTIP) and the Kentucky Principal Internship Program (KPIP). Traditional routes are through a university-based program, but there are also eight alternative routes to certification outlined in KRS 161.048. Finally, there is a proficiency-based certification, set to come before the board again in October, which would allow an individual to have their experiences evaluated by an accredited institution for comparison to an approved education program. If it is satisfactorily similar, the individual can receive certification, with additional classwork as necessary.

Under the Division of Educator Preparation, Assessment, and Internship, there are 27 approved EPPs and approximately 1,852 initial, advanced, and other school professionals programs. Also, EPSB relies on various content and pedagogy assessments to ensure that someone with the right dispositions and who relates well with children or teenagers is accurately teaching content. Ms. Graves also discussed the KTIP and KPIP programs. She said that this past year was the first year that all KTIP applicants were able to be funded. The program is designed to provide assistance and support to new teachers and is based on the same framework for evaluation, so there is no additional workload placed on the teacher. The average number of interns is approximately 2,475 per year with a completion rate of 99.3 percent. Mr. Adams explained that the KPIP internship program is designed to help new principals, includes a mentorship aspect, and has recently been redesigned with the assistance of the Kentucky Association for School Administrators (KASA). It also does not include any additional workload, however it has not been funded or implemented since 2008. He said that he would encourage the members to consider both of these internship programs when budget decisions are made in the next legislative session.

Ms. Graves said that there are 42,000 certified educators employed in Kentucky's public schools, and 144,000 individuals currently hold Kentucky certifications. Additionally, there are 35,000 certification applications processed annually. From 2005-2016, there have been roughly 11,000 deficient certification applications reviewed. Applications can be found deficient in a number of ways, including not having a transcript; not

passing a content assessment; not paying the certification fee; or failure to pass a character, fitness, or background check. Approximately 8,000 of those deficient applications have since been addressed and certifications have been issued to the applicants. In the area of educator ethics, Mr. Adams said there are 729 complaints received annually. The vast majority of complaints come from superintendents, and all are reviewed by a Complaint Review Committee of three staff members. The committee determines if there is credible evidence of a violation and if it is within the jurisdiction and authority of the EPSB. If these factors are met, the case is submitted to the board for review. Prior to review by the board, the educator in question is notified and provided the opportunity to submit a rebuttal. Actions of the board in cases of violation include dismissal, deferral for training, admonishment, admonishment with training, attorney review and investigation, referral to hearing, and deferral for more information.

Mr. Adams said that the mission of EPSB is to support the achievement, improved understanding, and performance of P-12 students in Kentucky. To achieve this, EPSB's goal is to recruit and retain the most effective teachers and leaders in Kentucky for our students, and this is the biggest investment in schools as well, with 85 percent of school budgets allocated to personnel. There is no shortage of qualified teachers in Kentucky, but there is a distribution problem. One of the immediate aims of the EPSB is helping districts lacking teachers to promote their schools to better attract new teachers. Also, the agency recently underwent a reorganization moving their 32 employees into three divisions: Educator Preparation, Assessment, and Internship; Certification; and Educator Ethics. This allows EPSB to work more efficiently within current budget constraints. Regarding budget issues, Mr. Adams said that the EPSB had experienced an approximately 39 percent reduction in budget since 2008 and asked that legislators work to increase the EPSB general fund budget in the next biennial budget. The board would like to see full funding of the KTIP and KPIP internships and allow for the use of restricted funds for these programs when necessary. Other legislative issues they are seeking assistance with are student loan forgiveness programs, teacher salary increases, maintenance of the Kentucky Teachers' Retirement System, and regulation reviews. All of these would aid the goals of teacher recruitment and retention.

In response to a question from Senator Wilson, Mr. Adams said the cost of certificate renewal is \$85 every five years. There is no fee for initial statements of eligibility or one-year provisional certificates. In answer to a follow-up question, Mr. Adams said that the board

is currently reviewing a modification to the master's degree barrier to Rank II to be further discussed in their October board meeting.

In answer to a question from Senator West, Mr. Adams said that he does not have the precise number of certificates that have been revoked, but he believes it will be relatively small, as some educators voluntarily surrender their certificates as part of a negotiated settlement. In his view there are two categories of disciplinary scenarios. The first is an educator who has made a mistake and wants to learn how to correct the mistake and get back on a path to a successful career. The other is the very small group which does not need to be around children, and EPSB does everything in their power to prevent them from being around children.

In response to a question from Senator Meredith, Mr. Adams said that there is a pathway to superintendent certification that would not include a candidate having the necessary principal training. However, most candidates begin with a teacher certificate, move on to a principal certificate, and then get their superintendent certificate. As long as the superintendent certificate is maintained, the other certificates will be as well, posing no difficulty if a superintendent wishes to later pursue a principal position.

AdvanceKentucky

Anthony Mires, Executive Director, AdvanceKentucky, discussed the AP math, science, and English programs aimed at increasing access and success for students through AdvanceKentucky and the National Math + Science Initiative. The student centered elements of the program that directly benefit students are student time-on-task, exam fee support, student recruitment and counseling, supplies, and equipment. There are incentives for teachers including stipends and bonuses, vertical teaming, teacher mentoring and content coordinators, and rigorous content-focused teacher training. The real driver for the program is the open enrollment aspect, which opens the door for students and allows them to really engage with the challenge of rigorous coursework, with the proper support and tools for success.

AdvanceKentucky has served 119 high schools since beginning in 2008 and just started the next cohort of 10 schools. Mr. Mires provided a graphic illustrating the schools that are currently the focus of AdvanceKentucky's efforts, as well as those which have been through the program already. Those schools which have "graduated" from the program can become active cohort schools again at any time, at cost.

The first performance report Mr. Mires shared showed the first-year percent increase in AP math, science, and English qualifying scores by cohort. The aspect he most wanted to

highlight was the overwhelming increase in just the first year by students in the cohort schools versus the state average. This is interesting because it shows that the exact same students are capable of significant gains in a very short time with this program. The three-year growth chart shows that cohorts one through six have a dramatic 154.2 percent increase in qualifying scores. Additionally, the increase in qualifying scores for free/reduced-price lunch students is 302.9 percent and in minority students is 202.4 percent. The baseline number of qualifying scores for an AdvanceKentucky high school is 20, and after eight years in the program the same school achieved 120 qualifying scores. The most exciting result of the data so far is there does not appear to be a plateau in the number of qualifying AP scores for participant high schools.

In terms of postsecondary impact, students participating in AdvanceKentucky go to college at much higher rates. For the class of 2009, 94.2 percent of AdvanceKentucky participants went to college versus 64.3 percent of comparison groups. In 2015, 76 percent were going to college versus 49.7 percent of comparison groups. The same trend continues for low income students, with 69.3 percent of AdvanceKentucky participants going to college versus 40 percent of comparison groups in the class of 2015. This applies to all students who engage with the AP material, not just those with qualifying scores. Data also shows that a greater percentage of AdvanceKentucky students choose STEM majors compared to their counterparts. This is evidence that students carry confidence with them to tackle subjects they may have otherwise believed they were incapable of and that they internalize expectations for success beyond high school.

Mr. Mires showed the results of longitudinal research from 2012 to 2015, illustrating the number of students that can still be served. In a control group, only 30 percent of students will attempt an AP exam, whereas in an AdvanceKentucky school, 86 percent of students engage in AP and attempt an exam. In that same control group, 48 percent of students earned a qualifying score on a math, science, or English AP exam, totaling 3,555 students with at least one qualifying score. The percentage of AdvanceKentucky students earning a qualifying score is roughly the same at 45 percent, however, it represents a much larger number of students at 9,757. The difference between those is the group that AdvanceKentucky serves. Taking that difference, 6,202 individuals, multiplying it by an average of two qualifying scores, and further multiplying by an average of \$800 in average tuition cost per course, the result is an estimated savings of \$9.9 million in direct tuition. This does not factor in the other college savings, as these students also retain larger amounts of scholarship

funds, carry higher GPAs in college, take higher course loads, and graduate faster than non-participant peers. Data also illustrates that since the start of the program in 2008, Kentucky has seen a significant rise in the number of unique students taking AP exams in all subjects and in unique students earning AP qualifying scores. Most remarkable is that in 2016, there were more students earning a qualifying score than had even taken the test in 2008. The number of students achieving AP Scholars recognition is also higher.

Mr. Mires discussed the Kentucky computer science expansion initiative and the desire to expand access to the AP Computer Science Principles course, which just started and takes a broad look at what computer science is, including data structures, algorithmic and computational thinking, and the internet. In partnership with Code.org, KDE, and the College Board, AdvanceKentucky has more than doubled the number of teachers available to provide the course and incorporated 15 middle schools that are teaching a pathway course. They plan to continue this trend over the next two years and expand access over the entire state.

Through the experience of AdvanceKentucky, educators have also identified 8th Grade Algebra 1 as a critical turning point in students' later ability to engage with advanced coursework in high school. To address this, a program very similar to the AP program has been developed specifically for middle school math, featuring all of the same key elements. The PSAT 8/9 exam has been selected as the metric for gauging student success, and the goals are shared among all math instructors in the school. The 2016-17 pilot schools were Franklin-Simpson Middle School, Green County Middle School, and Glasgow Middle School, and applications are currently being accepted for a second cohort.

Mr. Mires gave a snapshot of the funding for AdvanceKentucky. The base funding in fiscal year 2018 is \$1.7 million, allowing for 30 schools to be served. The request is for \$2.4 million in fiscal year 2019 and \$2.6 million in fiscal year 2020 to support 36 schools and 48 schools, respectively. Historically the program has relied on some outside sources of funding that will be expiring, which is why the funding request increases at a greater rate than the number of schools served.

In response to a question from Representative Scott, Mr. Mires said that the real key is flipping the idea of an "AP student" on its head. There were unintended consequences in the ways teachers approached students and established courses. AdvanceKentucky seeks to remove unintended barriers to Advanced Placement enrollment including summer assignments, pre-requisite classes or tests, and lack of student support outside of class.

In response to a question from Representative Tipton, Mr. Mires said that the apparent decrease in the number of college bound individuals seen in the data is actually a result of the program going deeper into the school populations to reach students who would not have even considered the path otherwise. There are a number of students in the beginning of the program who were already going to be taking AP courses and going to college. The individuals that AdvanceKentucky is attempting to reach now are largely those who may have never considered it as an option before.

Review of Executive Order 2017-433 and Executive Order 2017-434

Brad Montell, Deputy Secretary, Education and Workforce Development Cabinet, Jessica Fletcher, Director of Communications, Education and Workforce Development Cabinet, and Wayne Lewis, Executive Director of Education Policy and Programs, discussed the executive orders dealing with the Work Ready Skills Initiative, Work Ready Skills Advisory Committee, and the Work Ready Kentucky Scholarship. There was no discussion.

Review of Executive Order 2017-496

Robyn Kenny, Associate Commissioner, Office of Finance and Operations, Kentucky Department of Education; and Kevin Brown, Associate Commissioner and General Counsel, Office of Legal, Legislative, and Communication Services, Kentucky Department of Education, answered questions regarding the executive order dealing with the reorganization of the Kentucky Department of Education.

In response to a question from Senator Wilson, Ms. Kenny said there are 350 filled positions in the Frankfort branch, 200 in the Kentucky School for the Deaf and Kentucky School for the Blind, and 600 staff in the 53 area technology centers. Together, these total 1,150 and KDE is below cap. Responding to a follow-up question, Ms. Kenny stated that the increase in the employee cap as part of this reorganization is to create the four positions in the Division of Charter Schools. They need to expand the cap to create the new positions and stay at or below cap in the future as current vacancies are filled. The rest of the reorganization consists of renaming and consolidating existing positions and divisions to improve efficiency. The request to increase funding to support the new division will be made later with the overall budget requests.

Review of Administrative Regulation – 725 KAR 2:070. Certification of renewal of public librarians.

Terry Manuel, Commissioner, Department for Libraries and Archives and Elizabeth Milburn, Library Services Division Director, Department for Libraries and Archives were present to answer any questions regarding the

regulation. There was no discussion.

Chairman Carney thanked the University of the Cumberlands for hosting the committee. He said that the next meeting will be Monday, September 18, 2017, at Valley High School in Louisville, Kentucky at 1:00 p.m. There being no further business, the meeting was adjourned at 3:24 p.m.

**INTERIM JOINT COMMITTEE
ON HEALTH AND WELFARE AND
FAMILY SERVICES**

**Minutes of the Third Meeting
of the 2017 Interim**

August 16, 2017

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Health and Welfare and Family Services was held on Wednesday, August 16, 2017, at 10:00 a.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called the meeting to order at 10:05 a.m., and the secretary called the roll.

Present were:

Members: Senator Julie Raque Adams, Co-Chair; Representative Addia Wuchner, Co-Chair; Senators Ralph Alvarado, Tom Buford, Danny Carroll, Denise Harper Angel, Alice Forgy Kerr, Stephen Meredith, Reginald Thomas, and Max Wise; Representatives Danny Bentley, Robert Benvenuti III, Larry Brown, George Brown Jr, Jim Gooch Jr., Joni L. Jenkins, Mary Lou Marzian, Chad McCoy, Russ A. Meyer, Kimberly Poore Moser, Darryl T. Owens, Melinda Gibbons Prunty, Steve Riley, and Russell Webber.

Guests: Ben Chandler, President and CEO, Foundation for a Healthy Kentucky; Jeff Key, Vice President of Business Development, Rapid Recovery Centers, Mainstreet Health; Mark Fritz, President, Arizona/Texas Operations, Mainstreet Health; Mark Bochan, MD, PhD, Chief Medical Officer, Mainstreet Health; Darryl Wellinghoff, Executive Vice President, Mainstreet Health; Betsy Johnson, President, Kentucky Association of Health Care Facilities; Terry E. Forcht, Chairman and CEO, Forcht Group of Kentucky; Mary Haynes, Nazareth Home; Tim Venno, President and CEO, LeadingAge Kentucky; Brenda Bowman, COO, Southside Christian Child Care; Richard Morris, Owner of multiple child care centers; Pamela D, Individual with Brain Injury; Jane Stahl, Executive Director, NeuroRestorative Kentucky; Mary Hass, Advocate, Brain Injury Association of America; Jenny Jerdan and Denise Glover, ABI Case Management; Melissa Sparks, Hyden Health and Rehabilitation; Martha Workman and Mark Bowman, Kentucky Department of Veterans Affairs; Morgan Ransdell, Kentucky Board of Nursing; Sarah McIntosh and Gene Hargis, Hargis & Associates; Harold Brown,

Sterling Health Solutions; Tom Emberton; Michelle Jarboe, MAI; Lori Gresham, Department for Medicaid Services, Cabinet for Health and Family Services; Janet Justice, Kentucky Association of Health Care Facilities; Kathy Gallin, Signature Healthcare; Mary Lynn Spalding, Christian Care Communities; Melissa Robbins, Monica Johnson, and Maegan Lamont, Middlesboro Nursing and Rehabilitation Facility; Wendy Shepherd, parent of ABI waiver recipient; Tiffany Evans, Woodland Oaks Health Care Facility; Sarah S. Nicholson, Kentucky Hospital Association; Robert E. Robbins, Robbins Enterprises; and Debra Finneran, Masonic Homes of Kentucky.

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

Minutes

A motion to approve the minutes of the July 17, 2017 meeting was made by Senator Kerr, seconded by Representative Moser, and approved by voice vote.

Consideration of Referred Administrative Regulations

The following administrative regulations were referred for consideration: **201 KAR 20:070** – establishes the requirements for the licensure of nurses by examination; **201 KAR 20:110** – establishes the requirements for licensure by endorsement and establishes the requirements for a temporary work permit for an applicant to practice nursing while the application for a license is being processed; **201 KAR 20:225** – establishes procedures by the Kentucky Board of Nursing for reinstatement of a license that has lapsed or has been subject to disciplinary action; **201 KAR 20:480** – establishes the requirements for the licensure of graduates of foreign nursing schools; **901 KAR 5:061** – repeals 901 KAR 5:060 to eliminate the discretionary language allowing the Office of Vital Statistics to reissue birth certificates at no charge under specific circumstances; and **901 KAR 5:120** – establishes the reporting criteria for induced termination of pregnancy. A motion to accept the referred administrative regulations was made by Senator Harper Angel and Representative Gooch, seconded by Representative Marzian, and accepted by voice vote. Representatives Jenkins, Marzian, and Owens registered a no vote on **901 KAR 5:120**.

State of Health in Kentucky

Ben Chandler, CEO, Foundation for a Healthy Kentucky, stated that Kentucky ranks 45th nationwide in economy. Kentucky ranks 48th in drug overdose, 40th in youth obesity, 46th in adult obesity, 43rd in heart disease deaths, 49th in adult smoking, 36th in youth smoking, and 50th in cancer deaths. In 2017, a Journal of the American Medical Association (JAMA) study showed cancer mortality declined 20 percent

nationwide from 1980 to 2014, but rates of increase were observed in Kentucky, especially in eastern Kentucky. Social determinants of health include economic stability, neighborhood and physical environment, education, food, community and social context, and the health care system. In 2015, the *U.S. Health Care from a Global Perspective*, The Commonwealth Fund, reported that 17.1 percent of the GDP was spent on health care in the United States compared to 11.6 percent in France and 8.8 percent in the United Kingdom. Health outcomes in the U.S. are not good even though more is spent per capita on health care. Kentucky needs to focus more on health to reduce the cost of health care. The Foundation for a Healthy Kentucky's focus is to change policies that will improve the health of Kentuckians. Ways to reduce obesity include healthy vending and school nutrition options, Complete Street policies, shared use agreements, sidewalks and trails, and farmers' markets. Ways to help reduce smoking would be to enact smoke-free laws and raise the tobacco tax by \$1 per pack. The Campaign for Tobacco-Free Kids reported that health care for smokers cost taxpayers \$1.92 billion annually with \$590 million of the total spent on Medicaid. Teenagers are affected the most by smoking because their brains are still developing. There are approximately 9,000 deaths per year to smoking related illnesses.

Senator Raque Adams stated that everyone pays for the costs of smoking-related issues.

In response to questions by Representative Benvenuti, Mr. Chandler stated that the revenue generated by a \$1 tax increase on cigarettes should be spent on prevention efforts. There is a need for laws that encourage people to make better choices. The General Assembly could allocate funds to influence healthy behaviors and preventions. Currently health care dollars are spent on people after they are sick but should be spent more on prevention. There are grave consequences of not taking care of the health care needs of Kentuckians who receive public assistance, because they could end up costing the state more money in the long run if an individual ends up in jail or becomes acutely ill. Kentucky has laws that require hospitals to take care of these individuals which costs the taxpayers more money.

In response to questions by Representative George Brown, Mr. Chandler stated that because the magnitude of the challenge is overwhelming, funds should be allotted for particular programs to help solve the problems. A statewide smoke-free ban and \$1 increase in cigarette tax would show immediate results and would not cost the taxpayer anything. Representative Brown stated that the smoke-free ban has worked in Lexington.

In response to questions by Representative Marzian, Mr. Chandler stated that the current

tax on cigarettes is 60 cents. Although the current rate of teen smokers in Kentucky is down to 16.9 percent, it is still 6 percent higher than the national average of 10.8 percent. A huge increase in the tobacco tax is needed to provide better health outcomes and prevent the tobacco industry from adjusting to small incremental tax increases by offering incentives to smokers to help cover the increase.

Senator Alvarado stated that colon cancer rates have improved, but there needs to be better lung cancer screening. More important than measures that restrict calorie intake is improvement in exercise. Kentuckians need to be motivated to improve their health.

In response to questions by Senator Meredith, Mr. Chandler stated that it is critical to do something about poverty which causes poorer health outcomes. Kentucky cannot attract companies because of its sicker workforce. Healthier Kentuckians create a better workforce which improves the economy. Economic development in rural communities has to become a priority in the state. The focus needs to be on health and keeping people healthy instead of on just treating people who are ill.

In response to a question by Representative Jenkins, Mr. Chandler stated that a solution needs to be found for the opioid problem, but there are specific things that can be implemented immediately to help with tobacco related illnesses.

In response to questions by Representative Gooch, Mr. Chandler stated that the increased tax on tobacco products has to be significant enough to impact the smoker and generate more revenue at the same time. Incremental taxes will not help, because smokers will be able to adjust to the increase faster.

In response to a question by Representative Riley, Mr. Chandler stated that the foundation supports more exercise and physical activities in school. The tax increase should include dipping products.

In response to a question by Senator Buford, Mr. Chandler stated that smoking rates have dropped in the ten states with the highest tax rate on cigarettes. The states that have the lowest tax rates have higher smoking rates. A pack of cigarettes costs approximately \$4.47, and there are some people who will smoke regardless of the price. Senator Buford stated that programs should not be started based on the \$1 tax increase, because it is not a sustainable revenue source. Mr. Chandler clarified that it would not increase the tax rate from 60 cents to \$1, but would increase the tax rate to \$1.60.

Post-Acute Care Facilities

Jeff Key, Vice President of Business Development, Rapid Recovery Centers, Mainstreet Health, stated that Mainstreet is

building brand new, short-stay, high acuity, and transitional care buildings across the country. In addition to the benefit this model brings to patients that are transitioning from the hospital to home, it also represents a significant and positive impact through development, jobs, and better health care in the Kentucky. Mainstreet wants to bring a new model of post-acute care to Kentucky that will allow for competition and better outcomes. Current Kentucky providers can operate a similar model. Mainstreet makes a significant investment in each of the properties and does a considerable amount of diligence in selecting markets that will benefit the most. The American Research group was hired by Mainstreet to conduct a survey of Kentuckians on the issue of post-acute care and found that 71 percent of the people polled are in favor of having a local facility built. Some facilities in Kentucky are based on more of a reimbursement model rather than a clinical model.

Mark Fritz, President, Arizona/Texas Operations, Mainstreet Health, stated that its model is patient-centered and physician-led. Mainstreet has full-time medical directors that come to facilities every day and there is an average of 100 hours per week of physician coverage. The facility never exceeded single digit return to hospital rates or a 14-day length of stay. Patients are not completely healed or rehabilitated when they leave the facility. Each patient has an individual personal care plan, and physicians set a patient's discharge date. All facilities are joint commission accredited. Nurse practitioners who can work with the staff, the patient, and the physicians are provided in each facility. While Registered Nurse supervisors do not see patients, they are on call 24 hours a day 7 days a week to help the nursing staff to make sure patients are taken care of properly. All facilities keep 100 percent electronic medical records to make sure patients have real-time care. Hospital partners help build programs in the facility that would help benefit the patient and the hospital. Mainstreet's model would be a one-stop shop for patients. In 2013, Mainstreet applied for a Center for Medicare & Medicaid Innovation's Health Care Innovation Award to show an episodic per diagnosis case rate, known as a DRG in hospitals. All data was certified by Milliman, a nationally recognized actuarial company.

In response to questions by Representative Wuchner, Mr. Fritz stated that Mainstreet does accept managed care, Medicare, and private pay insurance but does not accept Medicaid. A diagnostic tool is used to look at an average length of stay by diagnosis with co-morbidity.

In response to questions by Senator Alvarado, Mr. Fritz stated that a patient can remain at the facility if a doctor determines the patient should stay beyond the 21-day

rehabilitation period. An individual cannot be admitted to the facility if long-term care services are required. Each hospital system wants patients discharged as quickly as possible to improve discharge rates. It is more economical for doctors to visit patients at the facility rather than the hospital. Darryl Wellingshoff, Executive Vice President, Mainstreet Health, stated Mainstreet will look at every state to see what is required and available and pursue options. Mainstreet has worked with CON boards in several states and gotten approval for new facilities without buying beds. Mark Bochan, MD, PhD, Chief Medical Officer, Mainstreet Health, stated that Mainstreet provides an interim facility for people who are too sick to go home or not sick enough to go to another facility. Mr. Fritz stated that the facility is not cherry picking by looking for clientele who need short-term rehabilitation.

In response to questions by Representative Moser, Mr. Fritz stated that the difference between the rapid recovery model and a traditional rehabilitation hospital is the cost. The rate of hospital readmission for Mainstreet is approximately five percent.

In response to questions by Senator Danny Carroll, Mr. Fritz stated that since Mainstreet has opened facilities in different states, no long-term care facility has gone out of business. Medicaid is for long-term care services, and Mainstreet focuses on short-term recovery. Mainstreet accepts Medicaid recipients who need short-term care. The rapid recovery model works best in urban areas with more health systems. Approximately 65 percent to 70 percent are Medicare patients, because Medicaid patients are admitted as a Medicare patient. Each patient can have a different co-pay. Each market is different.

Betsy Johnson, President, Kentucky Association of Health Care Facilities, stated that she opposes the Cabinet for Health and Family Services' amendment to 902 KAR 5:020 that would amend the current Certificate of Need (CON) criteria for short-term rehabilitation services in the State Health Plan (SHP).

Terry E. Forcht, Chairman and CEO, Forcht Group of Kentucky, stated that his group obtained its first CON in 1972 and still complies with the CON requirements today. The group owns nine health and rehabilitation centers in southeastern Kentucky with 1,109 beds, 1,344 employees, and occupancy rate of 97 percent. If the CON program is amended for additional Medicare rehab beds, it will have a devastating effect on all nursing facilities in Kentucky and will raise the cost to Kentucky and create additional Medicaid problems. The CON program provides duplicate services and is working as it was originally intended. His group and other nursing facilities have spent a lot of money to upgrade facilities for residents. Medicare reimbursement is more than

Medicaid reimbursement. If Mainstreet only takes Medicare patients, the nursing facilities in Kentucky will have more Medicaid patients.

Mary Haynes, Nazareth Home, stated that current Kentucky providers have invested resources and money into communities. Nazareth Home already operates using the recovery care model. Nazareth Home was founded on excellence, inclusiveness, person-centeredness, and clinical care and has been very successful. The overall trend for sub-acute and post-acute rehabilitation is declining. In 2000 and 2014, the federal government enacted the IMPACT Act, and the government, insurance companies, and MCOs contract with nursing facilities for services. The current mix in her facility is 50 percent Medicare and 50 percent managed care which also includes commercial insurance. The trend is that the length of stay and admissions are both down. With traditional Medicare A, the co-insurance starts on the twenty-first day of stay. She questioned how Mainstreet would be able to accept a Medicaid co-pay for a Medicare-only bed. Orthopedic patients have the shortest length of stay. Mainstreet's model is not a new model or payment system. If Mainstreet desires to bring a new business to Kentucky, it needs to purchase excess bed capacity.

In response to a question by Representative Jenkins, Ms. Haynes stated that access to rehabilitation centers is not a problem in Kentucky. Representative Jenkins stated that most Kentuckians want to stay at home and have wraparound services if appropriate for their care.

In response to question by Senator Meredith, Ms. Johnson stated that changes to the SHP for nursing facility beds include relicensure as nursing home beds and could never be certified as Medicaid but only as Medicare-only beds, and nursing home beds for the provision of post-acute rehabilitation services would not be included in the calculation of the need criteria. Based on the cabinet's own data, there are 18,653 open beds that would not be included in the need criteria. The change to the SHP assumes there is a need for these types of services. All other facilities in Kentucky have had to go through the CON process and prove a need for services that would be provided. Nursing home providers are investing money in facilities to add rehabilitation services. Facilities would lose money if services were provided to Medicaid-only patients, and many facilities would have to close leaving no one to take care of the long-term Medicaid patients. Tim Veno, President and CEO, LeadingAge Kentucky, stated that the only criteria for the new proposal is that there is an average length of stay of 21 days or less. Mainstreet would be exempted from the need calculation and the need methodology.

In response to a question by Senator

Alvarado, Ms. Johnson stated that she would provide the committee with information on the percentage of revenue between Medicare and Medicaid. Mr. Veno stated that Mainstreet's proposal would duplicate existing services. Ms. Haynes stated that Mainstreet's model of care is not new and there would be no difference in outcomes. Value-based purchasing drives down cost and drives up quality. If a facility wants to conduct business in Kentucky, it needs to buy the excess capacity beds to provide its services.

Robert E. Robbins, M.D., stated that he strongly supports the amendment to 900 KAR 5:020. If he ever needs skilled nursing care after a hospital stay, he wants the stay to be the shortest time possible in a facility that is new and specializes in rehabilitation versus a nursing home that is predominantly long term care with some rehabilitation. The amendment would change the focus to the needs of the patient and away from the business needs of the nursing homes. Having a new facility with state-of-the-art rehabilitation will make a big difference in the quality of life for the citizens of Kentucky.

Child Care Assistance Program (CCAP) Providers

Brenda Bowman, COO, Southside Christian Child Care, stated that CCAP helps provide assistance to low-income families. Even though there was a small increase to CCAP to providers, it was not enough to keep some centers from closing. The reimbursement rate to centers is based on daily attendance not enrollment. There is a staffing crisis, because centers cannot recruit and maintain qualified workers. Kentucky's rate is much lower than Indiana and Tennessee.

Richard Morris, Owner of multiple child care centers, stated that CCAP has not kept up with increased expenses for the past 11 years. The number one concern is to attract and retain qualified staff. A concern is who takes care of the children if parents cannot afford day care.

Senator Raque Adams requested the statistics for Kentucky, Indiana, and Tennessee's reimbursement rates and recommendations to improve the CCAP.

In response to questions by Representative Benvenuti, Ms. Bowman stated that centers are paid on daily attendance. Representative Benvenuti stated the reimbursement rates should be based on enrollment not daily attendance.

Senator Danny Carroll stated that a facility is allowed to require parents to pay the difference between its daily rate and the rate reimbursed by the state. Mr. Morris stated that he did not want to change his business model and not serve low-income families. Abuse rates go up when a parent and/or guardian cannot get child care assistance.

In response to a question by Senator Wise, Ms. Bowman stated the percentage of CCAP children is between 70 percent and 96 percent

depending on the facility, and Mr. Morris said his average is 70 percent to 75 percent in his facilities.

Acquired Brain Injury (ABI) Waivers: Substance Abuse, Residential Eligibility, and High Rate of Denials

Jane Stahl, Executive Director, NeuroRestorative Kentucky, stated that the ABI waiver was established in 1998 to provide intense rehabilitative services to adults with brain injuries with a goal to return to the community. The ABI Long Term Care waiver was created in 2004 for long term supports to allow participants to stay in the community. Services initiated close to the date of injury result in a quicker return to the community; however, progress can still be made when appropriate levels of services are provided at any time post injury. The current process is inconsistent, arbitrary, and delays the initiation of treatment. Clinical experts in brain injury recommend the ABI waiver over the Long Term Care waiver, but individuals, more times than not, are placed on the Long Term Care waiver waiting list. Over 260 Kentuckians are on the ABI Long Term Care waiver waiting list while there 160 ABI waiver slots available. Injured Kentuckians have to jump through hoops at every level which delays necessary care and services and places burden and stress on families and caregivers.

The application process is as follows.

(1) An external case manager makes an application in the Medicaid Waiver Management Application (MWMA) system that includes a MAP 10 form completed by a physician that indicates the need for brain injury services. If approved, capacity is reserved. Since May 22, 2017, applicants can appeal the decision.

(2) A MAP 351 is completed by the external case manager in MWMA to determine level of care.

(3) Once the applicant receives level of care, the external case manager must apply for residential services. A small committee meets once per month to review the applications.

(4) An applicant waits for the prior authorization in the system. There needs to be consistency in the approval and review process with an option for an expert in brain injury to review appeals for level of care. The Residential Committee should meet bi-monthly to review denials. There needs to be an appeals process for residential services.

In response to a question by Senator Raque Adams, Ms. Stahl stated that exclusions for the ABI waiver include progressive dementia or other mentally impairing condition of a chronic degenerative nature such as senile dementia, organic brain disorder, Alzheimer's Disease, and alcoholism or other addiction.

Pamela D, Individual with Brain Injury,

stated that she received a brain injury in 2016. Adult protective services was called, and an ABI case manager helped her fill out an ABI waiver application. She just wants a chance to live a normal life. Everyone deserves to get needed services. She slipped into depression while waiting to get ABI waiver services.

Mary Hass, Advocate, Brain Injury Association of America, stated that the waiver slots are not just a number but represent a person. The cabinet gives her inconsistent number of slots that are available. In 2016, additional ABI LTC slots were funded in the budget. People need to be served. Currently, the cabinet is overriding doctor recommendations. There is a need for more doctors with ABI clinical knowledge and expertise. She does not understand why so many individuals are being denied ABI services.

In response to a question by Senator Raque Adams, Ms. Stahl stated there are enough ABI providers. Senator Raque Adams stated that she would help facilitate conversations with Navigant to make the waivers better.

In response to a question by Representative Wuchner, Ms. Stahl stated the waiver application does not explain the exemptions. Carewise Health determines the waiver denials.

Adjournment

There being no further business, the meeting was adjourned at 1:03 p.m.

INTERIM JOINT COMMITTEE ON TRANSPORTATION

Minutes of the 4th Meeting of the 2017 Interim

September 5, 2017

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Transportation was held on Tuesday, September 5, 2017, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Marie Rader, Chair, called the meeting to order, and the secretary called the roll. The minutes from the August 3, 2017 meeting were approved.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Marie Rader, Co-Chair; Senators Joe Bowen, Jared Carpenter, C.B. Embry Jr., Jimmy Higdon, Paul Hornback, Gerald A. Neal, Dorsey Ridley, Albert Robinson, Brandon Smith, Johnny Ray Turner, and Mike Wilson; Representatives Lynn Bechler, Tim Couch, Ken Fleming, Al Gentry, David Hale, Chris Harris, Toby Herald, Dennis Horlander, Kenny Imes, James Kay, Suzanne Miles, Robby Mills, Rick Rand, Steve Riggs, Sal Santoro, John Sims Jr, Jim Stewart III, Walker Thomas, and Scott Wells.

Guests: John-Mark Hack, Commissioner, Department of Vehicle Regulations, Kentucky Transportation Cabinet (KYTC), Heather Stout, Executive Director, Office of Information,

Kentucky Transportation Cabinet (KYTC), Jason Denny, Anderson County Clerk, Kevin Mooney, Bullitt County Clerk, and David Allgood, Director of Advocacy, Center for Accessible Living.

LRC Staff: John Snyder, Brandon White, Dana Fugazzi, and Jay Jacobs.

Plans for changes in license plate production

John-Mark Hack, Commissioner, Department of Vehicle Regulations, Kentucky Transportation Cabinet (KYTC), gave an overview of the Department of Vehicle Regulations and introduced his leadership team.

Commissioner Hack stated that license plates have not been replaced in Kentucky since 2005. At each license plate renewal, a \$0.50 fee is assessed which goes the reflectorized plate fund, a restricted fund designated for the purpose of paying for the issuance of new license plates periodically, normally every five to seven years. Most of the manufacturers of license plates warrant the reflectivity and the physical strength of the plate for five years. However, that restricted fund has been routinely swept during budgeting processes and has hindered the ability to re-plate. The results of not re-plating are very serious in that it compromises public safety, law enforcement, bridge tolling, and Kentucky's public image. The production system that is used to make license plates is a relic of the 1960's. Special and personalized license plates are excessively expensive and the standard issue plates are outdated. There are 136 license plates being issued in the Commonwealth. This means Road Fund dollars are being used to subsidize fund raising efforts for the 39 special organization plates for non-profits. Every dollar spent on these plates takes away from the road fund and not towards the construction and maintenance of roads and bridges.

Commissioner Hack gave an overview of the current process which starts in the county clerk's office as an order placed manually into the mainframe system. The Division of Motor Vehicles licensing staff receives the orders and then an order is placed with the Kentucky Correctional Industries (KCI). KCI produces the plates and the orders are picked up from the Kentucky State Reformatory via box truck the KYTC rents from the Finance Cabinet. The orders are brought back to the KYTC in Frankfort and the plates are then mailed to the county clerk's offices at a cost of around \$135,000 annually. Commissioner Hack stated the current process is very inefficient. To sum up the process, plates are bought at retail, sold at wholesale and freight is paid both ways. County clerks have to manage an auditable transaction as well as manage, store, and secure plate inventory which presents them with daily challenges. Technology used to

make the plates is out dated and uses obsolete equipment and workers don't learn marketable job skills. A detail review has been made of the production and distribution model and the costs have been analyzed.

Alternative technology has been identified that can greatly reduce inventory and storage requirements, while automating the plate ordering process. A print on demand solution will completely automate license plate ordering and inventory management for county clerks and put them and the citizens of the Commonwealth directly in contact with the license plate vendor. There will be no capital investment for this new model and vendors would be paid on a transactional model. The benefits to the new plates will be improved visibility for law enforcement, enhanced public safety, more reliable bridge tolling, elimination of physical inventory and inventory handling costs, saving of road fund dollars, saving of money on decals, and reducing inventory to manage and order. Automated inventory management software would keep their inventory stocked without having to place an order. The embossed features of our current plates don't allow them to be mailed, the new flat plate has a thermally applied decal on aluminum sheeting and is able to be sent through the 1st class mail system.

The new process is state of the art and reduces costs of specialized and personalized plates, has an enhanced appearance, has greater visibility, and gives the Commonwealth an enhanced image. There will be a hybrid distribution model for County Clerks with them stocking and issuing the two standard issue plates in their offices and the ability to order all other plates on demand and sent directly to the tax payer. All of this potentially expedites the development and reduces the cost of the Kentucky Automated Vehicle Information System (KAVIS). This solution presents the opportunity to have enhanced job skills for inmates at the Kentucky State Reformatory providing them with more marketable job skills. Any vendor selected would be required to work (KCI) as a sub-contractor.

Jason Denny, Anderson County Clerk, gave an overview of an onsite visit to Indiana's Bureau of Motor Vehicle facility and the production of plates with that state's vendor. Mr. Denny stated that some of the biggest issues that the clerks face will be addressed in the new model.

Commissioner Hack stated that moving to this new model will increase online renewals, ensure all Kentucky plates will look great all the time with a five year issuance cycle, position the KYTC to develop fleet plates, ensure plate production and fulfillment stays Kentucky based, and combine with improvements that are being made to the driver license system to modernize the essential government systems and provide

a higher level of customer service. There will be uniform costs on all plates that will result in savings.

In response to a question by Senator Ridley, Commissioner Hack stated that infrared technology is what allows law enforcement to scan license plates and that the new plates will work with that technology. Comparable technology is also used for bridge tolling and there are problems with the readability of our current license plates which have been on the road for up to twelve years. In response to another question, he stated that someone walking into a county clerk's office on the day that a plate expires would have to take a standard issue plate until the plate that they would like could be ordered and come in unless they choose to risk driving with an expired plate. This new model is a step in the direction of the tag staying with the customer and not the vehicle. Plates will not be printed in each county clerk's office; they will be printed utilizing a vendor who will subcontract with KCI and that the new technology will teach valuable work skills to inmates.

In response to a question by Senator Robinson, Commissioner Hack stated that he did not believe there would be a void in the budget for the prison system and could create some new opportunities for KCI.

In response to questions by Representative Bechler, Mr. Denny stated that, when someone moves into a new county, the person would come into the clerk's office and pay a fee of five dollars for a new plate. Commissioner Hack stated that the proposed system would eliminate the need for stickers. A new plate would be issued. If a new plate is issued, then the plate number would change. The savings mentioned do not include any saving at the county clerk's offices. Those savings would need to be quantified and measured after implementation.

In response to questions by Representative Fleming, Commissioner Hack stated that the cost savings would equate to less than one percent of his departmental annual budget. Vendors would bear all the transition costs and recover over time through each transaction.

In response to questions by Representative Imes, Commissioner Hack stated that it is important that production continue through KCI and that the RFP would have a requirement that the vendor would cover all of the capital expenditures and that there would be no direct up-front cost to the state.

In response to questions by Representative Imes, Commissioner Hack stated that the issuance of a license plate would be every five years which would stay within the warranty period for reflectivity of the plate. Renewal stickers would be used after the first plate is issued and that it is a possibility to still use the

print on demand sticker system currently in place. The promotional and communication tasks for the license plates will not be as great as the new driver's licenses. The communication will be partnered with the county clerks and with the Department of Revenue in the renewal notices that are sent out.

In response to questions by Representative Fleming, Commissioner Hack stated that the chart in his presentation shows KCI's costs only and is not a true overall cost with KYTC's costs added in.

Update on the implementation of Driver's license changes (HB 410)

Commissioner Hack gave an overview of the guiding principles and details of HB 410. There are no changes in store until January 1, 2019 and that HB 410 will bring Kentucky into compliance with federal law. The creation of a voluntary travel ID will have stricter requirements and require more documentation but the travel ID will be able to be used for federal identification which includes domestic air travel and military base admission. HB 410 greatly improves security and reduces fraud by taking us from 120 issuance authorities to a sole legal point of issuance with the Kentucky Transportation Cabinet. KYTC will ensure that personal identity information is stored only in state databases that are not shared with other states or the federal government except for the strictly limited purpose of driver license fraud detection. License renewals will move from a four year to eight year renewal system. Circuit Court Clerks will photograph applicants, scan documents and transmit data to a single issuance point that meets the highest security standards. Customers will receive temporary licenses which will be good for thirty days or until the new license comes in the mail which usually takes five to ten days.

Commissioner Hack gave an update on the status of the new extension request being submitted to the U.S. Department of Homeland Security to allow us to continue using our current licenses for a twelve month period. The twelve month extension will allow them to get almost all the way through the implementation process. A driver's license vendor proposal has been issued and the KYTC hopes to have them under contract by December. There has been ongoing and extensive communication with many organizations that have a hand in or care about the driver's license system. The KYTC is partnering with all 120 Circuit Court Clerks to provide in person public presentations in all counties by the end of 2018. A cost effective comprehensive public information campaign will be developed to ensure all Kentucky drivers are aware of documents requirements and date of license renewals.

In response to a question by Senator Ridley,

Commissioner Hack stated that an electronic notification of driver's license renewals is a goal and that they looking at doing via e-mail or text message.

In response to a question by Representative Thomas, Commissioner Hack stated that they have been in communication with Ft. Campbell and that the Department of Defense sets the credentials for what they will allow to access the base and that at this point they are not sure if they will adopt the voluntary travel ID. KYTC will work with them to give them all the information they need to make an informed decision.

In response to questions by Representative Wells, Commissioner Hack stated that they are going to ask for the extension to carry over to the implementation date of HB410 but they have been told by the Federal Department of Homeland Security that the extensions that they grant are only going to be for twelve months. It is anticipated that, in October 2018, another extension will have to be filed until full compliance with federal law is reached. It is not possible to move up the implementation date because of the January 1, 2019 effective date of HB 410, which gives the KYTC time to implement the new procedures.

In Response to questions by Representative Bechler, Commissioner Hack stated that the ability to indicate organ donor status will still remain on the driver's license. He would need to communicate with the Trust for Life to determine if all are on the same page about allowing bone marrow donors to indicate on the licenses because there is limited real estate available on the physical license.

Technology Upgrades across the Department

Heather Stout, Executive Director, Office of Information Technology, Kentucky Department of Transportation gave an update about technology improvements that are being addressed throughout the Department of Transportation. The Kentucky Automated Vehicle Information System (KAVIS) has implemented the first module (disabled placards) in 2016 and bar code readers have been deployed in all counties. Point of sale and boat modules are scheduled for implementation in 2018. Some modules will eventually be combined to speed up the project. Commissioner Hack stated that currently KAVIS is operated on a main frame system that is obsolete and labor intensive and moving to a .net system will enable a broader range of functionality, higher level of customer service, and bring modernization to all vehicle registration tasks. Commissioner Hack shared a thirty second video that gave an overview of the MyCDL Online Portal. He stated that they have a ten day deadline to review and process CDL documents. Failure to comply with these

deadlines results in loss of federal highway funding which starts at a reduction of five percent which would equate to about \$35 million. Staff has been reduced from seventeen employees in the CDL section down to seven and it is a labor intensive process to ensure that all those documents are reviewed in a timely way. Technology has been implemented in order to eliminate some of that labor intensiveness. Mrs. Stout stated that the MyCDL online portal is mobile friendly for both phones and tablets. Pictures can be taken of documents and uploaded directly to the portal. It allows staff to not have to re-enter data that the system and makes it automated. The challenge now is to get customers to use the system to reduce staff time. Commissioner Hack gave an overview of the metal commodities permit implementation. Mrs. Stout stated that the implementation was quick due to the permitting solution that was already in place was able to be modified. Commissioner Hack stated that they are exploring ways to maximize online vehicle renewals. They are looking at streamlining the process and trying to make it more cost effective. Mrs. Stout stated that growth could be spurred with a reduction in the fees associated with the online renewals.

In response to a question by Representative Wells, Mrs. Stout stated that they are looking at options to be able to draft from a bank account to reduce the fees that a customer would pay.

In response to a questions by Representative Hale, Commissioner Hack stated that federal law requires exams for CDLs to be done by an approved physician.

Disabled parking placard issues

Commissioner Hack stated that the number of disabled parking placard has exploded since 2008. There are obvious fraud and abuse issues which consist of multiple placards often distributed to the same family and that some doctors may not use the same discretion in authorizing disabled placards. There are also issues with a few county clerks issuing a large number of placards by attesting to the disability without a medical form. The results of these problems are real and members of the disabled community of the Commonwealth with genuine disabilities oftentimes find themselves unable to take advantage of the accessibility that is provided by disabled parking spaces. In 2008, the Commonwealth issued 32,000 placards and in 2017 there will be over 300,000. David Allgood, Director of Advocacy, Center for Accessible Living stated that he has daily struggles finding an accessible parking spot for his side loading van. He often must wait or give up and is precluded many times from finding an accessible parking spot. Mr. Allgood stated there is definite fraud occurring and that he looks forward to legislation that will alleviate the problem with

finding accessible spots. Commissioner Hack stated that SB 61 passed the Senate unanimously last session but never received a hearing in the House. He stated that the administration is committed to seeking its passage which would greatly protect the interests of genuinely disabled Kentuckians. Kevin Mooney, Bullitt County Clerk stated on behalf of the County Clerk's Association that they are aware of the difficulty of finding accessible parking spaces. He stated that it is a multi-faceted problem in that location to healthcare is not as accessible in every county and KRS is the authority on what the county clerk is allowed to do in attesting.

In response to a question by Senator Higdon, Mr. Allgood stated that it should be the responsibility of the person with the disability to carry the placard regardless of the vehicle. He stated that in his opinion that this would cut down on the abuse by only allowing one placard per individual. Mr. Moody stated that this would be good from a financial standpoint but that some exceptions should be considered.

In response to questions by Senator Bowen, Commissioner Hack stated that the identification of disabled parking spots is the responsibility of the property owners and the requirements are under the Americans with Disabilities Act. Mr. Allgood stated that he struggles with the striping and visibility of marked accessible spots on a daily basis.

In response to a question by Representative Bechler, Mr. Allgood stated that federal law requires one disabled spot for every twenty-five regular parking spots.

With no further information to come before the committee, Co-Chair Rader adjourned the meeting at 2:50 P.M.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection

Minutes of the 2nd Meeting of the 2017 Interim

August 24, 2017

Call to Order and Roll Call

The 2nd meeting of the Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 24, 2017, at 2:30 PM, in Room 131 of the Capitol Annex. Representative Jill York, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Jill York, Co-Chair; Senators Perry B. Clark, Denise Harper Angel, Stan Humphries,

and Alice Forgy Kerr; Representatives Ruth Ann Palumbo, Steve Riggs, Bart Rowland, Steven Rudy, Diane St. Onge, Tommy Turner, and Ken Upchurch.

Guests: Katie Smith, Executive Director, Office of Financial Services (OFS), Cabinet for Economic Development (CED); Sarah Butler, Director, Incentive Assistance Division, OFS, CED; Robert Aldridge, Assistant Director, Compliance Division, OFS, CED; Derrick Ramsey, Secretary, Labor Cabinet; Mike Nemes, Deputy Secretary, Labor Cabinet; Robert Swisher, Commissioner, Department of Workers' Claims, Labor Cabinet; and Ervin Dimeny, Commissioner, Department of Workplace Standards, Labor Cabinet.

LRC Staff: Seth Dawson, Greg Troutman, and Benjamin Thompson.

Overview of the Cabinet for Economic Development

Ms. Smith provided a brief update on the budget of the Cabinet for Economic Development (CED).

In response to a question from Representative Palumbo, Ms. Smith stated that CED ended operations in Chile around six to eight years ago.

In response to questions from Chair York, Ms. Smith stated that the three cash-balance pools, the High-Tech Investment Pool, the Kentucky Economic Development Finance Authority (KEDFA) Loan and Grant Pool, and the Economic Development Bond Pool were lumped together into one cash pool two budget cycles ago. The available balance for that joint pool is roughly \$40 million. There is no specific breakdown for what funds are available for each of the three programs. CED has attempted to make the application for small business tax incentives as streamlined and simple as possible. For the small business tax incentive program, jobs have to have already been created. Each application is reviewed within a few days and applications are approved in KEDFA meetings, which take place the last Thursday of each month.

In response to a question from Representative St. Onge, Ms. Smith noted that there is no specific percentage of cash-pool money that goes to high-tech investments.

In response to a question from Chair York, Ms. Smith stated that participants in the Kentucky Business Investment program self-report on how much money has been invested and how many jobs have been created.

Overview of the Labor Cabinet and Update on Apprenticeship Program

Secretary Ramsey provided a brief overview on the budget of the Labor Cabinet, as well as an update on the status of the Commonwealth's apprenticeship program.

In response to a question from Chair York,

Commissioner Swisher stated that LMS stands for Litigation Management System.

In response to questions from Senator Clark, Secretary Ramsey confirmed that Kentucky has the first nursing apprenticeship in the country. The Labor Cabinet has learned that apprentices coming from foster care aren't used to much structure and the goal is to try and get to them at younger ages to help them transition. Deputy Secretary Nemes stated that there is work being done to change regulations to allow apprentices to use Kentucky Educational Excellence Scholarship (KEES) money. KEES money is only available for use in colleges.

In response to a question from Representative St. Onge, Deputy Secretary Nemes noted that apprentices often times go on to pursue four year degrees.

In response to a question from Chair York, Commissioner Dimeny stated that the Department of Workplace Standards is unable to meet the demand from companies for additional safety training and education.

There being no further business before the subcommittee, the meeting was adjourned at 4:15 PM.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 3rd Meeting of the 2017 Interim

August 23, 2017

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on State Government was held on Wednesday, August 23, 2017, at 10:00 AM, in Richmond, Kentucky, at the Department of Criminal Justice Training on the campus of Eastern Kentucky University. The meeting was a joint meeting with the Interim Joint Committee on Local Government. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representatives Jerry T. Miller, Co-Chair, and Kenny Imes, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Morgan McGarvey, Albert Robinson, Dan "Malano" Seum, and Damon Thayer; Representatives Lynn Bechler, John Carney, Will Coursey, Joseph M. Fischer, Derrick Graham, Richard Heath, Dan Johnson, DJ Johnson, Mary Lou Marzian, Reginald Meeks, Phil Moffett, Tim Moore, C. Wesley Morgan, Jason Nemes, Sannie Overly, Jason Petrie, Rick Rand, Jody Richards, Bart Rowland, Attica Scott, Tommy Turner, and Ken Upchurch.

Guests: Representative Robert Benvenuti, 88th House District; President Michael T. Benson, Eastern Kentucky University; Commissioner Mark Filburn, Frank Kubala, and Travis Tennill,

Department of Criminal Justice Training; Deputy Secretary Jonathan Grate, Justice and Public Safety Cabinet; J.D. Chaney and Bryanna Carroll, Kentucky League of Cities; Chief Wayne Turner, Kentucky Association of Chiefs of Police; Jason Rothermund, Fraternal Order of Police Bluegrass Lodge 4; Nicolai Jilek, Kentucky Fraternal Order of Police; Sheriff Mike Jansen, Kentucky Sheriff's Association; Liz Shepherd and Maresa Fawns, Kentucky Justice Association; Judy Taylor, Lexington-Fayette Urban-County Government; and Sara Massey, Louisville Metro Government.

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

Approval of Minutes

A motion to approve the minutes of the July 26, 2017, meeting was seconded and passed without objection.

Opening Remarks and Welcome

Justice and Public Safety Cabinet Deputy Secretary Jonathan Grate welcomed the committees to the Department of Criminal Justice Training (DOCJT) and introduced Commissioner Mark Filburn of DOCJT.

Commissioner Filburn that DOCJT's mission is to keep law enforcement officers alive. Service is what DOCJT is about as well as preparing officers to protect the citizens of Kentucky with dignity and respect. Eastern Kentucky University (EKU) President Michael T. Benson welcomed the committees and said that EKU likes to think of its school as a school of first responders. EKU has more students from Kentucky than any other school in Kentucky. He thanked the members for their role in approving the capital construction projects at EKU.

Travis Tennill, DOCJT, discussed his personal experience with having to use his weapon on a call and the emotionally-charged consequences that ensued. He discussed the Kentucky Post-Critical Incident Seminar (KYPCIS), which is a three-day seminar modeled after highly successful programs developed by the FBI and South Carolina. Law enforcement professionals and their significant others are able to openly tell their stories, hold small-group discussions, meet one-on-one with mental-health professionals and learn to identify signs of stress and methods to cope. He asked for the General Assembly's support of the program.

Police Department Utilization of Body Cameras

Representative Robert Benvenuti, who sponsored 2017 HB 416, relating to the disclosure of body-worn camera recordings, said that there is no law in Kentucky that mandates the use of body cameras by law enforcement, nor should there be one. It should be left up to the individual local government. However, with the use, there should be a legislative construct that allows

officers to use them efficiently and effectively, or else body camera use will become less prevalent. Privacy rights should be protected for those involved, whether it be the officer, victim, or children. Body cameras can be very helpful for training, evidentiary, and accountability purposes. A situation should not be created where officers are being required for hours to edit or redact footage, rather than engaging in law enforcement.

J.D. Chaney, Deputy Executive Director of the Kentucky League of Cities (KLC), said that Kentucky is the last state to deal with a law for disclosure of recordings from open records. KLC survey other state laws. Florida exempts disclosure of recordings from open records if taken in private resident of health or social services office. Florida law also exempts recordings from disclosure if a person has a reasonable expectation of privacy. Indiana permits inspections without copies to limited class of requestors. Louisiana exempts disclosure without a court order if the law enforcement agency determines the recording "violates an individual's reasonable expectation of privacy." Kansas exempts all recordings from police body cameras as criminal investigation records. North Carolina exempts from disclosure except for persons depicted. The law requires a court order for members of the public to gain access. South Carolina exempts from disclosure under the state's Freedom of Information laws, but specifies several individuals who may obtain copies if they have a legal interest in obtaining them.

Campbell County Sheriff Mike Jansen, representing the Kentucky Sheriff's Association, said that, for small law enforcement agencies, purchasing body worn cameras would be a financial hardship. This too would create possible cuts for other equipment in the larger agencies' budgets. Also, storage space would have to be purchased for the videos, depending on how long the videos needed to be stored, which is 30 days at present. In any agency there must be one person, at least, to maintain, edit, and secure all video for its integrity. The cost of the training for each officer in using the body worn cameras would either be addressed at the DOCJT Law Enforcement Academy or in-house for each individual agency.

The Kentucky Sheriff's Association's position would be not to mandate through legislation that all agencies must have body worn cameras. This would seriously cause an unfunded mandate upon the many agencies that do not have access to funds for implementation.

Officer Nicolai Jilek, representing the Kentucky Fraternal Order of Police (FOP), said that great care must be taken when releasing body worn camera footage to the news media and others. There must be restrictions against

the releasing video that shows the death or serious injury of an officer or citizen, video shot in private homes or in healthcare facilities, and video that reveals law enforcement surveillance or other police tactics that could ultimately compromise the safety of law enforcement and the public. The use of videos on social media can serve to "revictimize" victims and traumatize first responders. The use of a disclaimer that would be posted on the video should be considered, reminding the public that body worn camera video is one angle that typically fails to provide the full context of a situation. It is very easy, yet blatantly unfair, for the public, the news media, the courts, and outside groups to assume that what they are seeing on the news is the whole picture. That is rarely, if ever, the case, and without that knowledge, body worn camera video can be misunderstood, misrepresented, and exploited.

Officer Jason Rothermund, president of FOP Bluegrass Lodge 4 based out of Lexington, said that, as with any new piece of technology, practices, policies, and even laws must be formed, evaluated, and occasionally revised to ensure that the use of the new technology remains advantageous. Lexington's police department, over the last year, has implemented body worn cameras with officers in uniformed operations. Since the implementation of the cameras, the Lexington police department has received over 124 open records request for footage. To attempt to keep up with the demand for footage, the department has hired two extra civilian personnel. Not only are the requests time consuming, but the department's personnel must rely on current open records laws that do not specifically account for the use of body worn cameras. The application of the current laws remains vague when attempting to address concerns of the release of footage, some of which may be sensitive to law enforcement investigations, or operations. In order to support law enforcement agencies around the state, it is imperative that the legislature pass legislation that directly addresses the issue of the public release of body worn camera footage. In an effort to support agencies around the state, as well as legislators around the state, Bluegrass Lodge 4 offers its support for HB 416.

Bellevue Police Chief Wayne Turner, representing the Kentucky Association of Chiefs of Police, said that over the years he has dealt with many open records requests. Recently all 30 agencies received open records requests from a news agency for all body camera videos for the past 5 years. They are still figuring out how to best comply with the request as the request itself was not specific. Libraries and Archives' guidance controls the retention of video for 30 days unless the video is part of a legal action. He asked that

members consider the case of small departments concerning the costs associated with open records requests in crafting future legislation. First and foremost is protecting the privacy of citizens and officers. In certain instances, police tactics do not need to be released.

Mr. Chaney added that the KLC is willing to work with law enforcement, stakeholders, and the legislature on model use policies regarding body worn cameras. He reiterated the language of HB 416.

In response to a question from Senator Seum, Chief Turner said body cameras are available through Homeland Security from programs within DOCJT. Legislation has to be implemented first to regulate the usage of the cameras before they are placed in the field.

In response to another question from Senator Seum, Mr. Chaney said the legislation does not address how long the body camera recordings are held but that the Kentucky Department for Libraries and Archives (KDLA) dictates the retention times of those recordings. Representative Meredith referred members to a retention schedule from KDLA which was included in their folders. He also referred to a study on body camera usage conducted by the Southern Legislative Conference (SLC).

Representative Rothenburger commented that there are other branches of public safety that will be affected such as fire service and urban search and rescue. Representative Benvenuti stated that issue was addressed in the bill.

In response to a question from Representative Scott, Chief Turner stated that the software has limitations to prevent copying or tampering with footage evidence. Concerning cameras that are off, or pointed in the wrong direction, there is a learning curve, but officers are subject to discipline when issues repeat themselves. Continual recording of an officer's day has privacy issues, but present policy is to have the camera on when interacting with a private citizen.

In response to a question from Representative Flood, Commissioner Filburn stated that no one pushed for the KYPCIS previously. DOCJT is pushing for it now on a state level.

Representative Moore commented that the proper balance has to be found in educating the public and protecting officers and the public. He believes the Veterans, Military Affairs, and Public Protection Committee would be supportive of the KYPCIS.

Commissioner Filburn noted that in training and other situations, certain tactics are demonstrated and could be recorded on body cameras and be subject to open records requests. Having these tactics available for viewing by criminals or terrorists would not be desirable.

Liz Shepherd, with the Kentucky Justice

Association, said that she had concerns about HB 416, which requires that any person receiving the body camera footage could not disclose or duplicate the recording without first providing notice to each person whose image is depicted. This can be problematic. For example, attorneys frequently obtain body camera footage of an accident scene as part of investigating how a collision occurred. It would be impossible sometimes to locate all people in the footage and give them notice before sharing the footage with an accident reconstructionist or using it in court.

In response to a question from Representative Nemes, Ms. Shepherd said that it may be helpful if the language of the bill allowed disclosure of the video to their agents or people who are working with them in the litigation without having to locate every person depicted in the video. There is no civil litigation without an adequate investigation.

Representative Riggs suggested contacting crime victims' organizations on how HB 416 would affect them. Representative Benvenuti stated he has had some of those discussions and that balancing victims' considerations with making the video more available is important.

In response to a question from Representative Riggs, Commissioner Filburn said the DOCJT's KYPCIS program is open to all law enforcement agencies.

In response to a question from Senator McGarvey, Representative Benvenuti said it would be a huge cost to mandate that body cameras be worn. No state mandates it.

Representative Miller suggested that there be a cost recovery element in the bill for fulfilling open records requests. Representative Benvenuti said that was an excellent point.

Representative Dan Johnson thanked the sponsor of the bill for cost considerations in the bill's language and noted the importance of having available the type of help that KYPCIS provides.

In response to a question from Representative Imes, Commissioner Filburn said DOCJT has increased the number of satellite facilities for in-service training in the smaller communities whose officers cannot make the trip to Frankfort, but having a central location for training is still important.

Representative Brown commented that there is an appreciation for law enforcement officials and their professionalism. Do not lose sight of who is supposed to be served and protected as the citizens are the ones who confer the power to protect and serve to the police. Commissioner Filburn said that officers are trained to respect proper use of force. They are trained to protect the Commonwealth with dignity and respect.

In response to a question from Representative Meredith, Commissioner Filburn

said DOCJT plans to address the possibility of extending POPS certification to the end of academy time in a cleanup bill.

Representative Meredith announced that there would be a tour of DOCJT's facilities at the conclusion of the meeting. He also announced that the next meeting of the committees will be September 27.

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

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 3rd Meeting of the 2017 Interim

August 23, 2017

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Local Government was held on Wednesday, August 23, 2017, at 10:00 AM, in Room 305 of the Funderburk Building at the Department of Criminal Justice Training on Eastern Kentucky University's campus in Richmond, Kentucky. The Committee met jointly with the Interim Joint Committee on State Government. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Morgan McGarvey, Albert Robinson, Dan "Malano" Seum, and Damon Thayer; Representatives Danny Bentley, George Brown Jr, Ken Fleming, Kelly Flood, DJ Johnson, Kim King, Adam Koenig, Jerry T. Miller, Phil Moffett, Steve Riggs, Rob Rothenburger, Attica Scott, Arnold Simpson, and John Sims Jr.

Guests: Representative Robert Benvenuti, 88th House District; President Michael T. Benson, Eastern Kentucky University; Commissioner Mark Filburn, Frank Kubala, and Travis Tennill, Department of Criminal Justice Training; Deputy Secretary Jonathan Grate, Justice and Public Safety Cabinet; J.D. Chaney and Bryanna Carroll, Kentucky League of Cities; Chief Wayne Turner, Kentucky Association of Chiefs of Police; Jason Rothermund, Fraternal Order of Police Bluegrass Lodge 4; Nicolai Jilek, Kentucky Fraternal Order of Police; Sheriff Mike Jansen, Kentucky Sheriff's Association; Liz Shepherd and Maresa Fawns, Kentucky Justice Association; Judy Taylor, Lexington-Fayette Urban-County Government; and Sara Massey, Louisville Metro Government.

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

Approval of Minutes

Upon the motion of Representative Johnson, seconded by Representative Riggs, the minutes

of the July 26, 2017 meeting were approved.

Opening Remarks and Welcome

Justice and Public Safety Cabinet Deputy Secretary Jonathan Grate welcomed the committees to the Department of Criminal Justice Training (DOCJT) and introduced Commissioner Mark Filburn of DOCJT.

Commissioner Filburn that DOCJT's mission is to keep law enforcement officers alive. Service is what DOCJT is about as well as preparing officers to protect the citizens of Kentucky with dignity and respect. Eastern Kentucky University (EKU) President Michael T. Benson welcomed the committees and said that EKU likes to think of its school as a school of first responders. EKU has more students from Kentucky than any other school in Kentucky. He thanked the members for their role in approving the capital construction projects at EKU.

Travis Tennill, DOCJT, discussed his personal experience with having to use his weapon on a call and the emotionally-charged consequences that ensued. He discussed the Kentucky Post-Critical Incident Seminar (KYPCIS), which is a three-day seminar modeled after highly successful programs developed by the FBI and South Carolina. Law enforcement professionals and their significant others are able to openly tell their stories, hold small-group discussions, meet one-on-one with mental-health professionals and learn to identify signs of stress and methods to cope. He asked for the General Assembly's support of the program.

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Representative Meredith announced that there would be a tour of DOCJT's facilities at the conclusion of the meeting. He also announced that the next meeting of the committees will be September 27.

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

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 2nd Meeting of the 2017 Interim

August 22, 2017

Call to Order and Roll Call

The 2nd meeting of the Interim Joint

Committee on Banking and Insurance was held on Tuesday, August 22, 2017, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Tom Buford, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Charles Vice, Commissioner, Kentucky Department of Financial Institutions; Tom Stephens, Secretary, Kentucky Personnel Cabinet; Jenny Goins, Commissioner, Kentucky Department of Employee Insurance; and Joel Allumbaugh, Foundation for Government Accountability.

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

Minutes

A motion by Senator Parrett and second by Representative Wells to approve the June 27, 2017, minutes carried by voice vote.

Update on State of Kentucky Financial Industries

Commissioner Charles Vice discussed proposed legislation for the 2018 legislative session relating to the Kentucky Department of Financial Institutions (KDFI). The first, a consumer loan act, is a modernization bill that will allow KDFI the same regulatory tools used for other industries. Currently, the primary regulatory tool is license revocation, a worst case scenario. The second, mortgage services legislation, will establish a de minimis for registration of companies that service limited numbers of loans in Kentucky.

Commissioner Vice provided an update on trends in the banking industry. A significant concentration of financial power into a few financial institutions. He spoke on the condition of state banks and how they perform compared to surrounding states and nationally. Commissioner Vice reported on recent economic investments and job creation in Kentucky and spoke on current trends in the state's housing market.

Commissioner Vice outlined the topics of discussion for the upcoming *2017 Community Banking in the 21st Century Research and Policy Conference*.

Commissioner Vice said that KDFI has recently implemented a red tape reduction initiative and advocated nationally for right-sized regulation, qualified mortgage status for portfolio lending, and simplified capital rules for

community banks.

Representative Meredith said flexibility in small business lending by community banks is important for their success.

Responding to Senator Parrett's question Commissioner Vice said Dodd-Frank compliance regulations have resulted in significant financial and opportunity costs to banks.

In response to Representative DuPlessis's question Commissioner Vice said barriers including Dodd-Frank regulations, net interest margin reductions since the 2008 recession, and higher capital requirements have significantly reduced the number of new community banks. Credit unions have been more successful because they are membership based and are focus on consumer-oriented lending.

Senator Ridley asked that KDFI provide the number of national banks and federal credit unions in Kentucky.

In response to Senator Ridley's question, Commissioner Vice said most nondepository lending institutions that provide "quick" loans have an "originate-to-sell" business model to sell either to a financial institution or a company that packages collateralized mortgage obligations and mortgage-backed-securities for sale to investors.

Responding to Senator Seum's question Commissioner Vice said in the loan market, financial institutions chose their level of risk.

Healthcare Transparency in Kentucky

Secretary Tom Stephens of the Kentucky Personnel Cabinet said the Kentucky employee health plan, which serves over 265,000 members, has been largely successful. He said it is a great health insurance plan that is a workforce retaining tool.

Commissioner Jenny Goins of the Department of Employee Insurance explained the Vitals SmartShopper program. The program allows members to choose low cost, high value healthcare options. Members receive incentive checks for choosing low cost healthcare options. Since 2013, the program has saved the state \$10 million. Employees have received \$1.5 million in incentives. Commissioner Goins reviewed the demographics of participants and gave examples of cost savings. She noted the importance of marketing the Vitals SmartShopper program during open enrollment, at benefit fairs, and in targeted campaigns.

Responding to Chairman Buford's questions, Commissioner Goins said a participant can call or visit the Vitals SmartShopper website to find area healthcare providers. The program does not make exceptions for out-of-network providers. It is most likely that in-network providers would be the least expensive because they have negotiated a lower rate with Anthem.

In response to Senator Ridley's questions Commissioner Goins said that even though

Anthem has negotiated service provider rates, members can cost save when comparing hospitals to free-standing facilities, for example. Secretary Stephens said communicating with participants and would-be participants is the single biggest challenge for the agency. It can be difficult to get the message out to everyone.

Joel Allumbaugh, Senior Fellow, Foundation for Government Accountability (FGA), a Florida-based nonprofit think tank on healthcare and welfare reform initiatives, commended Kentucky on its state employee health plan. There is a large variance in healthcare costs and, increasingly, consumers are paying a significant amount of health care expenditures out-of-pocket with much higher deductibles. This is most common for those who have health insurance through small employers and the individual market. Provider consolidation is driving referral patterns. In its study, FGA concluded that three things are needed: actionable transparency at the consumer level, incentives for enrollees, and out-of-network patient choice. Mr. Allumbaugh reviewed recent reforms instituted by other states.

Mr. Allumbaugh said it was necessary for Dr. Flaspohler to leave before making his presentation.

Responding to Representative DuPlessis's question, Dr. Allumbaugh said Vitals SmartShopper has been studying how to apply the incentive model to the Medicaid program. Dr. Allumbaugh thought this could be implemented.

In response to Representative McCoy's questions regarding transparency, Mr. Allumbaugh said pharmaceutical costs have been a point of interest recently and should be addressed, given that a large portion of health care spending is on pharmaceuticals. Hospitals should have the ability to provide enough information on all costs relating to a medical procedure for consumers to make informed choices.

Responding to the Chairman, Mr. Allumbaugh said surprise billing has not been studied by the FGA but it will be. Other states have expressed concern as well.

In response to Representative Riggs's questions Commissioner Goins said last year \$246,000 in incentives was paid to members. Representative Riggs asked for the key incentive ratio. The commissioner said that members also experience out-of-pocket cost savings as well as the incentive program. Representative Riggs suggested a set incentives ratio for maximum benefit.

In response to Representative Wuchner, Commissioner Goins said increased participation rates are a direct result of increased marketing.

Responding to Representative Wuchner's questions, Mr. Allumbaugh said two major

challenges to move forward are the logistics on the insurers' side and roadblocks by larger entities in making healthcare more affordable. Lower cost healthcare does not correlate to substandard healthcare.

Chairman Buford said that healthcare is over 50 percent of the pension cost for state employees. Responding to Chairman Buford's question, Commissioner Goins said she did not have enough information to comment on whether healthcare is part of the state employee inviolable contract.

There being no further business, the meeting adjourned at 11:37 AM.

LEGISLATIVE RESEARCH COMMISSION

Minutes of the 556th Meeting

September 6, 2017

Call to Order and Roll Call

The 556th meeting of the Legislative Research Commission was held on Wednesday, September 6, 2017, at 12:00 PM, in Room 125 of the Capitol Annex. Representative Jeff Hoover, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative Jeff Hoover, Co-Chair; Senators Jimmy Higdon, Ray S. Jones II, Dennis Parrett, Dorsey Ridley, Dan "Malano" Seum, and Damon Thayer; Representatives Rocky Adkins, Kevin D. Bratcher, Dennis Keene, David Meade, David Osborne, and Wilson Stone.

LRC Staff: David Byerman and Christy Glass.

There being a quorum, Representative Jeff Hoover called the meeting to order.

Speaker Hoover called for a motion to approve the minutes of the June 7, 2017 meeting; accept and refer as indicated items A. through N. under Staff and Committee Reports; refer prefiled bills and administrative regulations as indicated and approve items A. through I. under New Business, and accept and refer as indicated items 1. through 20. under Communications.

A motion was made by Senator Thayer and seconded by Representative Bratcher. Speaker Hoover asked for discussion. Seeing none, a roll call vote was taken, and the motion passed unanimously. The following items were approved, accepted, or referred.

STAFF AND COMMITTEE REPORTS

Information requests since June 1, 2017.

Committee Activity Reports since June 1, 2017.

Report of the Administrative Regulation Review Subcommittee meetings of June 13, July 11, and August 14, 2017.

Committee review of the administrative regulations by the Interim Joint Committee on

Health and Welfare and Family Services, during its meetings of June 21, July 17, and August 16, 2017.

Committee review of the administrative regulations by the Interim Joint Committee on Natural Resources and Energy during its meetings of June 1, July 6, and August 3, 2017.

Committee review of the administrative regulations by the Interim Joint Committee on Economic Development and Workforce Investment during its meeting of August 17, 2017.

Committee review of the administrative regulations by the Interim Joint Committee on Education during its meeting of August 28, 2017.

Committee Review of Executive Order 2017-269 by the Interim Joint Committee on Health and Welfare and Family Services during its meeting of June 21, 2017.

Committee Review of FFY 2018-2019 Community Services Block Grant Application by the Interim Joint Committee on Health and Welfare and Family Services during its meeting of June 21, 2017.

Committee Review of FFY 2018 Social Services Block Grant Application by the Interim Joint Committee on Health and Welfare and Family Services during its meeting of June 21, 2017.

Committee Review of FFY 2018 Low Income Housing Energy Assistance Program Block Grant Application by the Interim Joint Committee on Natural Resources and Energy during its meeting of July 6, 2017.

Committee Review of Executive Order 2017-433 by the Interim Joint Committee on Education during its meeting of August 28, 2017.

Committee Review of Executive Order 2017-434 by the Interim Joint Committee on Education during its meeting of August 28, 2017.

Committee Review of Executive Order 2017-496 by the Interim Joint Committee on Education during its meeting of August 28, 2017.

NEW BUSINESS

Referral of prefiled bills to the following committees: **BR 15** (an act relating to taxation) and **BR 102** (an act relating to the natural resources severance and processing tax) to **Appropriations and Revenue**; **BR 37** (an act relating to area development districts and declaring an emergency) and **BR 97** (an act relating to criminal histories of job applicants) to **Economic Development and Workforce Investment**; **BR 91** (an act relating to suicide prevention training) to **Education**; **BR 14** (an act relating to the reporting of child abuse, neglect, or dependency) and **BR 173** (an act relating to public assistance) to **Health and Welfare and Family Services**; **BR 64** (an act relating to vacating convictions for reckless homicide), **BR 165** (an act relating to firearms), **BR 172** (an act

relating to carrying concealed weapons), and **BR 175** (an act relating to public protests) to **Judiciary**; **BR 114** (an act relating to the Public Service Commission), **BR 115** (a joint resolution directing the Public Service Commission to reexamine certain rate cases), and **BR 182** (an act relating to electric utility billing) to **Natural Resources and Energy**; **BR 25** (an act relating to death in the line of duty benefits and declaring an emergency), **BR 40** (an act proposing to amend Section 29 of the Constitution of Kentucky relating to administrative regulations), and **BR 41** (an act proposing to amend Section 95 of the Constitution of Kentucky relating to the election of state officers) to **State Government**; **BR 2** (an act relating to public safety) to **Tourism, Small Business, and Information Technology**; **BR 1** (an act relating to the overtaking of bicycles on a roadway) and **BR 54** (an act relating to railroads) to **Transportation**.

Referral of administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): **907 KAR 1:041E** (Repeal of 907 KAR 1:018 and 907 KAR 1:019), **907 KAR 3:066 & E** (Nonemergency medical transportation waiver services and payments), **907 KAR 3:206E** (Repeal of 907 KAR 3:205), **907 KAR 23:001 & E** (Definitions for 907 KAR Chapter 23), **907 KAR 23:010 & E** (Outpatient pharmacy program), and **907 KAR 23:020 & E** (Reimbursement for outpatient drugs) to **Appropriations and Revenue**; **11 KAR 15:090** (Kentucky Educational Excellence Scholarship (KEES) program), **16 KAR 2:020** (Occupation-based career and technical education certification); **16 KAR 5:020** (Standards for admission to educator preparation), **16 KAR 8:040** (Ranking of occupation-based career and technical education teachers), and **704 KAR 7:051** (Repeal of 704 KAR 7:050) to **Education**; **201 KAR 2:076** (Compounding); **201 KAR 35:080** (Voluntary inactive and retired status), **900 KAR 6:090** (Certificate of need filing, hearing, and show cause hearing), **900 KAR 6:125** (Certificate of need annual surveys); **900 KAR 7:030** (Data reporting by health care providers), **900 KAR 7:040** (Release of public data sets for health care discharge data), **902 KAR 55:015** (Schedules of controlled substances), **902 KAR 55:040** (Excluded nonnarcotic substances), **902 KAR 55:041** (Repeal of 902 KAR 55:020, 902 KAR 55:025, 902 KAR 55:030, and 902 KAR 55:035), and **902 KAR 55:095** (Prescription for Schedule II controlled substance-authorization of oral prescription for immediate administration, facsimile transmission, or partial filing) to **Health and Welfare and Family Services**; **505 KAR 1:130** (Department of Juvenile Justice Policies and Procedures: juvenile services community) to **Judiciary**; **804 KAR 4:230** (Extended hours supplemental licenses), and **804 KAR 10:010**

(Appointment notification of local administrator) to **Licensing, Occupations, and Administrative Regulations**; **301 KAR 1:152 & E** (Asian Carp and Scaled Rough Fish Harvest Program), **301 KAR 1:195** (Repeal of 301 KAR 1:192), **301 KAR 2:049** (Small game and furbearer hunting and trapping on public areas.), **301 KAR 6:005** (Boat registration fees), **401 KAR 8:010** (Definitions for 401 KAR Chapter 8), **401 KAR 8:011** (Repeal of 401 KAR 8:070, 401 KAR 8:101, 401 KAR 8:550, and 401 KAR 8:600); **401 KAR 8:020** (Public and semipublic water systems; submetering; general provisions), **401 KAR 8:040** (Laboratory certification), **401 KAR 8:075** (Consumer confidence reports and public notification), **401 KAR 8:100** (Design, construction, and approval of facilities and approval timetable for 401 KAR Chapter 8), **401 KAR 8:250** (Inorganic and organic chemical sampling, analytical techniques, maximum contaminant levels, radionuclides, and secondary standards), **401 KAR 49:011** (General provisions relating to area solid waste management plans), **401 KAR 49:080** (Solid waste grant funds and solid waste collector and recycler registration), and **401 KAR 49:091** (Repeal of 401 KAR 49:040, 401 KAR 49:090, and 401 KAR 49:210) to **Natural Resources and Energy**; **31 KAR 4:010** (Voter identification cards), **31 KAR 4:040** (Procedures for absentee voting in county clerk's office), and **31 KAR 6:020** (Provisional voting) to **State Government**.

From Senator Tom Buford and Representative Bart Rowland, Co-Chairs of the Interim Joint Committee on Banking and Insurance: Memorandum requesting approval to meet on November 9 in Louisville, rather than the regularly scheduled meeting date of November 28. There are two (2) known conflicts.

From Senator Chris McDaniel and Representative Steven Rudy, Co-Chairs of the Interim Joint Committee on Appropriations and Revenue: Memorandum requesting approval to meet on November 20, rather than the regularly scheduled meeting date of November 30. There are no apparent conflicts.

From Senator Mike Wilson and Representative Bam Carney, Co-Chairs of the Interim Joint Committee on Education: Memorandum requesting approval to meet outside the Interim on December 11. There are no apparent conflicts.

From Senator Julie Raque Adams and Representative Addia K. Wuchner, Co-Chairs of the Interim Joint Committee on Health and Welfare and Family Services: Memorandum requesting approval to meet on October 11, rather than the regularly scheduled meeting date of October 18. There are no apparent conflicts.

From Senate President Robert Stivers and House Speaker Jeff Hoover: Memorandum approving the organization of the Louisville

Metropolitan Caucus.

From Senate President Robert Stivers and House Speaker Jeff Hoover: Memorandum appointing Representative John Blanton to the Budget Review Subcommittee on Justice and Judiciary.

From Senate President Robert Stivers, House Speaker Jeff Hoover, Senate Minority Floor Leader Ray S. Jones, II, and Senate Minority Caucus Chair Dorsey Ridley: Memorandum approving the election by the Senate Minority Caucus of Senator Dennis Parrett as Senate Minority Whip.

COMMUNICATIONS

From the Office of the Attorney General: Constitutional Challenge Report for the months of May, June, and July 2017.

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of May, June, and July 2017.

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 11 and 12 and year-to-date activity for the period of July 1, 2016, through June 30, 2017, and Accounting Period 1 and year-to-date activity for the period of July 1, 2017, through July 31, 2017.

From the Cabinet for Health and Family Services: Kentucky Stroke Encounter Quality Improvement Project (SEQIP) 2017 Annual Report.

From the Kentucky Legislative Ethics Commission: Recommended Changes to the Code of Legislative Ethics/2017.

From the Kentucky Personnel Cabinet: 2016 Annual Turnover Report of 15% and greater.

From the Kentucky Commission on the Deaf and Hard of Hearing: FYS 16-17 Telecommunications Access Program (TAP) Annual Report.

From the Office of the Attorney General: 2017 Report on the Status of the Administrative Hearing Process in the Commonwealth of Kentucky.

From the Cabinet for Health and Family Services, Department for Community Based Services: FY 17 Citizen Review Panels Annual Work Report.

From the Cabinet for Health and Family Services: Social Service Worker Caseload Averages Reporting.

From the Cabinet for Health and Family Services: Statewide Strategic Planning Committee for Children in Placement Status Update.

From the Kentucky Personnel Cabinet: Quarterly Report as of June 30, 2017.

From the Kentucky Judicial Form

Retirement System: Operating Statements of the Judicial Retirement Fund and the Legislators Retirement Fund for FY 17; list of investments held by the Fund as of June 30, 2017; and Portfolio Valuations of the Fund as of June 30, 2017.

From the Auditor of Public Accounts: Report of the Examination of Lease Law Compliance, FYS 16-17, and Independent Accountant's Report.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarter ending June 30, 2017.

From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and Statement of Solvency as of June 30, 2017.

From the Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending June 30, 2017.

From the Justice and Public Safety Cabinet: FY 17 Annual Report of the Education Program on AIDS.

From the Department of Military Affairs, Adjutant General Stephen R. Hogan: Military Assistance Trust Fund State FY 17 Annual Report.

From the Justice and Public Safety Cabinet: Application for funding under the 2017 Edward Byrne Memorial Justice Assistance Grant (JAG) State Program.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 4th Meeting of the 2017 Interim

September 8, 2017

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Friday, September 8, 2017, at 10:00 AM, at Buffalo Trace Distillery Distribution Center, Frankfort, Kentucky. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Senators Joe Bowen, Tom Buford, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Dan "Malano" Seum, and Damon Thayer; Representatives Al Gentry, Dennis Keene, Chad McCoy, Jerry T. Miller, C. Wesley Morgan, Kimberly Poore Moser, David Osborne, Ruth Ann Palumbo, Phillip Pratt, Sal Santoro, Walker Thomas, and Susan Westrom.

Guests: Representative Kim King; Mark Brown, President, CEO, Buffalo Trace Distillery; Kevin Corman, Jessamine County Sheriff, President, Kentucky Sheriff's Association (KSA); Ernie Keltie, Mercer County Sheriff's Office; Barrett Block, Vice President, The Castle; Jessica Estes, DNP, APRN, President, Beth Partin, DNP, APRN, FAANP, Legislative Chair, Catherine Waits, and Sheila Schuster, PhD, Kentucky Coalition of Nurse Practitioners and Nurse Midwives (KCNPNM); Cannon Armstrong, Commissioner, Department of Charitable Gaming; Catherin Waits, Kentucky Coalition of Nurse Practitioners & Nurse Midwives; Sandra Thomas, KLOAR; Kelli Neafus, Pawnbrokers; Nancy C. Swikert, MD, Past President, and Don Swikert, MD, President, Kentucky Medical Association (KMA); Ron Walldridge, Kentucky Association of Private Providers (KAPP); Trina Summers, Kentucky Department of Alcoholic Beverage Control (ABC); Brian Houillion, MD, Kentucky Public Protection Cabinet (PPC); Oliver Barber Jr., Barber, Banaszynski and Hiatt, PSC; Morgan Ransdell, Attorney, Pam Hagan, APRN and Nursing Practice Consultant, Paula Schenk, Executive Director, and Ann Tino, RN, BSN, Kentucky Board of Nursing (KBN); Judy Taylor, Keeneland; Carl Breeding, Kentucky League of Cities (KLC); Wendell Strode, Corvette Museum; Melinda Hill, Chief of Staff, Kentucky Finance and Administration Cabinet (FAC); and Don McLachlan, Dixie Pawn Shop.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Melissa McQueen, and Becky Lancaster.

Minutes

The minutes from the August 18, 2017 meeting were approved without objection.

Senator Seum was recognized and stated that Senator Higdon had been elected to replace Senator Givens as President Pro Tempore who has stepped down from that position.

Senator Higdon was recognized and asked committee members to keep the family of Senator Paul Hornback in their prayers for the loss of Senator Hornback's father-in-law.

Welcome to Buffalo Trace Distillery

Mark Brown, President and CEO of Buffalo Trace, welcomed the committee and said that this distillery opened in 1773. The distillery is making a \$1.2 billion investment in the buildings on campus. The meeting for this committee will be converted to a state-of-the-art bottling facility. Approximately \$25 million will be invested every four months for the next 10 years to build new warehouses. All cookers will be replaced to allow the distillery to work at capacity. During the excavation of an old warehouse, workers discovered the original 1873 O. F. C. distillery; this has been named Bourbon Pompeii. A tour

will be offered of Bourbon Pompeii after the meeting. Mr. Brown said prohibition is not a solution to alcohol problems. The three-tier system effectively minimizes the effect of alcohol in society. It is the foundation for an orderly, regulated market place. Buffalo Trace has no interest in direct shipment, either in-state or out-of-state.

Pawn Brokers

Kevin Corman, Jessamine County Sheriff and President of the Kentucky Sheriff's Association, said not all pawn shops operate the same way. New legislation would bring consistency by requiring all pawn shops to maintain a data base of those who pawn items, and who sells items. The drug epidemic is increasing stolen items being pawned or sold. With a suspect's name and description of an item, it is possible to quickly locate an item that has been stolen. Changing the hold period for items that are purchased versus pawned from 10 to 12 days gives law enforcement time to investigate a stolen item. If an item is sold on the same day it has been purchased by the pawn shop, the item is gone before law enforcement can investigate.

Sheriff Corman said most pawn shops are operating using a transaction recording service that is accessible to law enforcement agencies. People who are selling stolen items know which shops use the database and sell to others, making it harder to recover stolen property.

Barrett Block, The Castle, said he agrees with Sheriff Corman. Passage of the bill is important to the pawn broking industry in Kentucky. It will enhance the pawn broker's reputation and level the playing field of pawn brokers who care about helping law enforcement catch criminals. Pawn brokers provide a service to members of the community, lending to people who are not able to get money in more conventional ways. They are lenders of last resort and take care of people in financial need.

Ernie Keltie, Sheriff of Mercer County, said he agrees with Sheriff Corman and appreciates the cooperation law enforcement has received from The Castle for years. All involved would like to level the playing field.

Jerry Wagner, retired sheriff, Executive Director Kentucky Sheriff's Boys and Girls Ranch, said he appreciates the cooperation getting this legislation ready for the 2018 General Assembly.

In response to a question from Representative Miller, Representative King said recording serial numbers from items pawned or sold has been discussed. Mr. Block added that secondhand merchandise is defined as an item that is sold by a member of the public. Some pawn brokers sell new jewelry or new guns bought from a wholesaler.

Kelli Neafus, on behalf of the Kentucky

State Pawn Brokers Association, said she has concern for some bill specifics. Pawn shops fall under seven federal laws, like banks, because they loan money. In order to pawn in Kentucky, a person must provide a valid driver's license. A Social Security number is not necessary to track stolen merchandise. The association believes this is a privacy issue. Also, the hold period, in Jefferson County, has changed over the years. The number of days held is not relevant. Documentation from law enforcement that there is an investigation regarding a particular item would be helpful. The shop could then hold that item but no other items not under investigation.

Ms. Neafus stated it is important for the pawn brokers to be part of the process for contracting with a company that will maintain an online data base for pawned or sold items.

Don McLachlan, owner of Dixie Pawn Shop in Elizabethtown, said there is a concern regarding the holding period. Pawn shops keep records of who purchases items; 12 days could interfere with some sales.

In response to a question from Senator Seum, Ms. Neafus said the hold time is different across that state. The association agrees that it should be the same statewide.

In response to a question from Representative Morgan, Ms. Neafus said there is no requirement to photograph customers making a pawn or a sale. Pictures must be taken of items pawned or purchased. With regard to looking for stolen property, a photo of the person making the pawn or sale is not useful.

Senator Hornback commented that he did not agree with taking Social Security numbers during a pawn transaction but agrees that a holding period and taking photos should be mandatory.

Senator Buford said that, when Kentucky changes the driver's license to Real ID, Social Security numbers will be encoded in the license.

Representative King responded that the driver's license or Social Security number is in place in the bill to cover when a person either does not have a license or the license has been revoked. Also, Leads on Line is a proprietary company. To date, no specific company has been named for a contract. The holding period for guns and trailers is not negotiable. Those items are two of the most stolen properties. Regarding photos, not every item must be documented with a photo. However, if law enforcement requests a photo, the shop must comply.

Sheriff Corman said recent experience proves that using only the driver's license makes it easier for law enforcement to track stolen property.

Enhanced prescriptive authority for APRNs

Senator Paul Hornback said he had met

with all interested parties in May to discuss issues concerning APRNs. The opioid issue is serious. Over-prescribing is a big problem. Yet, there is a crucial need for nurse practitioners and nurse midwives in underserved areas on Kentucky. All parties agree that nurse practitioners provide a valuable service.

Jessica Estes, Family Psychiatric Mental Health Nurse Practitioner, President of the Kentucky Coalition of Nurse Practitioners and Nurse Midwives (KCNPNM), said all APRNs have a masters degrees and some hold doctoral degrees. Nurse practitioners are typically individuals working in primary care settings. APRNs practice in all 120 counties. In 2014 legislation allowed APRNs to prescribe non-scheduled drugs without a Collaborative Agreement Prescriptive Authority (CAPA) signed by a physician in the same specialty. This has allowed APRNs to further their practice in rural areas.

Under Kentucky law, APRNs are not required to be supervised. The CAPA is for prescriptive authority only. KCNPNM has 50 years of data that demonstrate safe and effective prescribers providing quality care. APRNs focus on health promotion, health education looking at disease prevention, and make educated decisions regarding patient care.

The Collaborative Agreement Prescriptive Authority for Controlled Substances CAPA-CS will allow APRNs to prescribe controlled substances. This is not new authority. Currently APRNs have their own DEA number identifying the prescriptions they write. There is also a statutory restriction regarding the amount of controlled substances APRNs can prescribe. The coalition is asking to change the way the CAPA is administered.

APRNs are aware that there is a problem in the Commonwealth and want to take appropriate steps to solve the pain pill addiction issue. This fall the coalition is going to offer three, five hour sessions related to HB 1 requirements. In the spring there will be 10 sessions, offered at their annual conference, related to addiction and or pain management. The coalition publishes an APRN prescribing guide, used by both pharmacists and other health care providers.

The CAPA is a challenge for APRNs because there is a lack of primary care providers as well as mental health care providers in the state. The CAPA does not change what they can prescribe, just how they are able to prescribe it. As a mental health prescriber, Ms. Estes' patients are mostly in managed care and half of those patients are on Medicaid. In 2016, a managed care organization refused to credential her because the physician who signed her CAPA only accepted cash from his patients. In western Kentucky, it is impossible to send 4,200 patients to another provider.

These patients will be forced to seek care in an emergency room, which is more costly than seeing an APRN in an outpatient setting.

Beth Partin, Family Nurse Practitioner, Legislative Chair for the Kentucky Coalition of Nurse Practitioners and Nurse Midwives, said it is difficult for some nurse practitioners to find a physician who will sign the CAPA-CS. Some insurance companies are requiring the physician signing also be participating with that insurance company. This is a problem for the nurse practitioner who is opening a practice. In order to prescribe suboxone that assists people addicted to medication, the physician signing the CAPA also has to be approved in the waiver program. There are only a few of these physicians, and they are refusing to sign a CAPA. This creates a barrier to treating patients with opioid addiction.

Ron Waldrige, MD., Family Physician, President of Kentucky Medical Association (KMA), said great strides have been made in medicine. Pain management should be considered in a holistic manner using not only prescriptions but massage therapy and counseling. Regarding the legislation proposed, however, the request to remove the collaborative agreement seems reckless. While it is not a supervision, it is a collaboration. KMA is interested in seeing data from the KBN to measure how the APRN prescribing authority is working. KMA is committed to working with all colleagues to look at proactive ways to change the climate in Kentucky. KMA feels that this legislation does not address the current addiction crisis. If it is found that there are patients who are in need and cannot get prescriptions, KMA wants to be part of the solution.

Nancy Swikert, MD., Family Physician, said KMA has seven thousand members who are concerned about the opioid issue and against the increase to access by allowing APRNs to prescribe. It is the general feeling that there are too many prescribers now and that increasing prescription authority will mean additional drugs on the street. KMA wants to work with all parties to find a solution; however, increasing access to prescriptions is not an answer.

In response to a question from Representative Moser, Dr. Estes said APRNs practice in 87 professional shortage counties. There is no full-time physician in Hancock County. One physician works one day a week, and she is the only prescribing mental health provider in the county.

In response to a question from Representative Miller, Dr. Swikert said from the physician's side, even down-grading the requirement for schedule III and IV drugs, there is still the potential for abuse. Dr. Partin replied APRNs are already limited to a three day supply of schedule II drugs and are not asking to change

that language.

Senator Schickel commented that he disagrees with the sentiment that doctors have caused the addiction crisis. He feels that rather than an addiction crisis there is a crime wave because people will use the excuse that a doctor over-prescribed, making them addicted to drugs.

Charitable Gaming

Cannon Armstrong, Commissioner of the Department of Charitable Gaming, said charitable gaming in Kentucky is a \$370 million industry. Speaking as a regulatory agency, there are a lot of good things done through charities. However, there are also a lot of bad actors using the money for other purposes. Kentucky does not extend charitable gaming privileges to 501(c)(7) organizations. Typically these organizations are social or recreational clubs such as a country club, fraternity, sorority, dinner clubs, hunting-fishing clubs, home owner associations etc. None of these organizations currently game. They cannot hold raffles, special limited including poker tournaments, electric pull tabs, or bingos. The agency is not against extending gaming status to 501(c)(7) organizations; however, there are issues. A 501(c)(3) that does too much gaming risks losing exempt status. Regardless of status, every charity that submits an application must meet criteria set in statute. The applicant must provide its charitable purpose that must relate to relief of poverty, advancement of education, protection of health, relief of disease, relief of distress, protection of environment, conservation of wildlife, advancement of civic, governmental or municipal purposes. A 501(c)(7) exemption would allow a non-charitable recreational organization to engage in charitable gaming.

Senator Higdon commented that Commissioner Armstrong is very accessible and is doing a good job at the agency.

In response to a question from Representative Gentry, Mr. Armstrong said there is a fee when applying for a gaming license. An exempt organization that does not collect \$25,000 in gaming revenue is charged no fee. There is a gaming fee based on gross receipts. This is collected when charities submit their monthly financial statements. The agency is a restricted fund agency.

There being no further business, the meeting was adjourned at 11:30 AM.

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

Minutes of the 4th Meeting of the 2017 Interim

September 12, 2017

Call to Order and Roll Call

The 4th meeting of the Interim Joint

Committee on Economic Development and Workforce Investment was held on Tuesday, September 12, 2017, at 1:00 PM CDT, at the Warren County Area Technology Center in Bowling Green, Kentucky. Representative Jim DeCesare called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jim DeCesare, Co-Chair; Senators Perry B. Clark, Rick Girdler, Ernie Harris, Jimmy Higdon, Stephen Meredith, Wil Schroder, and Reginald Thomas; Representatives Lynn Bechler, McKenzie Cantrell, Daniel Elliott, Al Gentry, Joni L. Jenkins, James Kay, Kim King, Jerry T. Miller, C. Wesley Morgan, Jason Nemes, Jason Petrie, Phillip Pratt, Steve Riley, Rob Rothenburger, Wilson Stone, Russell Webber, and Addia Wuchner.

Guests: Mike Buchanon, Warren County Judge Executive; Bruce Wilkerson, Mayor of Bowling Green; Rob Clayton, Warren County Superintendent, Eric Keeling, Principal of the Warren County Area Technology Center; Scott Lindsay, Rafferty's, Dr. Phillip Neal, President of Southcentral Kentucky Community and Technical College; Deputy Secretary Brad Montell, Education and Workforce Development Cabinet; John Bradley, Senior Vice President for Economic Development, Tennessee Valley Authority; Dave Tatman, Executive Director, Kentucky Automotive Industry Association; Meredith Rozanski, Chief Operating Officer, Bowling Green Chamber of Commerce; and Ron Bunch, President and Chief Executive Officer, Bowling Green Chamber of Commerce.

LRC Staff: Carla Montgomery and Andrew Manno.

Approval of Minutes

A motion to approve the minutes of the August 17, 2017 meeting was made by Representative Rob Rothenburger, seconded by Representative Jason Nemes, and approved by voice vote.

Greetings and Introductions

Judge Executive Buchanon welcomed the committee to Warren County. He noted that workforce development has been a priority of the Warren County and Bowling Green governments for many years. There has been continuing problems with attracting a qualified workforce and noted that 5,789 positions are currently open in Warren County. Mr. Buchanon indicated there has been a lot of interest from companies since the passage of the right to work referendum. He recognized Representative Jason Nemes for his help in the passage of right to work.

Mr. Buchanon indicated that workforce development in Kentucky has been unorganized in a unilateral way by agencies that do not answer to the public. He believes there should

be a change in the perception that the One Stop offices are just unemployment offices when they should be career centers with multiple offices available at the one stop office. In addition, the state must follow federal requirements and foster partnerships by giving the counties the tools to do what is required.

Mayor Wilkerson welcomed the committee to Bowling Green. He stated that the best social program is a good paying job. His goal is to help provide an atmosphere for job creation in the private sector. There has been tremendous growth in Bowling Green and the goal is to continue to manage the growth. Mayor Wilkerson recognized Eric Keeling and the great work being done at the Area Technology Center (ATC) in placing students into jobs.

Mr. Clayton indicated that a trained workforce means educating our kids and that K-12 education is a foundational piece. He noted there is no greater advocate than Eric Keeling. Mr. Clayton noted a goal to expand the ATC but recognized the monetary challenge in doing so.

Dr. Keeling thanked the committee for coming to ATC. He noted that ATC strongly believes in the power of synergy and a return on investment. Regarding synergy, he noted that partnerships with local industry, Warren County Public Schools, Bowling Green Independent Schools, the Bowling Green Chamber of Commerce, and others make the success of the ATC possible. He showed a video which highlighted a race car built entirely by the students.

Dr. Keeling discussed return on investment and noted how excited the students have been in building a race car. ATC initially was flagged for a lack of placement. However, 100 percent of students are now being placed into jobs. He noted some students now earn over \$20 per hour. Enrollment is up 55 percent. Welding students have achieved 100 percent AWS accreditation this year, and the ATC has won several awards.

Dr. Neal thanked the committee for supporting educators. The mission of his school is to provide the workforce of today and tomorrow. He discussed the collaboration between the Bowling Green Chamber of Commerce, the local school systems, Western Kentucky University, and local industry to increase programs such as dual credit and student transfer arrangements. He is proud of the faculty and staff of the college for building a workplace ethics program to teach "soft skills" to students as part of the classroom program.

Co-Chair Jim DeCesare recognized former state Representatives Kenny Imes and current Representatives Jody Richards and Michael Meredith and Senator Stan Humphries who were in attendance at the meeting.

Unemployment Insurance Update

Secretary Brad Montell provided the committee with an update on recent unemployment insurance (UI) changes. Secretary Hal Heiner recently announced that job centers will no longer be split between handling UI claims and job assistance. UI claims will now be filed either by phone or online. Claimants will not have to come to the office to file a claim. This will free the staff at the One Stop offices to spend a majority of time assisting with reemployment services such as career coaching, training, assisting with resumes, and helping connect workers to open jobs. Claimants can come to the One Stop office and use the phone or computer to file a claim if necessary.

Economic Development Update

Mr. Bradley showed a short video detailing the involvement of the Tennessee Valley Authority (TVA) in local communities. He explained that TVA is not just a utility but is an economic development agency. The sale of electricity allows the TVA to put money into economic development within its footprint, which covers seven states, with a main emphasis in Kentucky, Tennessee, Mississippi, Alabama and Georgia.

The mission of the TVA over its 84 years has been energy, environment, and economic development. The three parts of economic development are to attract new companies and investments, engage industries to retain what investment has previously been made, and serve the community through development and preparedness.

Mr. Bradley highlighted the creation of 5,500 jobs in the Kentucky TVA region in fiscal year 2017. In addition, there has been \$1.1 billion in capital investment during that time. This is the hands-on, grassroots part of economic development. While the TVA is good at attracting and engaging industry, the economic development piece is the best part of TVA.

Mr. Bradley described the efforts being made in attracting industries to the TVA region. Product development has been a recent focus, helping communities with investment preparation, obtaining funding, and having sites in a marketable position. Many Legacy Sites, those TVA sites being repurposed, have been used to increase economic development. He noted seven recent projects in which the TVA assisted with the improvement 1,106 acres of land, 138,000 square feet of new industrial space, and invested \$4.66 million. Mr. Bradley noted it was the sixth year of the product development program.

Regarding encouragement, Mr. Bradley highlighted the many incentive programs utilized by the TVA to retain existing businesses. Eighty-five percent of the participants in these programs are existing businesses while the remainder

is used as recruiting incentives. Investment credits, grants and loan funds are made available to help local communities finalize deals with industries. Investment credits of \$26 million have been utilized in Kentucky companies in the TVA footprint, \$465,000 in grants have been provided, and over \$2 million in loans have been made. TVA provides about 10 percent to 20 percent of any final deal.

Mr. Bradley explained how technical assistance helps rural communities market possible sites through drawings and 3D renderings. He also noted the teamwork between TVA and its many community partners such as local power companies, the Commonwealth of Kentucky, local economic development organizations, and others which make TVA unique from a public utility model. The 54 individuals on staff at TVA have an economic development background with local and state programs which allows the TVA to operate a comprehensive economic development program.

Co-Chair Jim DeCesare recognized that the TVA has been ranked in the top ten by Site Selection Magazine as a high producing development organization. He also noted that the computer renderings allow a site to be marketed without the need of a spec building on site.

In response to Representative Jason Petrie's question on how Kentucky compared to other states, Mr. Bradley noted that Kentucky is competitive. Right to work will have a big impact on attracting the larger projects since Kentucky will not be eliminated up front.

Responding to a question from Representative Lynn Bechler, Mr. Bradley explained how the TVA measures jobs created and jobs retained. Job creation is a new company or an expansion of an existing company. Job retention means a job kept following a competitive situation in which the company was looking to move outside of the TVA footprint.

Co-Chair Jim DeCesare thanked Mr. Bradley for TVA's work on data center legislation.

Aluminum Industry Update

Mr. Tatman noted that aluminum is an important part of the automotive industry in Kentucky. He thanked Sen. Harris for his leadership on the metal commodities bill. He stated that the evidence of the importance of aluminum is seen throughout the Transpark in Bowling Green. Many manufactures have chosen to locate in this area but efforts must continue to maintain the growth. He noted geography, inexpensive electricity, and good transportation systems as being critical to the aluminum and automobile industries.

The most critical issue facing the industry is workforce. Qualified workers must be found. Many skilled autoworkers are nearing

retirement age. The one issue that can halt continued economic development is lack of a qualified workforce. Two generations think of manufacturing as dirty, dark and dangerous. However, Mr. Tatman stated that manufacturing is not dirty, dark and dangerous but provides a great job with competitive wages and health care. A four year degree may not be the answer for all students. He also thanked the committee for its work and asked it to continue to focus on issues such as energy, infrastructure, taxes and workforce investment to assist manufacturing in Kentucky.

Co-Chair Jim DeCesare noted that nearby Constellium provides the perfect example of how manufacturing is no longer dirty, dark and dangerous.

Responding to a question from Representative Wilson Stone, Mr. Tatman indicated that, following the problem with workforce, that the tax structure must be altered to become more business friendly. He also noted that infrastructure is a current advantage for the area but needs to be maintained.

Mr. Bradley agreed with a point made by Senator Perry Clark that the aging population will be a growing workforce issue, particularly in the automobile industry. Senator Clark noted the aging workforce will require Kentucky to work toward attracting young people to our state.

SCK Launch

Ms. Rozanski noted the great synergy in Warren County toward workforce investment and economic development. She noted economic development is a team sport and that Warren County has been first in Kentucky in economic investment. She noted that the change in the One Stop centers to job reemployment centers will be critical. Only one-half of the 1,300 individuals receiving UI benefits are eligible for the many open positions as the other half are awaiting a call-back following a furlough.

Ms. Rozanski noted the efforts being made to create a talent pipeline to fill these open positions. She discussed SCK Launch, which stands for South Central Kentucky Learning About Unique and New Careers Here. The Chamber looked at the labor market data and discovered the top sectors in the local economy. She mentioned hospitality, recreation, public sector such as teachers and police, manufacturing, and healthcare as areas of emphasis. Posters were created for each sector detailing the knowledge and skills necessary, the salaries of various positions, the career pathway to obtain those positions, the education or certification required, and how to get certified. These posters are provided to schools and career centers in the Bowling Green area.

A realistic conversation with students must be made regarding what career they would like to

pursue, what knowledge and skills are necessary to obtain the position, what investment in education must be made to obtain the position and the return on that investment. This was the impetus behind SCK Launch.

Ms. Rozanski indicated the goal was to best prepare kids for the future. The guiding principles are to support student-driven leadership that builds self-awareness, empowerment and a career-wise graduate, to provide students with meaningful opportunities to explore, experience and connect to build their career skills and knowledge, and to support the attainment of nationally-portable industry credentials and post-secondary courses to LAUNCH students' future career paths.

This efforts begins in middle school with the SCK Launch Experience, a hands-on trade show which introduces students to the many career opportunities available. Students can choose a career pathway in high school and can learn through job shadowing, internships, tours of businesses, and other exposures to careers. Students also learn how to act and dress at work, how to prepare a resume and cover letter, and other necessary skills. Educators are also provided with resources to help them better prepare students in career planning.

SCK Launch also fosters student-led leadership and provided funds to help schools implement the program. Student ambassadors at each school help lead community projects and campaigns to encourage and promote others within the school community.

SCK Launch started in 2016 with 1,800 participants in Warren County. In 2017, 3,200 participants are confirmed throughout the ten county workforce area. Twenty-two educators have participated in externships in healthcare, professional service, manufacturing, and hospitality. Ms. Rozanski also noted that 120 students are enrolled in the Medical Arts Academy.

Co-Chair Jim DeCesare noted how the Bowling Green community has taken the initiative to grow its own workforce.

Representative Wilson Stone commented that the Bowling Green area is the center of a great deal of exciting economic development and he thanked everyone involved.

Responding to a question from Senator Ernie Harris, Ms. Rozanski noted that the information on the career pathways posters has been shared with state agencies. Mr. Bunch added that a report is created every month showing each open job in the area along with five-year and ten-year projections to assist educators. Ms. Rozanski noted the great partnerships with local colleges and universities and the local school systems.

Co-Chair Jim DeCesare announced that

the next meeting of the committee will be on October 19, 2017 at Asbury University.

With no further business to come before the committee, the meeting was adjourned at 2:34 p.m. CDT.

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 4th Meeting of the 2017 Interim

September 7, 2017

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, September 7, 2017, at 11:00 AM, at Kentucky American Water (KAW) in Lexington. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Ernie Harris, Ray S. Jones II, John Schickel, Brandon Smith, Johnny Ray Turner, and Whitney Westerfield; Representatives John Blanton, Larry Brown, Matt Castlen, Tim Couch, Jeffery Donohue, Kelly Flood, Chris Fugate, Suzanne Miles, Jim Stewart III, and Jill York.

Guests: Jimmy Keeton, Director, Government Affairs, KAW; Brad Kinckiner, Manager, Health and Safety Programs, KAW; Nick Rowe, President, KAW and Senior Vice President, American Water Southeast Division; Ashli Watts, Vice President, Public Affairs, Kentucky Chamber of Commerce (the Chamber); David Shehee, Superintendent, Water Quality and Environmental Compliance, KAW; and Brent O'Neill, Director, Engineering, KAW.

LRC Staff: D. Todd Littlefield, Stefan Kasacavage, Janine Coy-Geeslin, and Rachel Hartley.

The July 6, 2017, and August 3, 2017, minutes were approved by unanimous voice vote.

Welcome to Kentucky American Water

Jimmy Keeton welcomed staff and legislators to KAW. Brad Kinckiner advised all guests of health and safety procedures.

Nick Rowe reported to the Committee that KAW manages more than 370 individual water systems in the country with 48,000 miles of distribution and collection mains. KAW was established in 1882 as Lexington Hydraulic and Manufacturing Company. The company was acquired by Community Water Service Company in 1927. The company name was changed to Kentucky American Water in 1973. There are approximately 130 employees that serve half a million people.

A Citizen's Guide to Kentucky Infrastructure

Ashli Watts provided a report on the water infrastructure in Kentucky. She explained how infrastructure plays a critical role in the daily affairs of businesses and economic development in the Commonwealth. Kentucky is located within 600 miles of 65 percent of the nation's population. In 2016, a Gallup poll found that 75 percent of Americans favor spending more money to improve infrastructure.

In 2005, a Kentucky legislative report found that there are fewer drinking water systems in Kentucky than in most states, and the number of systems continues to decrease. The Kentucky Infrastructure Authority (KIA) provides low-cost loans to assist communities in developing water systems.

The Kentucky Division of Water's 2016 annual report indicated that drinking water quality is good in Kentucky. The report shows a low number of health based violations related to contaminants, and most violations are administrative in nature. The national average for health violations based on population served was 6.8 percent in 2014 and 8.1 percent in 2015. In Kentucky, health violations based on population served was 15.3 percent in 2014 and 10.6 percent in 2015. Ms. Watts explained that there is movement in the right direction with a 5 percent drop in violations.

The KIA's Water Management Plan surveyed water districts for planned projects and identified 2,089 drinking water projects at a total cost of \$1,909,356,450. The American Society of Civil Engineers (ASCE) estimated Kentucky has \$6.2 billion in drinking water infrastructure needs. The average age of water plants and water tanks is 37 years and 26 years, respectively.

The Division of Water has identified 277 Kentucky communities not under federal consent decrees, but have varying degrees of aging infrastructure that can cause overflows at wastewater management treatment plants. The KIA's Wastewater Management Plan identified 1,484 needed wastewater projects in Kentucky with a total cost of more than \$2 billion. ASCE estimated that Kentucky has \$6.24 billion in wastewater infrastructure needs over the next 20 years.

Ms. Watts said the Chamber considers the Public-Private Partnerships (P3) legislation passed in 2016 to be part of the solution to address Kentucky's infrastructure needs. The Chamber supports state and local governments embracing the P3 legislation and aggressively soliciting private partners to assist in the financing, construction and operation of infrastructure projects.

Water Quality and Environmental

Compliance

David Shehee said quality of water sources is important to KAW and its customers because, if fewer contaminants are put into the sources, then there are fewer contaminants to remove through water treatment. There are 2.1 million people who die annually in the United States from water related illnesses. Ninety-five percent of Kentuckians have access to public water systems. KAW is regulated by the United States Environmental Protection Agency, Kentucky Division of Water, Kentucky Public Service Commission, and by local ordinances.

Mr. Shehee said older water treatment plants were designed to reduce turbidity. The infrastructure needs to be updated to keep up with new regulations on disinfection by-products, organisms, and emerging contaminants.

In response to Senator Westerfield, Mr. Shehee said KAW is constantly working with American Water Association Research Foundation to discover what research exists on emerging contaminants and what problems might develop in the future. It is important to keep contaminants out of the water. However, if contaminants reach the water it must be treated. Also, upgrades to infrastructure may be needed. Once the contaminants are filtered out of the water, the accumulated contaminants are mostly landfilled. KAW reuses all of its solid contaminants on site.

Infrastructure Challenges

Brent O'Neill reported that most water infrastructure in the United States is at the end of its useful life. The pipes installed were intended to last 65-95 years. Some pipes are more than a century old. There are 1.2 million miles of distribution pipes within the United States. Kentucky has 62,200 miles of main distribution pipes.

In 1980, 10 percent of all pipes were in poor shape. In 2010, this percentage increased to 45 percent of all pipes. The reason for the increase of pipes in poor shape is due to the type of material of pipes. The increased age and type of material creates a greater risk of failure. There are currently 650 breaks per day in the United States with \$2.6 billion in lost water.

In 2017, the Infrastructure Report Card by the American Society for Civil Engineers issued a grade of "D" for the drinking water infrastructure across the United States. Over \$650 billion is needed in investments in water infrastructure over the next 20 years.

In 2013, the Infrastructure Report Card by the American Society for Civil Engineers issued a grade of "C+" for the drinking water infrastructure across. Mr. O'Neill said that the P3 legislation can assist local communities access funding to overcome water infrastructure challenges in Kentucky.

In response to Senator Smith, Mr. O'Neill said that Lexington's primary water source is the Kentucky River, and some water is taken from several reservoirs in Lexington. Each station pumps on average 45 million gallons per day from the Kentucky River, with as much as 70 million gallons per day pumped in the summer.

In response to Senator Carpenter, Mr. O'Neill said a major concern in the water industry is small water systems are starting to age, and they do not have funds to improve infrastructure. KIA has funds available to help smaller communities. However, another concern is whether these funding sources can keep pace with infrastructure needs. Mr. O'Neill reiterated that the P3 legislation can be another funding tool to potentially help these communities.

The next meeting of the Interim Joint Committee on Natural Resources and Energy will be on October 5, 2017. Documents distributed during the meeting are available in the LRC Library.

There being no further business, the meeting was adjourned.

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

Minutes of the 3rd Meeting of the 2017 Interim

August 18, 2017

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Friday, August 18, 2017, at 1:00 PM, Knox County Sportsplex. Representative Tommy Turner, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representatives Diane St. Onge, Co-Chair, and Tommy Turner, Co-Chair; Senators Perry Clark, Rick Girdler, Ernie Harris, and Reginald Thomas; Representatives John Blanton, Larry Brown, John Carney, Matt Castlen, Jeffery Donohue, Chris Fugate, David Hale, Chris Harris, Angie Hatton, Richard Heath, Dan Johnson, Kim King, Michael Meredith, Melinda Gibbons Prunty, Bart Rowland, and Jill York.

Guests: Debbie Spencer, Jerry Stacy, Commissioner Greg Johnson, Kentucky Department of Fish and Wildlife, Deputy Commissioner Karen Waldrop, Department of Fish and Wildlife, Secretary Don Parkinson, Kentucky Tourism, Arts, and Heritage Cabinet; Jeff Harper, Kentucky Farm Bureau.

LRC Staff: Chip Smith, and Emma Mills

Welcome

Representatives Turner and Blanton welcomed various guests to the meeting, including a class from Knott Co. Central High School, Knott County Tourism Director Chris Amburgey, Hindman Mayor Tracy Neice, Knott County Judge Executive Zachary Weinberg, and number of citizens from the area.

Rails to Trails in Kentucky

Representative Chris Fugate, Jerry Stacy (Emergency Management Director for Perry County), Debby Spencer (WMTH Corporation) and Mike Miller (Kentucky River Area Development District) spoke on behalf of the "Rails to Trails" project taking place in Eastern Kentucky. The "Rails to Trails" project was created by House Bill 156, which passed during the 2017 legislative session, in order to invest state dollars in eastern Kentucky with the creation of the Kentucky Mountain Regional Recreation Authority (KMRRA). Debby Spencer pointed out that while 16 counties were needed to pass resolutions agreeing to take part in KMRRA to make the project viable, 18 counties have already passed resolutions to participate in the project; three more counties are anticipated to join shortly.

Ms. Spencer discussed the make of up KMRRA Board of Directors and how it would function. The KMRRA Board will be made of annually rotating members due to the number of interested parties. Ms. Spencer also discussed the practical implications of the creation of the KMRRA, such as:

- taking on the liability of trail usage from the landowners
- writing and administration of grants
- maintenance and policing of trails
- marketing and advertising of trails
- oversees sales of 1-day, multi-day and annual passes to trails

Ms. Spencer made the specific point that KMRRA wants willing landowners to participate and that the authority "shall not acquire property through the exercise of power of eminent domain."

Ms. Spencer has reviewed similar authorities in Virginia and West Virginia. West Virginia's Authority has 7 public OHV trails totaling nearly 600 miles and sold over \$1.7 million in permits in 2016. Over 96 percent if the permit sales were to riders from outside the region. Since 2013, Virginia has opened five public OHV trails totaling just over 300 miles with over \$18 million in private investment, creating nearly 300 new jobs. Last year, WV and VA received ARC (Appalachian Regional Commission) funding for their trails. In order to be fully funded, the KMRRA will need to push for both ARC and AML (Abandoned Mine Land) grants. Grants, however, cannot be submitted until the KMRRA board meets. A KMRRA board meeting is called

by the local governments involved.

Once grants money has been secured, Ms. Spencer would like to push for a detailed business plan that includes an inventory of all existing and potential trails in all participating counties to determine “low hanging fruit” and priority projects for greatest initial gain for making KMRRA self-sustaining. Kentucky has nearly 300 miles in public trails that could be integrated into KMRRA. Ms. Spencer would like a comprehensive plan that includes willing landowners from the start, instead of counties planning out trails without prior consent of landowners which could be a waste of money. If grant money is secured and a comprehensive plan is put forward, KMRRA could be self-sustaining in 2-4 years based on projected earnings from trail permits sold in Virginia and West Virginia. Projected expenses of starting the trails, again based on expenses incurred by the state of Virginia, Ms. Spencer says that required equipment would cost about \$740,000. If the applications for federal grants are approved, KMRRA will not be asking for any state money to fund the project.

Jerry Stacy wanted to reiterate Ms. Spencer's emphasis on acquiring funding for the trail project. Mr. Stacy has received a lot of positive feedback from landowners about trails running through land in Perry County. He feels like this project is an opportunity for Eastern Kentucky to see some economic growth. Ms. Spencer points out there will be a variety of trail permit options, including ATV trails, hiking trails, and possibly equestrian trails, as well as rock climbing, zip lines, and arch viewing trails. They feel that this variety of tourist activities will get “heads in beds” in lodges and area hotels.

In response to a question from Chairman Turner regarding the current funding on the work being done on KMRRA, Ms. Spencer confirmed that all work being done on the project is voluntary.

Following a question from Chairman Turner regarding who will be policing the trails, Mr. Stacy noted that Virginia's trail authority is contracted with the state's Fish and Wildlife Department. Ms. Spencer also noted that West Virginia has full time employees patrolling the trails. An option could be to use county deputies already employed to patrol the trails; KMRRA would fund that portion of their job duties.

In response to a question from Representative Chris Harris regarding why the counties had not called a meeting yet, Ms. Spencer confirmed the 16 county threshold had only passed the previous Friday, so there just had not been enough time to call a board meeting.

In response to a question from Senator Clark, Ms. Spencer confirmed the organization had not be in contact with the Department of

Transportation regarding the trails because it needs the KMRRA board to meet to have the authority to involve other state entities.

Responding to a question from Representative Hale, Ms. Spencer confirmed that other counties contiguous to the initial 18 counties participating in the project can pass a resolution from their county governments confirming their wishes to participate and bring the resolution before KMRRA, which would then vote on whether to let the counties participate.

Co-Chair Dianne St. Onge's iterated supporting of potential horse trails as part of the trial project. Ms. Spencer noted there is a 100 mile looped trail system already in place through 4 separate counties.

In response to a question from Representative Carney inquiring if any revenue would be available for use by the school systems. Ms. Spencer thought that the permit funds would be dedicated to the trail system, but the project could provide additional sales tax revenue that could benefit the local school districts. Mr. Miller confirmed there will be an economic impact study that would address that question in the future once the KMRRA board meets.

In an additional question from Representative Carney regarding how revenue will be distributed, Mr. Miller thought that in whichever county a tax is generated would remain in the county and probably not distributed throughout all of the counties.

Kentucky Hunting, the Elk Draw, and Asian Carp Migration

Speaking on the topics were Kentucky Fish and Wildlife Commissioner Greg Johnson, Deputy Commissioner Karen Waldrop, and Commissioner of the 7th District Paul Horn; Kentucky Tourism, Arts and Heritage Secretary Don Parkinson and Chief of Staff Frank Jemley. Commissioner Johnson also introduced several division directors in attendance.

Commissioner Johnson began with statistics regarding hunting and fishing related tourism. He noted there are more than 700,000 hunting and fishing license holders in the state. Recently, the Outdoor Industry Association announced that the economic impact of outdoor recreation in Kentucky totaled \$8.8 billion dollars in 2016. The outdoor recreation industry also supports 120,000 jobs and generates \$756 million in state revenue. As a reminder, Kentucky Fish and Wildlife, as a department, receives no general fund revenue; all operations are supported by hunting and fishing license sales, federal match money and boating registration dollars.

Elk

From 1998 – 2002, the first elk herd was reintroduced to Kentucky, numbering 1,540 elk. The current elk herd is officially the largest herd east of the Rocky Mountains at nearly 10,000

animals. Kentucky has also become a “donor state”, meaning elk originating in Kentucky have either migrated or have been intentionally moved into Virginia, Wisconsin, Missouri, Arkansas, Tennessee and West Virginia. The permit lottery system, otherwise known as The Elk Draw averages about 700 hunting permits per year. In addition, to the draw, the department provides for 10 “Youth Permits”, 10 “Commission Permits”, and 44 “Land Owner” permits.

Commission Permits are provided to 501C3 Non-Profits specializing in outdoor education and youth outdoor education. Such permits have been raffled off as fundraisers for anywhere from \$8,000 to \$100,000 to benefit the non-profits organizations.

Land owner permits are awarded in two ways. If a land owner of 5,000 acres or more enroll in the department's Hunter Access Program, making their land publicly available for elk hunting, the land owner will be rewarded one “either sex” elk tag. For small land owners there is a voucher program, where if hunters are allowed on the land to hunt and harvest a bull (2 points) and a cow (1 point), once the landowner reaches 20 points the landowner will also receive a tag. In addition, there is a trapping program for small landowners as well. This program allows Fish and Wildlife to trap elk on land provided by the owner. Again, two points for a bull elk, one point for a cow. The objective is to evaluate and possibly relocate elk to parts of Eastern Kentucky that could support elk herds but have none.

In response to some questions from the community, Commissioner Johnson discussed a “preference point” system, which is the permit system preferred in the western United States. Due to the relative small size of Kentucky's herd, the preference point system would not distribute the permits as fairly as the current lottery system. The Commissioner also discussed a new aspect of draw instituted this year, which is if a hunter wins a lottery permit in the Elk Draw, the individual will now have a 3 year wait period before entering the draw again.

Fish and Wildlife is also looking into options to make the lottery draw more transparent. The Commonwealth Office of Technology performs and certifies the Elk Draw, but the Department of Fish and Wildlife is looking into going with an outside organization to perform certify the draw at a public venue somewhere in eastern Kentucky.

Finally, Commissioner Johnson reviewed the research projects involving Kentucky's elk herd, which is the most researched elk herd in the United States. One current project is to evaluate the department's current population model, which estimates the number of animals in the population.

In response to a point from Representative

Blanton regarding some of his eastern Kentucky constituents feeling as if the lottery is unfair to the residents supporting the elk herd, Deputy Commissioner Waldrop pointed to the late season elk draw for local hunters that is designed to deal with nuisance elk and/or to manage the number of cows in specific areas. For participants of The Elk Draw that are not picked in the initial draw, residents of specific counties can be redrawn to take part in the late season hunting.

Responding to a question from Senator Harris about why the department limits the number of permits to 700 with a herd of 10,000 animals, Commissioner Johnson pointed to the population dynamics of elk are different than other animals such as deer. An elk cow will only have one calf at a time where as a doe typically has two, sometimes three, offspring at a time. Also, eastern Kentucky still has a vast amount of land that could sustain elk. The Department of Fish and Wildlife limits the number of permits in order to boost the elk numbers throughout the region.

In response to questions from Representative Johnson about the ideal population number of elk in the region, Deputy Commissioner Waldrop discussed how the department must try to balance the health of the herd with not having so many elk that they become a nuisance to the human population. The department is more concerned with moving parts of the herd into unpopulated areas of eastern Kentucky than it is with achieving a specific number of elk. Ms. Waldrop does not think the herd will grow exponentially as it has done since introduction, but are looking at a 6 percent growth rate.

Deer

In 1927, Kentucky has a deer population of around 1,000. From 1945 – 1999, the state actively tried to restore the numbers of the deer herds. There are deer hunting opportunities in all 120 counties. Commissioner Johnson noted that Kentucky has one of the best quality deer herds in the United States and has also been recognized as one of the top 5 locations for deer hunting in the country. The deer herd has an economic impact of \$553 million in the state and the industry provides 13,000 jobs.

The current deer herd in the state runs from 800,000 to 1,000,000 animals. This number will fluctuate with based on the amount of natural food on the ground; the more the animals travel to find food, the more vulnerable they are to hunting. Throughout the state, regardless of zone, hunters are permitted only 1 antlered buck per season. The numbers for permitted does fluctuate between the zoned areas, which is based on herd population by county.

Commissioner Johnson warns that with improved numbers in the deer population comes the increased likelihood of disease and

deer collisions. Due to the increase in deer related accidents, the department is considering liberalizing the numbers of permitted deer kills on a county by county basis. To that end deer working group has been established to evaluate events impacting the deer population. For example, the working group has been following an outbreak of epizootic hemorrhagic disease affecting the deer herd in Kentucky. The disease is caused by a fly that lives around water. Basically, an infected deer dies from internal bleeding. This working group is made from a wide variety of interested parties, including legislators, hunters, citizens, Farm Bureau, and urban constituents to provide feedback on herd management. The working group has discussed items such as deer permit modifications, expansion of hunting methods, and liberalization of zone intakes.

In response to a question from Representative Rowland regarding deer infected with epizootic hemorrhagic disease, Deputy Commissioner Waldrop confirmed that officers or biologists will euthanize infected deer and collect blood samples to send off for testing.

Responding to Representative Blanton's concerns about epizootic hemorrhagic disease possibly contaminating a cattle water supplies on farms, Ms. Waldrop did not believe the disease would contaminate the water, but it would be best to remove a carcass from a water source as quickly as possible.

In response to a comment from Representative Michael Meredith regarding the differences between zones 2 and 3 specifically between Edmonson and Butler counties, Deputy Commissioner Waldrop says that typically the distinction between the zones is the number of days (16 days in Zone 2, 10 days in Zone 3). She reiterated that the department is seriously considering liberalizing hunting restrictions throughout the state, which may address concerns in those particular counties.

Responding to a question from Representative Larry Brown about concerns with consumption of deer possibly infected with epizootic hemorrhagic disease or what to do if an individual were to find an infected deer, Ms. Waldrop confirmed the disease is not transmissible to humans or family pets, however one would not want to consume a deer with a secondary bacterial infection. If confronted with a sick deer, it is legal for an individual to euthanize the deer but the Department of Fish and Wildlife does need to be contacted either by calling or filling out a form on the website.

Responding to a question from Representative Johnson about the efficacy of deer whistlers on a vehicle, Commissioner Johnson and Deputy Commissioner Waldrop confirmed there is no evidence the whistlers affect deer.

Representative Gibbons-Prunty added a

comment that western Kentucky is indeed seeing the same deer related problems as some of the Zone 1 counties.

Bears

Historically, logging in the U.S. and Kentucky negatively affected bear habitat and bear numbers. There was a period from 1970 to 1990 that West Virginia and Virginia were removing nuisance bears, possibly into Kentucky. There are sections of Kentucky that have a relatively high population of bears, or core bear range. These areas in Kentucky have established practices people follow in order not to attract bears such as special containers for food and trash and not leaving pet food readily available. Bears do appear in other parts of Kentucky though not as frequently. Most bear sitings outside the core bear range are two year old males that have been kicked out of their family group.

For the 2017 bear hunting season, the department has established 3 zones. Zone 1 is the core bear area. The quota is 50 bears per season. Kentucky's bear population is increasing, thus the harvest quota has increased. Other activity involved catching and collaring female bears in order to count how many cubs are being born during the winter.

In response to a question from Representative Carney regarding the 50 bear quota, Deputy Commissioner Waldrop noted that this is the first year at the number 50; the quota for 2016 was 35, but the department anticipates the quota will be met.

Responding to a question from Representative York about bear safety, Commissioner Johnson did say that bears, if left alone, will avoid human contact if you happen to see one. Again, he noted that if bears have been sighted in your area, keep trash indoors or in a garage until it is time for collection, bring in any bird feeders or dog food that could tempt them. Ms. Waldrop emphasized that individuals should never feed bears in the area because they become used to humans quickly. Once they start being fed, they will not want to go away from readily available food and will become a nuisance.

Responding to a two questions from Senator Clark, Commissioner Johnson confirmed Kentucky has never had a bear attack. The Commissioner reiterated that bears were not stocked in Kentucky; the bears moved in from large populations in neighboring states.

Asian Carp

Per Secretary Don Parkinson, one of the two greatest challenges facing the Tourism cabinet in 2017 is Asian Carp, an invasive species of fish threatening the food chain of native species such as bass and crappie. Asian Carp can grow to 70 – 80 lbs. The Department of Fish and Wildlife is focusing on Kentucky and Barkley lakes due to

the level of infestation. The department's primary plan to deal with the species is by aggressive harvesting.

In response to a question from Representative Carney, Ron Brooks, Fisheries Director, confirmed Asian Carp are living in every tributary associated with the Mississippi and Ohio Rivers as far north as Louisville. Lakes Barkley and Kentucky are the only reservoirs known to have Asian Carp. The department's plan is to impact the population by mass harvesting. Three processing centers exist in Kentucky and are looking to expand. In 2016, two million pounds of Asian Carp were harvested across the state. Commissioner Johnson noted Fish and Wildlife would like for the harvest to be around five million pounds from the lakes alone to keep the fish under control. The department is looking at a public/private partnership solution by recruiting a new fish harvesting and distribution company to help process the goal of more than five million pounds per year. An additional incentive to fishing Asian Carp is the state is offering five cents per pound in addition to the 15 cents per pound the processing center is paying for carp. The Department of Fish and Wildlife hopes these incentives will help kick-start a commercial fishing industry in western Kentucky focusing on Asian Carp.

In response to a question from Representative York regarding commercial fishing, Commissioner Johnson confirmed the current boat launch sites are sufficient for the types of fishing boats being used in Kentucky. He acknowledged the possibility of larger ramps for larger boats if needed in the future.

Responding to a question from Representative Gibbons-Prunty, Ron Brooks reviewed the origination of the Asian Carp problem starting with catfish farms in Arkansas in the 1970s. Asian Carp were seen as a biological solution to mitigate algae blooms in catfish ponds. Unfortunately, no one could foresee the problems the carp would cause if they got out of the fisheries. He noted there was no going back to the source of the problem, however, a large group of fishing programs throughout the Mississippi River Basin receive federal funding for preventing Asian Carp from expanding further up the Ohio River.

In response to a question from Representative Blanton on behalf of a constituent regarding the hiring practices of the Department of Fish and Wildlife, Commissioner Johnson and Colonel Coffey explained the hiring process for the department and said they would look into the issue.

Guest Speaker

Mr. Roy Gent came before the committee as a concerned citizen regarding police officer and traffic safety on rural roads. Chairman Turner

acknowledged his concerns and agreed to follow up with Mr. Gent and Representative Blanton about the issue.

Deer Insurance Claims

Jeff Harper, a representative from Kentucky Farm Bureau, spoke to the committee about deer related motor vehicle accidents and the economic impact for the insurance industry and the state. In 2016, Kentucky Farm Bureau had 7,553 deer related claims, amounting to more than \$28 million in claims. Mr. Harper says Farm Bureau has hard numbers for vehicular insurance claims, but crop loss due to deer is harder to calculate. He did note there is currently a study taking place with the University of Kentucky regarding crop loss, which may shed some light on the economic impact across the state.

Mr. Harper went on to show his appreciation to the committee and the Department of Fish and Wildlife for its cooperation and his appreciation for the ideas coming out of the Deer Working Group.

Minutes

Having achieved quorum, the minutes of the July 5, 2017 meeting were approved without objection, upon motion by Representative Blanton and Seconded by Co-Chair St. Onge.

Announcements

Per Co-Chair Turner, the Interim Joint Committee Meeting on Tourism, Small Business and Information Technology will be held on September 21, 2017 at 1:00 p.m.

Adjournment

There being no further business, the meeting was adjourned at 3:22 p.m.

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

2017 Interim

August 11, 2017

Call to Order and Roll Call

The Program Review and Investigations Committee met on Friday, August 11, 2017, at 12:00 noon, in Room 131 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order and led the audience in the Pledge of Allegiance. The secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Lynn Bechler, Co-Chair; Senators Wil Schroder, Reginald Thomas, and Stephen West; Representatives Brian Linder, Donna Mayfield, Rob Rothenburger, Arnold Simpson, and Walker Thomas.

Guests: Katie Smith, Executive Director, Office of Financial Services; Sarah Butler, Director, Financial Incentives Division; Bobby Aldridge, Assistant Director, Compliance Division; Cabinet for Economic Development.

LRC Staff: Greg Hager, Committee Staff Administrator; Chris Hall, Van Knowles, Jean Ann Myatt, Brandi Norton, William Spears, Shane Stevens, Joel Thomas; Dexter Horne, Graduate Fellow; and Jay Jacobs, Committee Assistant.

Introduction of Guests

Senator Carroll introduced Josh Gray from Paducah, who is a sophomore at Liberty University.

Senator West introduced constituents Eric and Michelle Crawford.

Minutes for July 13, 2017

Upon motion by Representative Rothenburger and second by Representative Simpson, the minutes for July 13, 2017 were approved by voice vote.

Presentation by Officials of the Cabinet for Economic Development

Ms. Smith said that the cabinet's mission is to create and maintain jobs and increase investment. The cabinet works with clients, consultants, local governments, the federal government, other state agencies, and utilities. She described the membership of the Partnership Board, the governing body for the cabinet.

She summarized the organizational structure of the cabinet. The Department for Business Development includes the Office of Research and Public Affairs and the Bluegrass State Skills Corporation. The Kentucky Economic Development Finance Authority (KEDFA) is attached to the Office of Financial Services. There is also an Office of Legal Services.

The cabinet can lower the cost of doing business through four main mechanisms: tax incentives, cash programs, other programs, and workforce programs. Tax incentive programs are performance-based. Staff review applications and present them to KEDFA for approval. Staff monitor companies for compliance annually.

Kentucky Business Investment Program (KBI) is the most popular tax incentive program. To qualify, the company must create at least 10 new full-time jobs with a minimum investment of \$100,000. An incentive may be reduced if agreed-upon targets are not met. Since July 2009, there have been 446 approvals with a projected value of investment of more than \$6 billion and nearly 40,000 new jobs to be created.

To qualify for incentives through the Kentucky Enterprise Initiative Act, there is a \$500,000 minimum investment in eligible costs. There are statutory limits on total funding per fiscal year. Since the program's inception, there have been 577 approvals with a projected value of investment of more than \$13 billion.

The Kentucky Reinvestment Act focuses on retaining jobs in Kentucky. To qualify, a firm must have a \$2.5 million minimum investment in qualified costs and must retain at least 85

percent of existing full-time employment. Since July 2009, there have been 38 approvals with a projected value of investment of \$1.1 billion and 9,800 jobs retained.

The Kentucky Small Business Tax Credit is for firms with fewer than 15 employees that are creating full-time jobs by investing in qualifying equipment or technology. Tax credits range from \$3,500 to \$25,000 per year. Since 2011, the credit has resulted in more than 1,200 new jobs and \$13.1 million in investment. Total funding is up to \$3 million per fiscal year.

The Angel Investment Tax Credit is available to individuals who invest in qualified small businesses with fewer than 100 employees. Investors provide startup capital and receive a tax credit of up to 50 percent of investments. Maximum total funding is \$3 million per year. Since 2015, 383 investors and 138 small businesses have qualified. Investments of \$23 million resulted in \$9 million in tax credits.

There are other ongoing tax incentive programs and three older programs that are still being monitored.

The second mechanism for lowering business costs is cash programs, which include KEDFA loan and grant programs and the Kentucky Small Business Credit Initiative. The initiative is for support of loan requests that are just outside acceptable underwriting standards. Since inception, the initiative has provided \$17.1 million in support for 180 loans.

Other programs to lower business costs include industrial revenue bonds and providing seed capital. The Bluegrass State Skills Corporation provides tax credits or cash reimbursement of up to 50 percent of eligible training costs for eligible employees. Total program funding is limited to \$2.5 million per year. The cabinet also assists with the Education and Workforce Development Cabinet's Kentucky Work Ready Skills Initiative. Through the program, more than \$200 million is being invested in workforce development.

The number of employees at the Cabinet for Economic Development has decreased from 115 in 2006 to 67 in 2017. The fiscal year 2017 budget for the cabinet is \$22.6 million. The cabinet is likely to request additional funds for personnel, marketing, and foreign offices. The cabinet's goals are to be able to announce more than 17,000 new jobs in 2017, move Kentucky into the top quartile in business-friendly state rankings, establish a more integrated workforce delivery service, and build out the state's entrepreneurial community. As of August 1, there has been nearly \$7 billion in announced investment this year and more than 11,000 announced jobs.

In response to questions from Representative Simpson, Ms. Smith said KBI came about because of problems with other programs. Each company is measured annually for compliance.

The cabinet is working on statistics for the program. Information on the status of each company meeting its targets is on the cabinet's website. The programs that are working best are KBI, the Kentucky Enterprise Initiative Act, the Kentucky Reinvestment Act, the Small Business Tax Credit, the Angel Investment Tax Credit, and the Small Business Credit Initiative. The cabinet is working to create a report with information on companies once they have located in Kentucky. Results vary by year. When incentives are not met, there is a claw back for those in the cash program, disbursements are reduced for performance-based incentives, and tax incentives are reduced.

In response to questions from Senator Carroll, Ms. Smith said companies must meet 90 percent of the job and wage requirements. Statute requires that a company be suspended from a program if it falls below the program minimum. The cabinet does not have any data to explain whether incentives provided to businesses is a cause of corporate income tax revenue being down. A company looking to locate in Kentucky provides details on its requirements. Companies can visit the cabinet's website to learn of available sites and options. Local governments provide information on local incentives and communicate with the cabinet frequently. The Small Business Program has been very successful with projects outside the golden triangle. The cabinet will provide a list of the sites of large-scale company locations or expansions over the past 5 to 10 years.

In response to questions from Senator West, Ms. Smith said local area districts are good about providing updated information on sites. Some companies contact local areas directly rather than the cabinet. Local area officials can contact Samantha Kendrick, the Assistant to the Commissioner of Business Development, to discuss their resources and potential opportunities.

In response to questions from Representative Rothenburger, Ms. Smith said the cabinet negotiates target wages higher than the federal minimum wage requirement within KBI, either 125 percent or 150 percent depending on location. If a city or county does not have an occupational or payroll tax, a donation of cash or land may meet the local participation provision for KBI. The cabinet will work with counties to find a way to meet the provision if the normal options will not work. Enhanced counties in the program do not require local support. The cabinet will review the process of notifying local governments once a company is ready to activate.

In response to a question from Representative Linder about key factors in whether companies locate in Kentucky or not, Ms. Smith said utility rates and available sites

across the state are huge assets in recruiting. A shortage of qualified workers is a big obstacle.

In response to a question from Senator Schroder, Ms. Smith said the Commonwealth Seed Capital Fund focuses on making equity investments in Kentucky to get companies to settle here. There are several Japanese companies in Kentucky. Kentucky's offices in Japan and Germany have been effective as a mechanism for working with companies that are looking to relocate and expand.

In response to questions from Representative Bechler, Ms. Smith said the cabinet is working on analyzing how much is given in tax incentives compared to taxes received. Hopefully, this information will be available this year. If a company locates or expands in Kentucky, it receives incentives under KBI. A company looking to grow may receive incentives under the Kentucky Reinvestment Act. A company cannot receive incentives from both programs simultaneously, but companies frequently receive incentives from both programs consecutively. Full communication with the cabinet is the best way for local areas to involve themselves in the process of attracting companies to locate to Kentucky. There is a vacancy on the Kentucky Economic Development Partnership Board that has not yet been filled.

In response to questions from Senator Carroll, Ms. Smith said regional marketing allows more marketing resources, such as financial and multiple influences, working together to attract companies. Compared to other states, Kentucky is growing and doing a good job. The cabinet needs to work on attracting technology and service companies. Companies want cash incentives more than tax incentives, so the General Assembly should consider this. The cabinet invested in the new aluminum facility locating in Eastern Kentucky. Other states also invest in companies.

In response to questions from Representative Simpson, Ms. Smith said the cabinet is not always notified of job losses, so it is difficult to make comparisons to job gains. In Northern Kentucky, Delta has decreased its presence despite government investments in infrastructure. The cabinet is hopeful that the infrastructure assets will lure additional investments.

In response to a question from Representative Bechler, Ms. Smith said it is difficult to educate people about tax incentives, especially the distinction between new and existing tax revenue.

Representative Bechler said the Kentucky Reinvestment Act is very important. Knowing how many businesses have stayed once the incentives have expired would help people to know how well programs work.

The meeting was adjourned at 1:27 PM.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

August 14, 2017

Call to Order and Roll Call

The Government Contract Review Committee met on Monday, August 14, 2017, 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: Representative Stan Lee, Co-Chair Senator Max Wise, Co-Chair; Senators Julie Raque Adams, Julian M. Carroll, and Paul Hornback; Representatives Chris Fugate, Dennis Horlander, and Diane St. Onge.

Guests: Amy Shoemaker, Craig Dilger, and Paula Hensel.

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

DEFERRED ITEM:

WESTERN KENTUCKY UNIVERSITY
Woodall GIS & IT Consulting; 171805. A motion was made by Senator Wise to defer the contract to the September 2017 meeting of the committee. Representative Lee seconded the motion, which passed.

A motion was made by Senator Wise to approve Minutes of the July 2017, meeting of the committee. Representative Fugate seconded the motion, which passed without objection.

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

A motion was made by Senator Wise 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 Horlander seconded the motion, which passed without objection.

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

A motion was made by Senator Wise 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 Horlander seconded the motion, which passed without objection.

A motion was made by Senator Wise to consider as reviewed the Film Tax Incentive List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Senator Wise to consider as reviewed the Film Tax Incentive Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

EARLY CHILDHOOD ADVISORY COUNCIL

Compass Evaluation and Research, 1700002809.

EDUCATION, DEPARTMENT OF The Flippen Group, 1700002437.

EDUCATIONAL TELEVISION, KENTUCKY

Christine Hutchins, 1700002941.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING Staggs and Fisher Consulting Engineers, Inc., 1700002721.

HIGHER EDUCATION ASSISTANCE AUTHORITY, KENTUCKY

Cranfill, Sumner & Hartzog LLP, 1800000065.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM

Economic Modeling Specialists International, LLC, 712.

KENTUCKY LOTTERY CORPORATION Valenti Hanley, PLLC, 18-16-024-2.

LEGISLATIVE RESEARCH COMMISSION Ronald K. Hambleton, 17/18-06.

MILITARY AFFAIRS, DEPARTMENT OF Judy W. Warren, 1800000131.

MOREHEAD STATE UNIVERSITY Sign Language Network of KY, Inc., 18-025.

MURRAY STATE UNIVERSITY SAJ, Inc., 014-18.

NORTHERN KENTUCKY UNIVERSITY
Ruffalo Noel Levitz, LLC, 2018-100; Isaacson Miller, Inc., 2018-101.

STATE POLICE, DEPARTMENT OF Powerphone, Inc., 1800000178.

TRANSPORTATION CABINET

J. Michael Jones and Associates, LLC, 1700002478; Kentucky Field Service Realty, 1700002479; Keaton Real Estate Services, LLC, 1700002483; Turner Restoration, LLC, 1700002836; Integrated Engineering, 1700002938; DLZ Kentucky, Inc., 1800000123; DLZ Kentucky, Inc., 1800000180.

UNIVERSITY OF KENTUCKY
Champlin Architecture, A181070; JRA Architects, A181080.

UNIVERSITY OF LOUISVILLE
Smith Group JJR, 18-018; Simpson Scarborough, LLC, 18-021.

VETERANS AFFAIRS, DEPARTMENT OF
Symphony Diagnostics Services No.1, LLC, 1600001331-1.

WESTERN KENTUCKY UNIVERSITY
Contemporary Services Corporation, 171810; Encompass Digital Media, Inc., 171811.

WORKFORCE INVESTMENT, OFFICE OF
Deloitte Consulting, LLP, 1700001991.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS

Adams, Stepner, Woltermann and Dusing, 1600003912.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Edward L. Palmer, 1700001422.

EASTERN KENTUCKY UNIVERSITY Carol Lee, 18-017.

EDUCATION, DEPARTMENT OF Maria Isabel Pereira, 1700001581.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING

Schnabel Dam Engineering, Inc., 1200002448; Patrick D. Murphy Company, Inc., 1300002659; Paladin, Inc., 1400001412; Bowser-Morner, Inc., 1500001064; EOP Architects, PSC, 1500001370; Myers Jolly Architects, 1500001832; Stantec Consulting Services, Inc., 1500002881;

Greg Best Consulting, Inc., 1600003924; Ross Tarrant Architects, Inc., 1700002129.

JUSTICE CABINET

Mark Bernstein, DDS, 1700000273; Axis Forensic Toxicology, Inc., 1700000746.

MURRAY STATE UNIVERSITY

Rick Walter/Boehl, Stopher & Graves, LLP, 010-16.

NORTHERN KENTUCKY UNIVERSITY

The Sanchez Law Firm, PC, 2017-107.

TRANSPORTATION CABINET

GRW Engineers, Inc., 0700004081; HDR Engineering, Inc., 1200002612; Palmer Engineering Company, 1400000708; QK4, 1400003194; QK4, 1400003299; Palmer Engineering Company, 1400003301; CDM Smith, Inc., 1500000059; Integrated Engineering, 1500000077; CDP Engineers, Inc., 1500001103; Stantec Consulting Services, Inc., 1500001400; Strand Associates, Inc., 1500001637; HDR Engineering, Inc., 1500002157; HDR Engineering, Inc., 1600000446; HDR Engineering, Inc., 1600000468.

UNIVERSITY OF KENTUCKY

HGA Architects & Engineers, LLC, A151140; Ross Tarrant Architects, Inc., A161110; Grace Consulting, Inc., K17-228.

WESTERN KENTUCKY UNIVERSITY

Multi, 161807; The National Center for Drug Free Sport, Inc., 161825; Kerrick Bachert Law Firm, 161827.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Banklick Watershed Council, 1700002743.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Project Unite, 1800000075.

DEPARTMENT FOR PUBLIC HEALTH

University of Louisville, 1700002276.

DEPARTMENT OF WORKPLACE STANDARDS

Department for Public Health OSHA Laboratory Services, 1800000010.

EDUCATION, DEPARTMENT OF

Jefferson County Board of Education, 1700002394; Save the Children, 1700002399; KET Foundation, 1700002402; Magoffin County Board of Education, 1700002416; Garrard

County Board of Education, 1700002504; Floyd County Board of Education, 1700002531; KCTCS, 1700002564; Council on Postsecondary Education, 1700002579; Education Professional Standards Board, 1700002655; Allen County Board of Education, 1700002843; Ballard County Board of Education, 1700002845; Bath County Board of Education, 1700002846; Bowling Green Independent Board of Education, 1700002847; Boyd County Board of Education, 1700002849; Covington Independent Board of Education, 1700002853; Fleming County Board of Education, 1700002856; Grayson County Board of Education, 1700002859; Henderson County Board of Education, 1700002860; Jessamine County Board of Education, 1700002861; Kenton County Board of Education, 1700002863; Lawrence County Board of Education, 1700002864; Livingston County Board of Education, 1700002866; Magoffin County Board of Education, 1700002867; Marshall County Board of Education, 1700002868; Muhlenberg County Board of Education, 1700002870; Scott County Board of Education, 1700002873; Simpson County Board of Education, 1700002874; Trigg County Board of Education, 1700002875; Union County Board of Education, 1700002876; KCTCS, 1700002879; Hancock County Board of Education, 1700002883; Anderson County Board of Education, 1700002884; Western Kentucky University, 1700002886; Kentucky Valley Education, 1700002895; Bardstown Independent Board of Education, 1800000014; Barren County Board of Education, 1800000015; Beechwood Board of Education, 1800000016; Bullitt County Board of Education, 1800000017; Carlisle County Board of Education, 1800000020; Crittenden County Board of Education, 1800000021; Crittenden County Board of Education, 1800000022; Cumberland County Board of Education, 1800000023; Franklin County Board of Education, 1800000024; Fulton County Board of Education, 1800000025; Knox County Board of Education, 1800000026; Lee County Board of Education, 1800000027; Ludlow Independent Board of Education, 1800000028; McCracken County Board of Education, 1800000029; Murray Independent Board of Education, 1800000030; Pendleton County Board of Education, 1800000032; Pineville Independent Board of Education, 1800000033; Rowan County Board of Education, 1800000034; Russell County Board of Education, 1800000035; Russellville Independent School District, 1800000036; Southgate Independent Board of Education, 1800000037; Spencer County Board of Education, 1800000038; Union County Board of Education, 1800000039; Union County Board of Education, 1800000040; Wayne County Board of Education, 1800000041; Williamstown Independent

Schools, 1800000042; Bell County Board of Education, 1800000043; Bellevue Independent School, 1800000044; Boone County Board of Education, 1800000045; Boone County Board of Education, 1800000046; Calloway County Board of Education, 1800000047; Campbell County Board of Education, 1800000048; Casey County Board of Education, 1800000050; Caverna Independent Board of Education, 1800000051; Christian County Board of Education, 1800000052; Clinton County Board of Education, 1800000053; Corbin Independent Board of Education, 1800000054; Daviess County Board of Education, 1800000057; Daviess County Board of Education, 1800000058; Dayton Independent Schools, 1800000059; Erlanger Elsmere Board of Education, 1800000061; Erlanger Elsmere Board of Education, 1800000062; Frankfort Independent Board of Education, 1800000063; Glasgow Board of Education, 1800000064; Green County Board of Education, 1800000070; Greenup County Board of Education, 1800000071; Hardin County Board of Education, 1800000072; Hardin County Board of Education, 1800000074; Hardin County Board of Education, 1800000076; Hardin County Board of Education, 1800000077; Hart County Board of Education, 1800000079; Hart County Board of Education, 1800000080; Hart County Board of Education, 1800000081; Hazard Independent Board of Education, 1800000082; Henderson County Board of Education, 1800000083; Henderson County Board of Education, 1800000084; Hopkins County Board of Education, 1800000085; Kenton County Board of Education, 1800000086; Livingston County Board of Education, 1800000087; Madison County Board of Education, 1800000088; Madison County Board of Education, 1800000090; Marion County Board of Education, 1800000091; Middlesboro Independent Board of Education, 1800000092; Monroe County Board of Education, 1800000093; Montgomery County Board of Education, 1800000094; Owensboro Independent Board of Education, 1800000095; Russell Independent Board of Education, 1800000100; Shelby County Board of Education, 1800000101; Todd County Board of Education, 1800000102; Warren County Board of Education, 1800000103; Washington County Board of Education, 1800000104; Webster County Board of Education, 1800000105; Whitley County Board of Education, 1800000106; University of Wisconsin Madison, 1800000117; Scott County Board of Education, 1800000121; Newport Independent Board of Education, 1800000238.

LIBRARIES & ARCHIVES, DEPARTMENT FOR

Council on Postsecondary Education, 1700002887.

OFFICE OF THE GOVERNOR,
DEPARTMENT FOR LOCAL GOVERNMENT
Webster County Fiscal Court, 1700002802;
Webster County Fiscal Court, 1700002803;
Henderson County Fiscal Court, 1800000129;
City of New Castle, 1800000158; Ohio County
Fiscal Court, 1800000177.

PHYSICAL THERAPY, BOARD OF
Occupations and Professions, 1800000220.

STATE POLICE, DEPARTMENT OF
Kentucky Medical Service, 1800000171.

TRANSPORTATION CABINET
Kentucky State University, 1700002267.

WORKFORCE INVESTMENT, OFFICE
OF
Jefferson County Educational Cooperative,
1700001252.

**THE FOLLOWING MEMORANDA
OF AGREEMENT AMENDMENTS WERE
REVIEWED WITHOUT OBJECTION:**

ADMINISTRATIVE OFFICE OF THE
COURTS
Boulware Mission, Inc., 1700002925.

AGRICULTURE, DEPARTMENT OF
Multi, 1700001857; Multi, 1700001857;
Multi, 1700001857.

DEPARTMENT FOR BEHAVIORAL
HEALTH, DEVELOPMENTAL AND
INTELLECTUAL DISABILITIES
NASDDDS, 1700000149.

EDUCATION, DEPARTMENT OF
Pulaski County Board of Education,
1700001042; Owen County Board of Education,
1700001755; Murray State University,
1700002218.

HIGHER EDUCATION ASSISTANCE
AUTHORITY, KENTUCKY
Kentucky Higher Education Student Loan
Corporation, 1600003945.

INFRASTRUCTURE AUTHORITY
Perry County Fiscal Court, 1500001026.

OFFICE OF THE GOVERNOR,
DEPARTMENT FOR LOCAL GOVERNMENT
Bell County Fiscal Court, 1700001034.

**THE FOLLOWING FILM TAX
INCENTIVES WERE REVIEWED WITHOUT
OBJECTION:**

TOURISM DEVELOPMENT CABINET
Kedric Jones, 1700002944; Donnybrook PSE,
Inc., 1800000001; Duckworks, Inc., 1800000003;
Perception Movie, LLC, 1800000004; LPD Films,
LLC, 1800000007; Wyckoff Film Company, LLC,

1800000134; Thriller, LLC, 1800000135; NBC
Universal, LLC d/b/a Oxygen Media Productions,
LLC, 1800000139; Post Time Audiovisual
Services, Inc., 1800000143; Prana Movie,
LLC, 1800000160; Perception Kentucky, LLC,
1800000162; Post Time Audiovisual Services,
Inc., 1800000274; Post Time Audiovisual
Services, Inc., 1800000275; Post Time
Audiovisual Services, Inc., 1800000277; Post
Time Audiovisual Services, Inc., 1800000278.

**THE FOLLOWING FILM TAX
INCENTIVE AMENDMENTS WERE
REVIEWED WITHOUT OBJECTION:**

TOURISM DEVELOPMENT CABINET
Post Time Audiovisual Services, Inc.,
1700002274.

**THE FOLLOWING PERSONAL
SERVICE AMENDMENTS WERE SELECTED
FOR FURTHER REVIEW:**

UNIVERSITY OF LOUISVILLE
Isacson Miller, Inc. 17-029; Amy
Shoemaker, Craig Dilger, and Paula Hensel
discussed the contract with the committee. A
motion was made by Representative St. Onge to
defer the contract to the September 2017 meeting
of the committee. Senator Wise seconded the
motion, which passed with Senator Carroll and
Representative Horlander voting no.

UNIVERSITY OF LOUISVILLE
Multi, 17-023 A-F; Amy Shoemaker, Craig
Dilger, and Paula Hensel discussed the contract
with the committee. A motion was made by
Representative Lee to disapprove the contract.
Senator Hornback seconded the motion, which
passed with Senator Carroll, Senator Raque
Adams, and Representative Horlander voting no.

EXEMPTION REQUESTS:

**ENERGY AND ENVIRONMENT
CABINET**

The Energy and Environment Cabinet
requested an exemption from the two-year
budget biennial contracting restrictions for
all Cleaner Commonwealth Fund (CCF) sub-
grants and loans funded through Federal EPA
104(k) Revolving Loan Fund Grant, Cooperative
Agreement Number 95498412-0; 100% Federal
Funds. A motion was made by Senator Carroll
to grant the request to September 30, 2020.
Representative Horlander seconded the motion,
which passed without objection.

There being no further business, the meeting
adjourned at 11:11 A.M.

**ADMINISTRATIVE REGULATION
REVIEW SUBCOMMITTEE**

Minutes of the August Meeting

August 14, 2017

Call to Order and Roll Call

The August meeting of the Administrative
Regulation Review Subcommittee was held on
Monday, August 14, 2017, at 1:00 PM, in Room
149 of the Capitol Annex. Representative Ken
Upchurch, Chair, called the meeting to order,
and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair;
Representative Ken Upchurch, Co-Chair;
Senators Julie Raque Adams, Perry B. Clark,
and Alice Forgy Kerr; Representatives Mary Lou
Marzian, Jason Petrie, and Tommy Turner.

Guests: Becky Gilpatrick, Melissa Justice,
Kentucky Higher Education Assistance
Authority; Jimmy Adams, Lauren Graves,
Lisa Lang, Education Professional Standards
Board; Megan Walton, State Board of Elections;
Steve Hart, Board of Pharmacy; John Marcus
Jones, Board of Alcohol and Drug Counselors;
Amber Arnett, Steve Beam, Ron Brooks, Karen
Waldrop, Department of Fish and Wildlife
Resources; Aaron Keatley, Pete Goodman,
Jon Maybriar, Department for Environmental
Protection; William Codell, Miranda Denney,
Department of Juvenile Justice; Todd Allen
Cassie Blausey; Department of Education; Steve
Humphress, Lee Walters, Department of Alcohol
Beverage Control; Rebecca Baylous, Molly Nicol
Lewis, Office of Health Policy; John Inman, Jill
Lee, Robert Silverthorne Jr., Office of Inspector
General; Lee Guice, Samantha McKinley,
Department for Medicaid Services; Greg Dutton,
Betty Whitaker, Kentucky Manufactured
Housing.

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

The Administrative Regulation Review
Subcommittee met on Monday, August 14, 2017,
and submits this report:

Administrative Regulations Reviewed by
the Subcommittee:

HIGHER EDUCATION ASSISTANCE
AUTHORITY: Kentucky Educational Excellence
Scholarship Program

11 KAR 15:090. Kentucky Educational
Excellence Scholarship (KEES) program. Becky
Gilpatrick, director of student aid, and Melissa
Justice, senior associate counsel, represented the
authority.

In response to a question by Co-Chair
Harris, staff stated that the staff suggested-
amendment clarified graduation standards for
supplemental awards.

A motion was made and seconded to
approve the following amendments: (1) to amend

the RELATES TO paragraph to add a citation; (2) to amend Section 5 to delete an out-of-date, superfluous time frame reference; (3) to amend Section 7 to clarify graduation standards for a supplemental award; and (4) to amend Sections 1, 2, 4, 6, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

16 KAR 2:020. Occupation-based career and technical education certification. Jimmy Adams, executive director; Lauren Graves, executive staff advisor; and Lisa Lang, general counsel, represented the board.

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

Educator Preparation

16 KAR 5:020. Standards for admission to educator preparation.

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

Advanced Certification and Rank

16 KAR 8:040. Ranking of occupation-based career and technical education teachers.

In response to questions by Co-Chair Harris, Mr. Adams stated that, with efforts to attract more teachers but ensure quality, content competency was paired with pedagogy. New teachers engaged in a two (2) year New Teacher Induction Program sponsored by the Kentucky Department of Education. The on-the-job induction program included teaching pursuant to a provisional certificate along with pedagogy coursework and opportunities to address concerns with colleagues. Prospective teachers were required to meet a rigorous list of criteria prior to the provisional certificate. Ms. Lang stated that the New Teacher Institute tried, but was unable in some cases, to begin teaching training prior to commencement of the school year.

STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 4:010. Voter identification cards. Megan Walton, counsel, represented the board.

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

31 KAR 4:040. Procedures for absentee voting in county clerk's office.

Help America Vote Act 2002

31 KAR 6:020. Provisional voting.

GENERAL GOVERNMENT CABINET: Board of Pharmacy

201 KAR 2:076. Compounding. Steve Hart, executive director, represented the board.

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

GENERAL GOVERNMENT CABINET: Board of Alcohol and Drug Counselors

201 KAR 35:080. Voluntary inactive and retired status. John Marcus Jones, assistant attorney general, represented the board.

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

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

301 KAR 1:152 & E. Asian Carp and Scaled Rough Fish Harvest Program. Amber Arnett, counsel; Ron Brooks, fisheries director; and Karen Waldrop, deputy commissioner, represented the department.

In response to questions by Co-Chair Harris, Mr. Brooks stated that there were not enough commercial fishermen to combat the Asian carp encroachment; therefore, this administrative regulation was being amended to ease commercial fishing license fees. Kentucky had three (3) businesses currently operating to harvest and process Asian carp, but more were needed. Approximately two (2) million pounds of Asian carp was harvested annually, but Kentucky's goal was five (5) million pounds annually. The department was developing plans for a public – private partnership to more efficiently process Asian carp to ensure freshness,

with the goal of increasing fishing pressure on the species to combat the encroachment. Asian carp was a popular food in Europe and Asia. It has the nutritional value of salmon, with less contaminants than any other Kentucky fish.

In response to a question by Co-Chair Upchurch, Mr. Brooks stated that the Asian carp invasion had exploded over the last five (5) to ten (10) years. Because the carp jumped and caused impediments to the recreational use of Kentucky waterways, the species was having a negative impact on tourism. The impact was expected to increase exponentially over the next five (5) years, with possibly devastating impacts to tourism in certain regions of Kentucky. The jumping of the Asian carp damaged boats and sometimes caused injuries.

301 KAR 1:195. Repeal of 301 KAR 1:192.

Game

301 KAR 2:049. Small game and furbearer hunting and trapping on public areas.

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.

Water Patrol

301 KAR 6:005. Boat registration fees.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Public Water Supply

401 KAR 8:010. Definitions for 401 KAR Chapter 8. Peter Goodmann, executive director; Aaron Keatley, commissioner; and Jon Maybriar, executive director, represented the department.

In response to questions by Co-Chair Harris, Mr. Goodmann stated that the division had virtually eliminated backlogged permit processing over the last two and a half (2 ½) years. The extended deadline for certain facilities' permit processing was due to the complexity of engineering plans for water treatment facilities. The standing stakeholder workgroup, which met every other month, was apprised of this proposal and came to a consensus that the extended deadline was appropriate.

401 KAR 8:011. Repeal of 401 KAR 8:070, 401 KAR 8:101, 401 KAR 8:550, and 401 KAR 8:600.

401 KAR 8:020. Public and semipublic water systems; submetering; general provisions.

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 amendments were approved.

401 KAR 8:040. Laboratory certification.

401 KAR 8:075. Consumer confidence reports and public notification.

401 KAR 8:100. Design, construction, and approval of facilities and approval timetable for 401 KAR Chapter 8.

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

401 KAR 8:250. Inorganic and organic chemical sampling, analytical techniques, maximum contaminant levels, radionuclides, and secondary standards.

Division of Waste Management: Solid Waste Planning

401 KAR 49:011. General provisions relating to area solid waste management plans.

A motion was made and seconded to approve the following amendment: to amend Section 3 for clarity. Without objection, and with agreement of the agency, the amendment was approved.

401 KAR 49:080. Solid waste grant funds and solid waste collector and recycler registration.

401 KAR 49:091. Repeal of 401 KAR 49:040, 401 KAR 49:090, and 401 KAR 49:210.

JUSTICE AND PUBLIC SAFETY
CABINET: Department of Juvenile Justice: Child Welfare

505 KAR 1:130. Department of Juvenile Justice Policies and Procedures: juvenile services community. William Codell, attorney, and Miranda Denney, deputy commissioner, represented the department.

EDUCATION AND WORKFORCE
DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Learning Support Services

704 KAR 7:051. Repeal of 704 KAR 7:050. Todd Allen, deputy general counsel, and Cassie Blausey, policy advisor, represented the department.

PUBLIC PROTECTION CABINET:
Department of Alcoholic Beverage Control: Licensing

804 KAR 4:230. Extended hours supplemental licenses. Steve Humphress, general counsel, and Lee Walters, counsel, represented the department.

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

Local Administrators

804 KAR 10:010. Appointment notification

of local administrator.

A motion was made and seconded to approve the following amendments: 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 amendments were approved.

CABINET FOR HEALTH AND FAMILY
SERVICES: Office of Health Policy: Certificate of Need

900 KAR 6:090. Certificate of need filing, hearing, and show cause hearing. Rebecca Baylous, assistant general counsel of the Health Services Administrative Hearing Branch, and Molly Lewis, deputy general counsel and acting director of the Certificate of Need Program, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to: (a) revise one (1) definition and re-alphabetize; and (b) delete three (3) superfluous definitions; and (2) 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.

900 KAR 6:125. Certificate of need annual surveys. (Amended After Comments)

Data Reporting and Public Use Data Sets

900 KAR 7:030. Data reporting by health care providers.

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

900 KAR 7:040. Release of public data sets for health care discharge data.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations. Without objection, and with agreement of the agency, the amendments were approved.

Department for Public Health: Office of Inspector General: Controlled Substances

902 KAR 55:015. Schedules of controlled substances. John Inman, deputy inspector general, and Jill Lee, pharmacist consultant, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to correct citations. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 55:040. Excluded nonnarcotic substances.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct citations. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 55:041. Repeal of 902 KAR 55:020, 902 KAR 55:025, 902 KAR 55:030, and 902 KAR 55:035.

902 KAR 55:095. Prescription for Schedule II controlled substance - authorization of oral prescription for immediate administration, facsimile transmission, or partial filing.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and 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.

Department for Medicaid Services:
Medicaid Services

907 KAR 1:041E. Repeal of 907 KAR 1:018 and 907 KAR 1:019. Lee Guice, director of policy and operations, and Dr. Samantha McKinley, pharmacy director, represented the department.

Payments and Services

907 KAR 3:066 & E. Nonemergency medical transportation waiver services and payments.

907 KAR 3:206E. Repeal of 907 KAR 3:205.

Outpatient Pharmacy Program

907 KAR 23:001 & E. Definitions for 907 KAR Chapter 23.

907 KAR 23:010 & E. Outpatient pharmacy program.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend Sections 4 and 11 to comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 23:020 & E. Reimbursement for outpatient drugs.

The following administrative regulations were deferred or removed from the August 14, 2017, Subcommittee agenda:

DEPARTMENT OF MILITARY AFFAIRS:
Division of Administrative Services: Military Assistance Trust Funds

106 KAR 2:040. Survivor benefits for death of a National Guard or Reserve Component member.

GENERAL GOVERNMENT CABINET:
Board of Embalmers and Funeral Directors

201 KAR 15:030. Fees.
 201 KAR 15:050. Apprenticeship and supervision requirements.
 201 KAR 15:110. Funeral establishment criteria.
 Board of Licensure for Occupational Therapy
 201 KAR 28:200. Continuing competence.
 201 KAR 28:235. Telehealth occupational therapy services.
 PUBLIC PROTECTION CABINET: Office of Occupations and Professions: Board of Registration for Professional Geologists
 201 KAR 31:010. Fees.
 TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration
 601 KAR 2:030 & E. Ignition interlock.
 EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workplace Development: Office of Employment and Training: Unemployment Insurance
 787 KAR 1:070. Reasonable time for protesting claim.
 PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts
 806 KAR 17:575. Pharmacy benefit managers.
 CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Radon
 902 KAR 95:040. Radon Contractor Certification Program.
 Department for Community Based Services: Supplemental Nutrition Assistance Program
 921 KAR 3:025. Technical requirements.
 921 KAR 3:042. Supplemental Nutrition Assistance Program employment and training program.
 The Subcommittee adjourned at 1:35 p.m. until September 11, 2017, at 1 p.m.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

August 15, 2017

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee met on Tuesday, August 15, 2017, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Stan Humphries, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Phil Moffett, Co-Chair; Senators Julian M. Carroll and Rick Girdler; Representatives Larry Brown, Will Coursey, and Steven Rudy.

Guests: Ms. Janice Tomes, Deputy State Budget Director; Mr. Scott Aubrey, Director, Division of Real Properties, Finance and Administration Cabinet; Ms. Ashley Adams, Financial Analyst, Kentucky Infrastructure Authority; Mr. Steve Starkweather, Financial Analyst, Office of Financial Management; and Mr. Jeremy Ratliff, Deputy Director, Legal Services, Kentucky Housing Corporation.

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

Approval of Minutes (July 18, 2017)

A motion was made by Representative Moffett to approve the minutes of the July 18, 2017 meeting. The motion was seconded by Representative Rudy and approved by voice vote.

Correspondence and Information Items

Ms. Halloran stated that there were neither correspondence nor information items for review.

Project Reports from the Universities

Ms. Halloran referenced three equipment purchases in excess of \$200,000 by postsecondary institutions. The University of Louisville reported the purchase of a spectrometer for the James Graham Brown Cancer Center from endowment funds and the University of Kentucky reported the purchase of a surgical microscope and a cardiac imaging system for the A.B. Chandler Hospital from restricted funds. No action was required.

Project Reports from Finance and Administration Cabinet

Ms. Tomes reported two unbudgeted federally funded projects. The first was the Kentucky Transportation Cabinet's request of \$1,528,700 for the Rowan County Weigh Station project, entailing the demolition and replacement of the existing Rowan County Weigh Station. The second was the Education and Workforce Development Cabinet, Kentucky Educational Television's (KET) request of \$20,750,000 for the Federal Communications Commission (FCC) Repacking project. The project includes the purchase, installation, and maintenance of television transmitters and will be funded by reimbursement from the FCC's Television Broadcast Relocation Fund. The FCC has required all KET channels to be reassigned necessitating the purchase and installation of the new equipment in all sixteen KET transmittal locations.

A motion was made by Representative Rudy to roll the two new projects into one vote. The motion was seconded by Senator Carroll and approved by voice vote.

A motion was made by Representative Rudy to approve the two new projects, seconded by

Senator Carroll, and approved by unanimous roll call vote.

Ms. Tomes reported two Finance and Administration Cabinet pool projects in excess of \$600,000. The first was the L&N Structural Repair project for \$1,404,077, consisting of roof and structural repairs to the L&N Building in Louisville. The second was the Capitol Campus Parking Garage Phase III project for \$1,333,000, involving repairs. No action was required.

Lease Reports from the Finance and Administration Cabinet

Mr. Aubrey reported one lease modification for the Department of Workers Claims in Jefferson County. The total renovation costs were \$121,174.50. The department agreed to pay for approximately 30 percent of those renovations, amounting to \$35,859.50 over the remaining lease term expiring June 30, 2024. No action was required.

Mr. Aubrey next reported a lease renewal with an annual cost exceeding \$100,000 for the Department of Insurance in Franklin County. The lease renewal involved a rate increase to \$9.45 per square foot excluding utilities and janitorial services. As part of the lease agreement the Department will pay \$25 per space for parking space per month for 21 parking spaces out of the 149 included in the lease. The total annual cost is \$374,708 through June 30, 2021.

In response to questions from Senator Carroll, Mr. Aubrey said when the lease was expanded several years ago, 21 additional parking spaces in the parking garage were incorporated into the agreement and the costs were passed on to the department.

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

Reports from the Office of Financial Management

Ms. Adams reported four Kentucky Infrastructure Authority loan requests: The City of Prestonsburg is assuming two Fund A (Clean Water State Revolving Fund - CWSRF) loans as a result of its acquisition of Southern Water and Sewer District's sewer assets, as well as some of district's water assets. The total of the two loan assumptions is \$691,113. The acquisition was approved by the Public Service Commission on May 2, 2017. The City of Catlettsburg has requested a \$470,000 increase to a previously approved Fund A loan in the amount of \$2,485,000, bringing the total to \$2,955,000. This will be a 20 year loan with a .75 percent interest rate. The City of Williamsburg has requested a Fund A loan in the amount of \$2,456,489 to complete the requirements of a 2010 agreed order against the city. In addition, the loan will

also refinance a 2002 bond issue which had a 4.50 percent interest rate. This Fund A loan will be a 20 year loan with a .25 percent interest rate.

Senator Carroll made a motion to roll the KIA loans into one vote. The motion was seconded by Representative Rudy, and approved by voice vote.

A motion was made by Senator Carroll to approve the KIA loans, seconded by Representative Moffett, and approved by unanimous roll call vote.

Mr. Starkweather presented one new bond issue for approval: Kentucky Housing Corporation (KHC) Tax-Exempt Conduit Multifamily Housing Revenue Bonds, Allied Paducah Portfolio Project, Series 2017, to be issued in an amount not to exceed \$35,000,000. These bonds will be used to finance the acquisition, rehabilitation, and equipping of 735 units in Paducah and Murray. The borrower is a 501(c)(3) and has negotiated a payment in lieu of taxes (PILOT) with localities as the properties to be acquired will be exempt from property taxes due to the borrower's 501(c)(3) status. Public notices and hearings have taken place and the legislators within the affected districts have been notified.

Senator Humphries said he wished to thank KHC for negotiating the PILOT as properties will be taken from the tax rolls and localities still need to pay their bills. In response to Senator Humphries's request to explain the difference between the Allied Paducah Portfolio Project transaction as compared to other KHC conduit transactions presented to the committee, Mr. Ratliff said that other KHC tax-exempt conduit bond issues are applied towards the bond cap allocated by the Commonwealth each year. This particular transaction falls under a different section of the Internal Revenue Code in which bonds proceeds are to be used by a 501(c)(3) organization to finance a project pursuant to its tax-exempt purpose.

Whether KHC issues the bonds, enabling the 501(c)(3) to utilize the better terms associated with tax-exempt financing, or the 501(c)(3) utilizes conventional financing; the 501(c)(3) would be acquiring real property in the Commonwealth, resulting in that property coming off the tax rolls. Acting as the borrower's conduit issuer is consistent with KHC's mission, as a percentage of the units are restricted for affordability, and allowed negotiation of the PILOT to preserve property tax revenue.

Senator Humphries said that he would like it noted that at the last meeting, Mr. Lewis Diaz, Bond Counsel, Dinsmore and Shohl, made references to the distinction between a 501(c)(3) and a for-profit entity utilizing KHC as a conduit and thanked KHC for its work with local officials in both Murray and Paducah.

In response to a question from Senator Humphries, Mr. Ratliff said that if the properties were to be sold again, then the PILOT would not apply. If the properties were to be sold to a non 501(c)(3), then the property would come back on the tax rolls. If the properties were to be sold to another 501(c)(3) organization, then the properties may remain off the tax rolls. Mr. Ratliff stated that it is his understanding that all local officials are aware of this possibility.

Representative Rudy expressed his appreciation for KHC's work and its inclusion of legislators and local officials. He stated that everyone he has spoken with has found a new comfort level with the financing and that he believes good things will result from the transaction.

Senator Carroll commended those instrumental in creating the PILOT and commented on the importance of PILOTs to local governments. He mentioned the potential for revenues to the City of Frankfort after the redevelopment of the Capital Plaza area. He also noted that between about 87 and 95 percent of properties within the Frankfort Independent School District are owned by the Commonwealth and that no PILOT is made to assist the school district.

Additionally, Senator Carroll stated that, as Governor, he arranged for the Commonwealth to make an annual PILOT to the City of Frankfort for fire and police protection on state owned property. Over time that amount has increased to \$90,000.

In response to questions from Representative Moffett and Senator Humphries, Mr. Ratliff stated that the borrower will pay 100 percent of the current property tax liability with a two percent annual increase thereafter.

A motion was made by Senator Carroll to approve the new bond issue, seconded by Representative Moffett, and approved by unanimous roll call vote.

Senator Humphries reiterated his thanks to the staff of KHC for their work with local officials to ensure an outlet for the loss of property from the tax rolls.

Mr. Starkweather reported one previously approved bond issue: Kentucky Housing Corporation (KHC) Tax-Exempt Multifamily Housing Revenue Notes, Downing Place Apartments Project, Series 2017, which sold by private placement on July 20, 2017. The issue financed the purchase, rehabilitation, and equipping of a 193 unit complex in Lexington. The net proceeds on the sale were \$12.802 million with a net interest rate of 4.56 percent over 35 years. No action was required.

Mr. Starkweather reported four new School Facilities Construction Commission (SFCC) school district bond issues for Barbourville

Independent, Bracken County, Bullitt County, and Pineville Independent. The transactions represented an estimated \$14.225 million of renovations and improvements to schools. No tax increase was necessary to fund these projects.

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

New Local School Bond Issues with 100 Percent Locally-Funded Debt Service

Ms. Halloran said there was one local school bond issue reported with 100 percent local debt service support in the amount of \$400,000. The proceeds, plus \$200,000 in cash, will match the \$1.5 million allocated from the Education and Workforce Development Cabinet's Work Ready Skills initiative for the renovation of the Area Technology Center in Green County. The bond issue involved neither School Facilities Construction Commission participation nor a tax increase. All disclosure information was filed and no action was required.

Updated Debt Issuance Calendar

Also included in the members' folders was the debt issuance calendar. No action was required.

With there being no further business, the meeting was adjourned at 1:31 p.m.

CAPITAL PLANNING ADVISORY BOARD

Minutes of the 3rd Meeting of the 2017 Calendar

August 15, 2017

Call to Order and Roll Call

The 3rd meeting of the Capital Planning Advisory Board was held on Tuesday, August 15, 2017, at 9:30 AM, in Room 129 of the Capitol Annex. Representative Daniel Elliott, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Daniel Elliott, Co-Chair; Senator Whitney Westerfield, Representative DJ Johnson; Scott Brinkman, Charles Byers, Laurie Dudgeon, Stephen Knipper, Mark Overstreet, Kaelin Reed, and Katie Shepherd.

Guests: Dr. Aaron Thompson, Executive Vice President, Shaun McKiernan, Senior Associate, Budget and Finance, Council on Postsecondary Education; Brad Holajter, Executive Director, Office of Management and Administrative Services, and Lieutenant Colonel Chad White, Kentucky State Police, Justice and Public Safety Cabinet; Brad Montell, Deputy Secretary, Greg Rush, Executive Director, Office of Budget and Administration, Education and Workforce Development Cabinet; Anthony Dunbar, Director of Facilities Management, Cabinet for

Health and Family Services; Charles Snaveley, Cabinet Secretary and Bruce Scott, Deputy Secretary, Energy and Environment Cabinet; Robin Fields Kinney, Associate Commissioner, Office of Finance and Operations, Walter Hulett, Facilities Manager, Department of Education; Commissioner Ryan Quarles, Keith Rogers, Chief of Staff, Lee McIntosh, Staff Assistant, Kathy Harp Willis, Director of Information Technology, Department of Agriculture; and Katie Smith, Executive Director, Office of Financial Services, Economic Development Cabinet.

LRC Staff: Shawn Bowen, Julia Wang, and Jennifer Luttrell.

Approval of Minutes

A motion to approve the minutes of the July 18, 2017 meeting was made by Representative Johnson, seconded by Mr. Knipper, and approved by voice vote.

Information Items

Ms. Bowen stated that two items originally scheduled for presentation at the August meeting, the state debt report and the Beaver Dam Service Area report, will be held over until the September meeting. She then reported that two agencies have amended their agency capital plans. The Finance and Administration Cabinet has amended its capital plan to include one new general fund capital information technology project for the Commonwealth Office of Technology. The project is the Statewide Microwave Network Kentucky Emergency Warning System Shelter Upgrade (KEWS), Cabinet Priority #7, Agency Priority #2, \$4,954,000 GF. The University of Louisville amended the project description for its top general fund request – STEM Instruction Building project. During testimony at the board's July meeting, the university testified that this renovation project would include several additional buildings, however, the buildings were not identified in the project description the university submitted in its capital plan. The project description has been amended to include the additional buildings in the project.

Presentation – Council on Postsecondary Education Capital Project Review

As part of the capital planning process, the Council on Postsecondary Education (CPE) is responsible for the review and evaluation of capital construction and information technology (IT) projects submitted by the postsecondary institutions. Dr. Aaron Thompson, Executive Vice President, and Shaun McKiernan, Senior Associate, Budget and Finance, CPE, discussed the review process and the corresponding results.

In its report to the board, CPE provided background information on the VFA Study conducted in 2007. The VFA Study identified \$6.8 billion in cumulative capital investment needs by 2011; \$5.1 billion for asset preservation

to protect the state's investment in existing infrastructure and facilities, and \$1.7 billion for new and expanded space to support increases in enrollment and research activity. The study recommended a sustained investment (multi-biennia) to address asset preservation and new construction needs simultaneously (blended approach), and to address asset preservation needs projected to grow from \$5.1 billion in 2011 to \$6.3 billion by 2016. Over the past ten biennia there has been \$1.6 billion in new or expanded state-funded education and general facilities, \$495 million in state-funded asset preservation, and a ratio of new construction to asset preservation that equals 3.3 to 1.

For the 2018-20 budget period, CPE will make a request that, when combined with institutional matching funds, addresses 20 percent of asset preservation needs (\$1.4 billion) as identified in the VFA study. CPE will continue to advocate for a pooled approach, and will request a pool of funding for each campus to be matched and used to address asset preservation. Each institution's pool will be supported by a list of projects in priority order.

CPE will not make a request for general fund-supported bonds for new and expanded space in 2018-20, however, CPE will include a request for general fund-supported bonds for an information technology and equipment pool.

CPE's focus represents a much more aggressive approach to funding asset preservation than in previous biennia. CPE's rationale for this proposal is a growing inventory of facilities, infrastructure, and systems in need of asset preservation, increasing construction costs (up 17 percent between 2007 and 2013, based on VFA estimates), minimal state investment in asset preservation since 2007 (\$262 million in appropriations versus \$7.3 billion need), and renovating aging facilities and systems to reduce operating costs through greater efficiencies.

CPE's report on campus priorities included a listing of each university's top five asset preservation projects and a listing of KCTCS' top ten asset preservation projects. Four of nine institutions listed an asset preservation project as their #1 priority, two as their #2 priority, and three institutions did not request general fund support for new construction.

CPE staff was asked to evaluate general fund-supported information technology projects submitted by the institutions. Seventeen projects were submitted with a total cost of \$67.5 million; seven projects were identified as high value, with a total cost of \$27 million. These projects address network infrastructure upgrades and instructional and administrative system needs and support increased network speeds and systems for e-learning.

For the 2018-20 budget period, CPE plans

to request a pool of funds totaling \$600-\$700 million general funds, with \$40-\$60 million allocated for information technology and equipment projects. This request is part of the three-biennia (six-year) \$1.8 billion capital budget plan that would use a pooled approach for allocating capital funding among institutions.

In response to a question from Senator Humphries, Mr. McKiernan stated that the VFA Study determined a total of about \$7.3 billion is needed for asset preservation for postsecondary institution facilities. CPE plans to address 20 percent of the identified need, which is \$1.4 billion (\$700 million from the campuses and \$700 million from the state.) During the past five biennia, the state has funded about 3.6 percent of the estimated total \$7.3 billion asset preservation need.

Responding to questions from Mr. Knipper, Dr. Thompson and Mr. McKiernan replied that all campuses have significant asset preservation needs with the smaller campuses needing more. As for the IT projects, several campuses did not request funds because their IT projects have not been funded in the past.

In response to a question from Representative Elliott, Dr. Thompson stated that CPE would appreciate the board's endorsement of CPE's approach to funding postsecondary institution capital needs.

Consideration of Agency Plans

The Capital Planning Advisory Board received testimony regarding nine state agency capital plans: Council on Postsecondary Education, Kentucky Court of Justice, Justice and Public Safety Cabinet, Education and Workforce Development Cabinet, Cabinet for Health and Family Services, Energy and Environment Cabinet, Department of Education, Department of Agriculture, and Economic Development Cabinet. The testimony included discussion of capital construction, information technology, equipment needs, and grant/loan program needs for the period 2018-2024.

Council on Postsecondary Education

Dr. Aaron Thompson, Executive Vice President, and Shaun McKiernan, Senior Associate, Budget and Finance, CPE, gave a brief overview of the CPE capital plan. For 2018-20, CPE's capital request will include only information technology capital projects: Military Student Initiative project, Commonwealth College (HB265) Technology System project, and Enhance Kentucky Regional Optical Network Infrastructure Enhancement project with a total request of \$7 million.

In response to a question from Mr. Knipper, Mr. McKiernan and Dr. Thompson stated that CPE will contact the Department of Veterans' Affairs in regard to assistance with the Military Student Initiative project. This project will help

service members, veterans, and their families earn a degree at a Kentucky institution by translating previous military instruction and training into college credit. The project scope is \$2,000,000 general funds. The project requires a centralized catalog of programs and modules to facilitate course and degree program comparisons, integration with systems at institutions to allow evaluation and seamless transfer of credits, and a user-friendly homepage and help desk support.

In response to a question from Representative Johnson, Dr. Thompson stated that CPE has started on the Military Student Initiative project by hiring a retired major from the military to identify how to make the connections. CPE hopes the project will be well underway within the next year and a half. The Commonwealth College (HB265) Technology System project (\$4,000,000 general funds) is underway also at the University of Louisville and Western Kentucky University.

Kentucky Court of Justice

Laurie Dudgeon, Administrative Office of the Courts Director, gave a brief overview of the Kentucky Court of Justice capital plan. For the 2018-20 biennium, the capital request will include \$3 million general funds to support local bonds totaling \$37,325,000, and for the 2020-2022 biennium, \$791,100 general funds to support \$9,650,000 local bonds. The Court of Justice capital plan includes two new court facilities for Bath and Butler counties, and renovation of five court facilities in the counties of Clinton, Crittenden, Jefferson, Jessamine, and Owsley. [For the court facility projects, amounts are appropriated from the general fund for use allowance payments that support the debt service for local bonds issued to construct the project.]

In response to a question from Senator Humphries as to what county offices will be located in the Bath County Judicial Center, Ms. Dudgeon responded that the Court of Justice is located in the Bath County Courthouse Annex, and the County Judge Executive may have plans to renovate the old space and lease it to executive branch offices to ease the burden on the county. She stated that several county bonded projects are projected are scheduled for completion, which should help address space needs across the state.

In response to a question from Mr. Knipper, Ms. Dudgeon said the decision to renovate a court facility or build a new one is based on a feasibility study by the county's project development board. The board consists of the County Judge Executive, Chief Circuit Judge, Chief District Court Judge and Circuit Clerk, Kentucky Bar Association member, and a Citizen-At-Large member. Factors taken into account when deciding whether to renovate or build a new court facility include the county's population,

caseload, seats needed, and minimum space required for judges and staff.

In response to questions from Mr. Reed and Representative Elliott, Ms. Dudgeon said to address safety concerns in the court facilities, there will be a single point of entry to each facility.

Justice and Public Safety Cabinet

Brad Holajter, Executive Director, Office of Management and Administrative Services, gave a brief overview of the cabinet's capital plan. For the six-year period, the capital plan included 51 proposed projects totaling \$671,544,000.

Representative Elliott asked Mr. Holajter to further discuss the potential use of a public-private partnership for the Construct 300-man Dorm at Blackburn Correctional Complex project (\$28,000,000 general funds). Mr. Holajter said the potential plans for a private-public partnership model at the Blackburn Correctional Facility was a more efficient use of public dollars. By funding the upfront budget costs and leasing the building back to the state, the cost of the project will be extended out over more years.

In response to a question from Senator Humphries regarding the Kentucky State Police Emergency Radio System Replacement project (\$141,500,000 general funds), Lieutenant Colonel White replied that the entire amount of funding requested for this project will be needed during the biennium in which it is requested. The funding request cannot be broken down and spread out over several years. He explained that all digital equipment, including parts for the towers, posts, and vehicles, has to be replaced simultaneously in order for the equipment to work. He added that Tennessee just completed a similar project for about the same amount of money.

In response to a question from Representative Johnson, Lieutenant Colonel White stated that the Daviess County 911 upgrade is a separate system, but that it will tie into the new requested digital system once completed.

In response to a question from Mr. Knipper, Lieutenant Colonel White replied that he was not aware of a study done on aircraft maintenance costs.

Education and Workforce Development Cabinet

Brad Montell, Deputy Secretary, and Greg Rush, Executive Director, Office of Budget and Administration, gave a brief overview of the cabinet's capital plan. For the six-year period, the capital plan included 13 proposed projects totaling \$63,308,000.

Cabinet for Health and Family Services

Anthony Dunbar, Director of Facilities Management, gave a brief overview of the cabinet's capital plan. For the six-year period, the capital plan included 28 proposed projects

totaling \$254,331,800.

Energy and Environment Cabinet

Secretary Charles Snively and Deputy Secretary Bruce Scott, gave a brief overview of the cabinet's capital plan. For the six-year period, the capital plan included 17 proposed projects totaling \$64,731,000.

In response to questions from Senator Humphries about the Wildland Fire Equipment Replacement Schedule project (\$5,320,000 general funds), Mr. Snively stated that D5 or D6 dozers will be purchased, the project would be competitively bid, and old dozers would be disposed of. He added that the dozers must be small enough to transport on a rollback trailer. [This project will establish a 15-year replacement schedule of ten dozer and transport units in the first year of the biennium and nine in the second year.]

Department of Education

Robin Fields Kinney, Associate Commissioner, Office of Finance and Operations, and Walter Hulett, Facilities Manager, gave a brief overview of the department's capital plan. For the six-year period, the capital plan included 12 proposed projects totaling \$21,880,000.

In response to a question from Representative Elliott, Mr. Hulett stated a water main leak in Brady Hall was causing the mold issue.

Department of Agriculture

Commissioner Ryan Quarles, Keith Rogers, Chief of Staff, Lee McIntosh, Staff Assistant, and Kathy Harp Willis, Director of Information Technology, gave a brief overview of the department's capital plan. For the six-year period, the capital plan included one proposed information technology project totaling \$3,349,400.

Economic Development Cabinet

Katie Smith, Executive Director, Office of Financial Services, gave a brief overview of the cabinet's capital plan. For the six-year period, the capital plan included three proposed projects totaling \$90,000,000. Funds are being requested to finance three grant/loan programs administered by the cabinet: the High-Tech Construction/Investment Pool, the Economic Development Bond Program, and the Kentucky Economic Development Finance Authority.

In response to a question from Representative Elliott, Ms. Smith replied that the state has invested \$7 billion towards economic development in Kentucky this year. She added that this was a record amount of investment, the previous record was \$5.1 billion.

Adjournment

The next meeting is scheduled for Tuesday, September 19, 2017, in Room 129 Annex starting at 10:00 AM. There being no further business, the meeting was adjourned at 11:55 AM.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

Minutes

August 15, 2017

Call to Order and Roll Call

The 3rd meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, August 15, 2017, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Mike Wilson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators Mike Wilson, Alice Forgy Kerr, and Max Wise; Representatives Daniel Elliott, Derrick Graham, and Steve Riley.

Guests: Wayne Young, KASA; Christina Water, KDE; and Alex Spurrier, KDE.

LRC Staff: Joshua Collins, Yvette Perry, and Chris White.

David Wickersham, Deputy Director of the Office of Education Accountability (OEA), introduced OEA's two new investigators, Terri Collins and Katherine (Katy) Moran.

Senator Wilson recognized Karen Timmell's long-standing service to the Commonwealth of Kentucky and extended congratulations on her upcoming retirement in September from the Office of Education Accountability.

Approval of June 20, 2017 Minutes

On a motion by Representative Elliott and a second from Senator Wise, the minutes of the June 20, 2017, were accepted by voice vote.

Presentation: School Attendance in Kentucky

Senator Wilson invited the OEA to begin their presentation of School Attendance in Kentucky, which explain attendance trends at the state and district levels and includes comparisons to other states.

Members of the OEA staff introduced themselves as Bart Liguori, Research Division Director, Logan Rupard, Research Analyst, and Chris Riley, Research Analyst.

Mr. Rupard said the study analyzed full attendance in Kentucky at the state, district, school, and student levels and compares the state to the nation. It used Kentucky data to examine several issues associated with school attendance in national research. A particular focus on data findings was relevant as the state prepares to implement new federal requirements of the Every Student Succeeds Act (ESSA), which requires measuring chronic absenteeism. The study used a variety of data sources, including the student information system (SIS), known as Infinite Campus, which included almost all of Kentucky attendance-related data.

OEA administered an electronic survey to measure districts' feedback regarding

attendance-related legislation and attendance issues. The survey requested detailed steps that districts are using to address attendance issues. The survey was sent to all superintendents and the response rate was 100 percent; however, not all items on the survey were addressed 100 percent. The U.S. Department of Education's Office of Civil Rights (OCR) data was used to compare Kentucky's chronic absenteeism rates to those of other states and the nation.

Mr. Rupard detailed major conclusions from the report, including an analysis on attendance, results from chronic absenteeism modeling, and a summary of the electronic survey conducted by OEA. The survey included specific questions to measure the districts' perceptions of SB 97 from 2013 and SB 200 from 2014.

In previous literature, chronically absent was defined as students absent more than 10 percent of scheduled school days. The number of days used for the purpose of this study was 17.4 days. The days were calculated using 10 percent of the weighted number of calendar days based on enrollment per district, or 174 days. The study contains 12 major conclusions and was broken down into attendance, rates of chronic absenteeism, outcomes, survey results, and other findings.

Regarding attendance-related conclusions, OEA identified a majority of students as truant each year. Compared to seven surrounding states, Kentucky has the second highest rate of chronic absenteeism overall, with the highest rates concentrated in Eastern Kentucky and Jefferson County.

Mr. Rupard said findings show that Free or Reduced-Priced Lunch (FRPL) students have a higher rate of chronic absenteeism compared to students not eligible for FRPL. When comparing the rates between races/ethnicities, black students have the highest rates, although it appears this figure is higher due to a higher number of black students qualifying for FRPL.

For elementary students, chronic absenteeism is highest for those in kindergarten and 1st grade. OEA found that chronically absent and mobile students are negatively impacted and students transferring within a single district are particularly impacted. Once a student misses 10 days, academic performance begins to be negatively impacted.

In response to OEA's survey, the majority of survey respondents indicated that Senate Bill 97, the law raising compulsory attendance age to 18, had increased the number of truant students. Almost two-thirds of the respondents implied the number of students entering home school increased. Data also indicated the number of students entering home school increased over the previous five years. Approximately 55 percent

of survey respondents suggested Senate Bill 200, the juvenile justice bill, increased the number of student absences.

Mr. Rupard said that being absent during the first month of school is a large predictor of a student becoming chronically absent. Because attendance rates can sometimes obscure the chronic absenteeism rate of individual students within schools, it could possibly lead to schools with similar attendance rates experiencing substantially different chronic absenteeism rates.

Mr. Rupard said truant students are those absent or tardy from school without a valid excuse for three or more days. A habitually truant student is one who has been truant two or more times. Kentucky is one of 22 states providing the definition of truant, with Illinois being the only surrounding state offering a state definition. Local Boards of Education are allowed to set the definitions for excused and unexcused absences which can impact the number of truant or habitually truant students.

According to those definitions, over 60 percent of Kentucky students were truant in 2016, while 40 percent were habitually truant students under the terms of KRS 159.150. These values have remained consistent for each of the past five years, which led OEA to Recommendation 2.1. The prevalence of truancy in Kentucky may reduce the impact of labelling students as truant or habitually truant. OEA's analysis suggests the General Assembly should explore how schools and local boards of education implement KRS 159.150, including reviewing and revising the statute to redefine truancy in a manner that provides schools and districts assistance for students suffering negative consequences of poor attendance.

The chronic absenteeism rate for Kentucky and the surrounding states was broken down into the elementary, middle, and high school levels as well as overall national ranking. Mr. Rupard referred to a chart showing the percentage of chronically absent students, the state ranking, and the overall national percentage and ranking. The information was compiled from OCR data and established chronic absenteeism at 15 days to allow for comparison between states. For the ranking, one is given to the highest rate of chronic absenteeism and 51 is the lowest.

At the elementary level, Kentucky had the 24th highest rate in the nation and third highest among surrounding states. This is the only level Kentucky is below the national average. At the middle school level, Kentucky had the 19th highest rate nationally, and second compared to surrounding states. At the high school level, Kentucky had the 10th highest rate in the nation, 4 percentage points higher than the national average and the highest among surrounding

states.

Mr. Rupard referred to a map with the top ten percent of schools by level. The map displays a large concentration of schools in Jefferson County and eastern Kentucky. The top ten percent of schools include students with higher FRPL rates, a higher percentages of black and Hispanic students, students with an individualized education program (IEP) and homeless students, and corresponds to schools with the highest rates of chronic absenteeism.

Referring to another chart, Mr. Rupard explained chronic absenteeism rates by program eligibility. He said FRPL and Non-Limited English Proficiency (NLEP) student chronic absenteeism rates have nearly double compared to Non-FRPL and Limited English Proficiency (LEP) students. Homeless and IEP students are higher than students not included in these groups, with over one in four homeless students and nearly one in five students with an IEP being chronically absent.

The chronic absenteeism rates by race and ethnicity for the previous five school years were displayed in another chart. Black students were recorded with the highest rate at nearly 17 percent in 2016. However, as a later analysis will show, poverty seems to be a large contributor to chronic absenteeism.

Chronic absenteeism rates associated with discipline were also a factor. Almost half of students having an out-of-school suspension and 25 percent of students receiving an in-school removal were chronically absent. Twelve percent of students receiving neither an in-school or out-of-school removal were chronically absent. While days missed due to an out-of-school suspension were included toward chronic absenteeism days, time missed for in-school removal were not included.

In 2016, the chronic absenteeism rate for kindergarten students was 15 percent and decreased through third grade. In grades 4 through 12, almost a third of students were chronically absent. While grades 2-5 have the lowest rates, kindergarten and 1st grades have rates above 10 percent, which led to OEA's next recommendation.

Recommendation 2.2 suggests Kentucky school districts, with support from the Kentucky Department of Education (KDE), should monitor student attendance in kindergarten and 1st grade, as those students are more likely to be chronically absent than other students at the elementary level.

Mr. Rupard said the attendance rate is the proportion of students in attendance during the school year and measures the percentage of student in the building. The chronic absenteeism rate is the percentage of students missing (17.4

days for the purpose of this study) and measures how many students are missing regularly.

Another chart detailed the attendance rate and chronic absenteeism rate for the previous five years. The attendance rate held steadily around 94.5 percent. The chronic absenteeism rate fluctuated between 13 percent in 2013 and 15 percent in 2016, without much impact on the attendance rate.

The attendance rate for the state, as well as two elementary schools, were provided. Both schools had an attendance rate higher than the state, or 95-96 percent; however, when comparing the same schools' chronic-absenteeism rates, the results were quite different with Elementary 1 having a rate under five percent and elementary 2 having a rate of 18 percent. While these schools are located in different parts of the state, they have a similar percentage of FRPL students.

Mr. Chris Riley said prior research attempted to show the relationship between chronic absenteeism and various educational outcomes. This report explored how chronic absenteeism is associated with test scores, including the American College Testing (ACT) and Kentucky Performance Rating for Educational Progress (K-PREP) assessments. OEA also examined the relationship between chronic absenteeism and GPAs, promotion rates, and student discipline.

Statistical modeling was used to determine the relationship of the listed explanatory variables with the probability of student being chronically absent. The output of the model assigned a percentage point effect for each of the explanatory variables within the model relative to the mean of the control group. In the example explained, white female students had zero absences during the first month of instruction, did not receive FRPL or IEP services, and were not homeless. According to the analysis, an absence of any kind during the first month of instruction increases the probability of chronic absenteeism by nearly 11 percentage points relative to the control group mean. The model was designed to be additive, therefore more than one explanatory variable may be applied. As an example, an FRPL student with one absence during the first month would have a 19.4 percent probability of being chronically absent before the end of the school year. The model suggests that absences early on in the school year can be predictive factors of chronic absenteeism.

This analysis led to OEA's Recommendation 2.3, which proposes Kentucky school districts, with the support and guidance of the KDE, identify students at risk of becoming chronically absent early in the school year.

The ACT composite score gap for 11th grade students were 2 points higher for students not chronically absent in comparison to the students who were. Chronically absent students struggled

relative to their peers who were not chronically absent in all outcomes outlined in the report regardless of race or ethnicity. In relation to achievement gaps, the outcome showed that among the 11th grade population of students that were FRPL and homeless, those that were chronically absent struggled more on the ACT relative to students who were not chronically absent. As with race and ethnicity, OEA found this relationship holds true for each group and outcome analyzed within the report.

OEA focused on the relationship between chronic absenteeism and promotion rates. The promotion rates in grades K-11 for chronically absent students ranged from 86 to 88 percent while non-chronically absent students were at 94 percent. During the 2015 school year, the promotion rate gap was especially pronounced in grades 9 through 11, with the promotion rate gap between chronically absent and non-chronically absent students extending to more than 14 percent.

Mr. Riley said the negative relationship between chronic absenteeism and educational outcome is apparent. OEA used statistical modeling to test the relationship of various absence levels on test scores and grade point average (GPA). The report provided figures of the projected effect of five different absence levels on ACT composite scores and unweighted GPAs. The modeling indicates 10 to 15 absences of any kind is the projected point at which ACT composite scores and unweighted GPAs begin to trend downward. This finding led to OEA's Recommendation 3.1, which suggests that the KDE should consider lowering the threshold for chronic absenteeism to ten absences rather than ten percent of days enrolled.

A primary focus of the report is the negative relationship between chronic absenteeism and educational outcomes; however, OEA also examined the relationship between outcomes and student mobility. Students are considered mobile if they made at least one transfer during the school year. ACT composite scores for students in grade 11 who did not transfer during the school year scored 2 points higher than students who transferred outside their district and more than three points higher than students who transferred within the same district. Students that transferred within the same school district during the school year struggled the most in terms of ACT composite scores during the observation period.

In the spring and summer of 2016, OEA administered an electronic survey to all districts which included multiple choice and open response items as a means of measuring feedback. Open response items were reviewed by OEA staff and responses were coded into different constructs with similar responses and

detailed some of the findings.

Mr. Riley said Senate Bill 97, raising the compulsory attendance age to 18, was voluntary until 55 percent, or 96 districts, adopted the policy. By January of 2015, the boards of education of all 173 school districts had approved raising the age of compulsory attendance.

Relating to questions regarding Senate Bill 97, Mr. Riley highlighted two responses in which 51.6 percent of respondents indicated an increase in the number of truant students; however, he said the number of truant students has remained relatively constant during the previous five years. Mr. Riley said students entering home schooling increased 65.4 percent. Comparing home school to dropout trends in grades K-8, home school transfers increased 27 percent. In high school, the increase was 37 percent but the number of dropouts decreased by 55 percent.

The impacts of Senate Bill 200, the substantial overhaul of Kentucky's juvenile justice system, amended or created new obligations for a variety of agencies and individuals. More than half of the respondents, or 53.9 percent, indicated SB 200 increased the number of absences and forty-one percent reported that disciplinary events increased as well.

When OEA asked what attendance issues districts face, respondents specified 36.6 percent observed courts legislation, and lack of consequences; 32.5 percent indicated truancy and chronic absenteeism; family and home issues were highlighted by 17.9 percent; older students by 14.6 percent; health related issues by 10.6 percent; doctor appointments by 8.1 percent; and home schools by 4.9 percent. One district associate superintendent noted students who are non-compliant with respect to school attendance face no real consequences.

Mr. Riley said OEA received common responses from districts regarding how they were addressing their attendance issues and gave the percentage of responses for each. These included home visits and family outreach at 50.4 percent; student incentives at 19.2 percent; truancy diversion programs at 12.8 percent; additional academic offerings at 7.2 percent; health services referrals at 5.6 percent; and social worker involvement at 1.6 percent.

In response to questions from Senator Wilson, Mr. Rupard said three or more days of unexcused absences in the school year are considered truant and 17.4 days are considered habitually truancy, for this study. While most previous research used 10 percent, OEA took an average of the school calendar days per district based on enrollment, or 10 percent of 174. There are no regulations or statutes in place and ESSA has no set definition. KDE plans to use 10 percent to compute chronic absenteeism. Survey respondents indicated the dropout rate was lower

and homeschool transfers increased. Actual data indicated a 54.5 percent decrease in dropouts and a 37.2 percent increase in homeschool transfers.

Representative Riley, as a former high school administrator, said many absences are due to lack of parental control and commonly found in single-parent homes. While the attendance decrease began when the compulsory age changed to 18, the number of students entering homeschool is often done to keep the parents out of trouble with the schools and courts. In many cases, the parents did not complete high school. Chronic absenteeism is a huge problem and more predominant in certain areas of the state. He said we must figure out ways to get students in school and improve the academic environment.

In response to a question from Senator Kerr, Mr. Rupard said the percentage of district survey respondents who indicated Senate Bill 97 had an impact on the number of students enrolling in homeschooling is 65.4 percent. The actual increase of high school students enrolling in home school from 2012 to 2016 was 37.2 percent.

In response to a question by Senator Kerr, Mr. Wickersham said the criteria for opening a home school requires the parent notify the board for exemption from compulsory attendance and withdraw the student. Since home schools are considered private schools under Kentucky law, legislative, KDE and executive branch oversight is limited. Senator Wilson added a parent must file a letter with the school district and the district has the ability for additional oversight through inspection of required homeschool records. Mr. Wickersham confirmed that homeschools are required by law to be open to inspection by the Director of Pupil Personnel (DPP), which is written in the statute.

In response to questions from Representative Graham, Mr. Wickersham suggested the OEA could study laws in the other 49 states regarding homeschool laws. Representative Graham said he believes Kentucky is the only state with no degree of strong homeschool oversight to ensure students are receiving a proper education. Of the many that operate in Kentucky, the DPPs have made an effort to visit the homes without success. He suggested the legislature introduce some kind of limited measures that could be administered with the KDE or the 173 individual districts and the measures should be closer to the local district level since kids entering homeschool affect their budgets. While many homeschool programs have great providers, he admits there are problems with others. Representative Riley requested OEA provide the exact number of students in Kentucky who are enrolled in homeschool. Mr. Riley said the FRPL is not the only indicator of rates of chronic absenteeism and that first-month absences are a larger contributor than poverty. Representative Graham requested analytical

factors be provided which contribute to students from the demographic areas shown, in addition to FRPL. Mr. Ligouri said that another factor is students who are absent within the first month have a larger impact on chronic absenteeism. Mr. Riley said other factors are homelessness and students having an IEP, as well as gender and race.

Representative Graham suggested schools have trained personnel to help build relationships between students, faculty, and administration to better understand, relate to, and work with children who come from economically disadvantaged families. Mr. Riley said the survey specifically asked how districts are addressing the issue. The presentation showed the most common results of responses from the districts, which included over half of the respondents indicating home visits or family outreach. OEA lacked time to evaluate programs in specific schools or districts but could gather information in a follow-up study and provide successful methods being utilized in other areas and incorporate those ideas into districts experiencing less success. Representative Graham added that it is important to address homeschool students not being properly educated.

Senator Wilson said committee staff will send a reminder to members asking for items which need to be included in the 2017 OEA study. He added there are approximately 600,000 students in public education, but said OEA staff will provide the actual number of homeschool students in the state.

In response to a question from Senator Kerr, Mr. Wickersham said a student cannot initiate homeschooling since a parent or guardian is legally responsible for school the student's attendance until age 18. Because school or formal education is mandatory, it is unlikely a local school or district would discourage students from attending public schools. He said the goal is to attract and keep children in school to provide them opportunities of academic proficiency and access to available social activities. Mr. Wickersham said the frustration with Senate Bill 200 may be due how school districts can use the court system to encourage attendance. One item Senate Bill 200 did not touch upon is that Kentucky's educational neglect statutes are focused clearly on the parent's role in forcing the student to come to school and there are opportunities throughout KRS 159 enabling schools to collect fines assessed against parents for their children being chronically absent. Mr. Wickersham said the institutional interest is in encouraging attendance as opposed to discouraging it.

In response to Senator Kerr's question, Mr. Wickersham said the DPPs have clearly outlined statutory obligations to become familiar with

the child's home situation and a reciprocal obligation to educate families about the benefits of education, whether it be parents and grandparents. He said the General Assembly has made some provisions for education regarding truancy and subsequent consequences.

(Interruption in question/answer session for election of House Co-Chair while quorum is present)

Election of House Co-Chair

On a motion by Representative Graham and a second by Representative Riley, Representative Elliott was nominated as the House Co-Chair. On a motion by Representative Graham and a second by Representative Riley, nominations ceased and Representative Elliott was elected House Co-Chair by voice vote.

Continuation of Questions on Presentation: School Attendance in Kentucky

Senator Wise expressed concern about parental oversight, giving examples of when one child has an appointment and the other children miss school and come to the appointment as well. Agreeing with Representative Graham, he said it is important to pinpoint specific reasons relating to chronic absenteeism, whether it be transportation or weather related.

Representative Riley requested that the previously requested research on the exact number of home schooled children be presented by grade to determine if it is more prevalent in high school than in elementary or middle school. Senator Wilson said less than three percent of children of overall students are homeschooled in Kentucky and asked Representative Riley to add this item to the list of study topics to the committee.

Mr. Rupard said new data visualization was utilized throughout the presentation. For today only, the links below are available to everyone and in the future hopes these will be displayed on the OEA webpage. He invited everyone to access the website via phone or laptop for the presentation.

OEA introduced an interactive tool available to committee members and staff by logging on to bit.ly/oea-attendance and bit.ly/oea-attendance-map.

One link shows an attendance map with chronic absenteeism rate for each district. The darker the blue color indicates the higher incidents of chronic absenteeism. Filters for the school year and educational co-op and levels are shown as well. The levels are divided into elementary, middle, and high school grades.

The other link shows the state chronic absenteeism rate and the attendance rate and is available for years 2012-2016. Filters for this display allow choosing one or multiple districts to view side-by-side.

Mr. Rupard said that once publication standards have been created, OEA hopes the visualizations will be added to OEA's website and viewed on computer, tablet, or phone and allow interactive use.

Upon a motion by Senator Kerr and a second Senator Wise, the report was accepted and passed by voice vote.

Senator Wilson said the next meeting will be Tuesday, September 26th, at 1:00 p.m. and the committee anticipates adopting the 2018 OEA Research Agenda at the October 17, 2017, meeting. He reminded members to forward any suggested topics to the EAARS committee staff for research topics.

There being no further business, the meeting was adjourned at 2:15.

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE Minutes

August 16, 2017

Call to Order and Roll Call

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, August 16, 2017, at 2:00 PM, in Room 131 of the Capitol Annex. Senator Ralph Alvarado, 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 Danny Carroll, Morgan McGarvey, and Stephen Meredith; Representatives Jim Gooch Jr., Joni L. Jenkins, and Melinda Gibbons Prunty.

Guest Legislator: Representative Ken Fleming.

Guests: Stephen P. Miller, Commissioner, Jill R. Hunter, Deputy Commissioner, Lori Gresham, Clinical Program Manager Senior, and Donna Little, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS); Jim Pettersson, Managing Director, Anne Jacobs, Managing Director, Holly Brown, Project Manager, and Jason Gerling, Home and Community Based Services (HCBS) Team Lead, Navigant Healthcare; Frank Huffman, Board Member, Protection and Advocacy for Persons with Developmental Disabilities (PADD); Arthur Campbell Jr., Activist; Johnny Calles, Kentucky Association of Private Providers; Mary Hass, Advocacy Director, Brain Injury Association of Kentucky; Diane Schirmer, M.Ed., Corporate Director of Brain Injury Services, New Vista Behavioral Healthcare; Loretta McGinty, Hosparus Health; Kitty Davidson, Tri-Generations; and Diana Merzweiler, Executive Director, Down Syndrome of Louisville, Inc.

LRC Staff: Jonathan Scott and Becky Lancaster.

Approval of the Minutes from the July 17, 2017 Meeting

A motion to approve the minutes of the July 17, 2017 meeting was made by Senator Meredith, seconded by Senator Carroll, and approved by voice vote.

Status of Kentucky's 1915(c) Medicaid Waiver Programs

Stephen P. Miller, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, testified that Kentucky has 1.4 million people on Medicaid, of which 90 percent are covered by five Managed Care Organizations (MCOs). The other 10 percent are covered by Medicaid waivers and long-term care and represent \$3 billion a year. The Department of Medicaid's goal is to have the 1915(c) HCBS waivers better organized and more cohesive. Commissioner Miller stated that moving the 1915(c) waivers to the MCOs is only one option that may be recommended during the redesign process. He stated the department will diligently review all options recommended.

Lori Gresham, Clinical Program Manager Senior, Department for Medicaid Services, Cabinet for Health and Family Services, stated from its inception in 1965, Medicaid has provided comprehensive long-term care, however, care was only provided in an institutional setting. In 1981, the 1915(c) HCBS waiver program was authorized by the Centers for Medicare and Medicaid Services (CMS) as an alternative to institutional care. CMS requires a state to ensure the same level of care in the community as provided in an institutional setting. States receive matching federal funds for services in the home or the community. States must provide ongoing quality assurance to demonstrate that the services are being rendered per the approved waiver and regulation to continue receiving the federal match and to retain what has been provided.

Ms. Gresham stated that two waivers, the Acquired Brain Injury (ABI) waiver and the ABI Long-Term Care (LTC) waiver, target individuals who have acute and long-term care acquired brain injuries. The Home and Community Based (HCB) waiver is for individuals who are elderly or disabled and meet nursing facility level of care. The Michelle P. Waiver (MPW) and the Supports for Community Living (SCL) waiver target individuals with intellectual or developmental disabilities. The Model II Waiver (MIIW) is for individuals who are ventilator-dependent and meet nursing facility level of care. DMS serves approximately 23,272 individuals and 8,180 are on a waitlist for a waiver slot.

The ABI waiver provides intensive services and support to adults with acquired brain injuries working to re-enter community life. Services are provided exclusively in community

settings. The LTC waiver program provides an alternative to institutional care for individuals that have reached a plateau in their rehabilitation level and require maintenance services to avoid institutionalization and to live safely in the community. The HCB waiver program provides services and supports to elderly people, children, and adults with disabilities to help them to remain in or return to their homes. The MPW program requires a protected environment while learning living skills, having educational experiences, and developing awareness of their environment. The MIIW requires ventilator support for at least 12 hours per day. The SCL waiver participant must meet the requirements for residence in an intermediate care facility for people with intellectual disabilities.

Potential Changes to Kentucky's 1915(c) Medicaid Waiver Programs

Jill R. Hunter, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated the goal of the waiver system is to serve the most fragile citizens of the Commonwealth. DMS followed model procurement established in KRS Chapter 45A. A request for proposal (RFP) was written last March and had several respondents. A team of individuals, with experience dealing with waivers and work for Kentucky Medicaid, evaluated the RFP responses. Navigant Healthcare was the chosen vendor. Navigant began working with DMS in April. Navigant suggested not only looking at the waivers but also to look at the people who work with the waivers. Navigant suggested that DMS work with other branches of CHFS, such as the Department for Aging and Independent Living (DAIL) and the Department for Community Based Services (DCBS). DMS wants to talk with other stakeholders also, such as recipients, providers, and providers' staff. DMS is scheduling ten meetings across the Commonwealth in September and October. The meetings will be in a smaller, focus group format. Information will also be gathered by emails and phone calls received.

Kentucky Medicaid Contract with Navigant Healthcare

Anne Jacobs, Managing Director, Navigant Healthcare, stated Navigant works with 1915(c) HCBS subject matter experts, as well as additional subject matter experts available as required, and an operational assessment team. Navigant's Government Health Solutions team has supported 49 states in a variety of Medicaid program areas. She stated one of the common 1915(c) program focus areas for states is streamlining waiver eligibility timeframes while targeting individuals most in need or at-risk. Kentucky is unique because Navigant sees that the legislative requirements in the program

design features of payment, provider types, and service definition. This impacts the ability of the agency to manage the program and the agency's ability to change the design as it works to improve the program. Navigant has worked with states to ensure conflict free case management. Navigant is working to refine rate methodology and reimbursement approaches. Driving statewide service delivery network adequacy is another focus area for Navigant. CHFS has announced meetings across the Commonwealth to enhance stakeholder engagement.

Ms. Jacobs stated the Navigant team is working to access all six 1915(c) waiver programs. The project has two work streams; operational redesign and waiver redesign. The waiver redesign will include using the Kepner-Tregoe decision making approach used in other states. Navigant has met with leadership from DMS, DAIL, and Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) and conducted interviews with CHFS staff, approximately 30 individual staff members. Navigant will compile a report of outcomes from staff interviews, select operational workflows for enhancement across DMS, DBHDID and DAIL, and review waiver redesign options to achieve CHFS goals. Remaining steps will include assessing and recommending enhancements to several operational workflows across the cabinet, culminating in the establishment of standard guidelines.

In response to questions from Senator McGarvey, Ms. Jacobs stated Navigant is discussing how to run agencies and workflows to allow Medicaid waiver processes to be more efficient and effective for participants and providers. Jason Gerling, HCBS Team Lead, Navigant Healthcare, stated the focus is on how the three agencies, DMS, DBHDID and DAIL, have combined to operate the waivers. The initial assessment has found a gap in areas of opportunity for the agencies to work together. He stated many of the processes in the operation of the HCBS waivers circulate through three different departments and three different sets of staff. The process can create challenges that pertain to who is the lead, who is making decisions, and who is getting the tasks completed. Jim Pettersson, Managing Director, Navigant Healthcare, stated the requirements that govern the waivers refer to program efficiency not necessarily provider efficiency. Navigant believes the providers are doing everything they can to economize and that the providers have to work with rates they are given.

Mr. Gerling stated early solutions include communication protocols, operating procedures that clearly define roles and responsibilities, and reviewing how calls are managed when they come into the system. Navigant has worked in

other states and found it is common to look at interagency collaboration. Navigant is looking to align these agencies so that CHFS is performing at maximum potential. Mr. Pettersson stated there different ways to define and analyze quality. The cabinet has an opportunity to economize when coordinating referrals and service provisions.

In response to questions from Senator Meredith, Mr. Gerling stated Navigant will structure the stakeholder engagements by creating smaller focus groups to obtain the targeted feedback. Navigant will intentionally seek information and input from consumers to get to the core of how services are directed. Navigant will examine if people that are receiving services are satisfied and their needs are being met by the waiver programs.

In response to questions from Senator Carroll, Ms. Jacobs stated Navigant will be reviewing the differentiation between waivers in terms of requirements and regulations governing those waivers. Navigant will examine where there may be opportunities to streamline and simplify the waivers, keeping in mind that each of the waivers serves a very unique and distinct population. Mr. Pettersson stated that not only is it inefficient to have competing priorities but it affects the providers which means additional costs. Navigant must find a balance between trying to consolidate waivers to make them effective not just from an economic perspective but also from a quality perspective. Navigant will need to decide if it can achieve that balance through waiver redesign or by improving internal operation effectiveness of the waiver programs. He stated he has seen the combining of waivers into a mega-waiver be successful within the intellectual disabilities population and the aged population separately.

Mr. Gerling stated there are inherent challenges to a mega waiver because the needs of the population that is eligible for skilled nursing care versus people who require an intermediate care facility (ICF) and have more intellectual developmental disabilities and some medical frailties. He testified that it can be very difficult to set parameters that accurately pinpoint what the different populations need and the protections needed in the waivers for those populations. He stated Navigant is also reviewing an option for new waivers that are more specific to a different populations. He stated all options are being reviewed and examined. Mr. Gerling stated Navigant, along with CHFS, will be reviewing what work flows and work areas the cabinet wants to target, based on what is most distressing both internally and externally for providers and participants

In response to questions from Representative Jenkins, Ms. Jacobs stated Navigant has assisted other states in establishing

and communicating its recommendations. Navigant's evaluation process is transparent with goals established, released, and stated publicly. Deputy Commissioner Hunter stated the cabinet is partnered with Navigant to do what is best for recipients and stakeholders. CHFS is accountable to the Legislature, providers, and participants.

In response to questions from Senator Alvarado, Deputy Commissioner Hunter stated Navigant will submit suggestions and new ideas to the cabinet as it has done in other states. Commissioner Miller stated there are approximately 5,000 individuals on the waiting list for the MPW. He testified that up until a few months ago, none of the 5,000 on the waiting list had been evaluated. He stated many people are on the waiting list only to find out years later that they do not meet the level of care to be qualified for the waiver. Commissioner Miller stated there was legislation previously passed for additional slots to be added to the waiver programs. He stated it was not clear as to whether or not those slots had been funded. While discussing the funding of those slots, the cabinet started to look at the overall waiver environment through a redesign.

In response to questions from Senator Carroll, Commissioner Miller stated there are additional slots available in the MPW. CHFS is back filling available slots as quickly as possible. The process has been slowed down because individuals on the wait list were not evaluated at the beginning of the process and many do not meet the level of care required. The cabinet is working with the community mental health centers to start pre-screening applicants. Commissioner Miller stated the process of pre-screening should allow CHFS to process the waiting list and fill available slots in a timely manner. He stated the cabinet will evaluate more individuals than slots are available because it is finding that only a small percentage of applicants will meet the actual level of care requirement.

Frank Huffman, Board Member, Protection and Advocacy for Persons with Developmental Disabilities (PADD), stated he wanted the committee to understand the importance of Navigant reviewing the waivers. He invited the cabinet, Navigant, and the committee members to a PADD board meeting, which is comprised of individuals with disabilities who are on the waivers.

Arthur Campbell Jr., activist, stated that he wanted to remind the cabinet and Navigant to include people with disabilities through the process of rewriting the Kentucky Medicaid waiver programs. He hopes the cabinet will give disabled people a chance to express their concerns and give suggestions on what the disability community needs because they can provide first-hand input.

Mary Hass, advocate, Brain Injury Association of America, testified that the Brain Injury Association of America wants to be a part of the waiver redesign process. She stated many families are scared and want to be sure they are represented in the waiver program discussions.

Diane Schirmer, M.Ed., Corporate Director of Brain Injury Services, New Vista Behavioral Healthcare, testified that a brain injury is a chronic condition recognized by the World Health Organization (WHO) and other medical organizations. She stated typically people with brain injuries are treated with intense rehabilitation at the beginning of the injury only, however, these individuals change with age. Patients should have opportunities for intense rehabilitation at different periods of their life.

Diana Merzweiler, Executive Director, Down Syndrome of Louisville, Inc. (DSL), stated DSL became a provider for Medicaid services approximately five years ago. She stated her organization sees people with and without waiver services. DSL raises additional funds to supplement programs for all members. DSL is concerned when it is mentioned that waivers were not initially designed for children. She stated any waiver or program should be given on a needs based requirements and not according to age. DSL serves its members for their entire life. She stated efficiencies are needed at the point of entry to the waiver programs. DSL has adequate meeting space and resources available to hold forums for the waiver redesign effort.

Adjournment

There being no further business, the meeting was adjourned at 3:32 PM.

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 7th Meeting of the 2017 Interim

August 28, 2017

Call to Order and Roll Call

The 7th meeting of the Public Pension Oversight Board was held on Monday, August 28, 2017, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brian Linder, Co-Chair; Senators Jimmy Higdon, Christian McDaniel, Gerald A. Neal, Dennis Parrett, and Wil Schroder; Representatives Ken Fleming, James Kay, Jerry T. Miller, Arnold Simpson, and Russell Webber; J. Michael Brown, John Chilton, Timothy Fyffe, Mike Harmon, James M. "Mac" Jefferson, and Sharon Mattingly.

Guests: John Chilton, State Budget Director;

Mike Nadol, PFM Group Consulting LLC; and Adam Reese, PRM Consulting Group.

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

Approval of Minutes

Senator Parrett moved that the minutes of the June 26, 2017, meeting be approved. Representative Kay seconded the motion, and the minutes were approved without objection.

Senator Bowen stated HB 238 was passed in the 2016 Regular Session and requires the Public Pension Oversight Board (PPOB) to employ the services of an actuary. LRC has issued a Request for Proposals (RFP), and three members from the PPOB will serve as an evaluation committee. The members nominated were Senator Bowen, Senator Schroder, and Representative Linder. Representative Miller moved for the approval of the evaluation committee members. Representative Fleming seconded the motion, and the committee members were approved without objection.

Senator Bowen said that Kentucky is faced with arguably the greatest challenge in its history - its pension liabilities. The pension systems must be saved and obligations met. As with any great challenge, all options to rectify the matter must be explored, and the PPOB must pursue the matter to get to the root cause of the problem and identify a pathway to solvency. PFM is providing an unbiased third party view, and the Kentucky legislature will be making decisions to craft a responsible and reasonable plan and will give those that might be affected ample time to make important decisions.

Introduction and Overview by Office of State Budget

John Chilton discussed the \$138.5 million revenue shortfall. In June of FY 2017, in order to resolve the shortfall, money was transferred from various funds throughout state government. The Consensus Forecasting Group's most recent meeting stated they expect another revenue shortfall of \$200 million for FY 2018 and expressed uncertainty regarding subsequent fiscal years. Mr. Chilton stated that, in PFM's second report, the actuarial assumptions were optimistic and in response, the Kentucky Retirement Systems' (KRS) Board lowered the expectations for the investment return and payroll growth and computed a new ARC for FY 2019. Using the more realistic assumptions, PFM computed that the general fund will be adversely affected by \$700 million in FY 2019 alone. In context, the total state budget is roughly \$10.5 billion. The Budget Reserve Trust Fund (Rainy Day Fund) is expected to be fully depleted by the end of FY 2018 due to necessary government expenses. The common target for the Budget Reserve Trust Fund is 5 percent of annual revenues, which would be \$550 million

in reserve excess monies as of the end of the year.

Mr. Chilton discussed options on how to raise \$1 billion, such as, cut spending, increase taxes, adjust benefits, and not pay the ARC. In the last budget cycle (2016), the expenditures in state government were reduced by 9 percent. Some important government services were not subjected to that 9 percent decrease, for example, K-12 education (SEEK), Medicaid, public protection, debt service, etc. To protect these same programs from cuts in FY 2019 would require that all other programs be cut by 34.4 percent. Protecting those same programs, but additionally subjecting education (SEEK) to cuts, requires cuts of 16.86 percent. SEEK would be reduced by \$510 million. All of this data presumes the ARC is fully funded in FY 2019.

Pensions and Medicaid have been a growing percentage of the general fund budget. In 2008, Medicaid and pensions made up just less than 20 percent of the total budget, the projection for 2018 is that Medicaid and pensions will make up just over 30 percent of the total budget.

Mr. Chilton stated that subject to discussion is the actual size of the pension liability. In 2016, actuaries computed an aggregate unfunded liability of \$33 billion. That figure was computed using an assumed investment return averaging 6.75 to 7.5 percent. Using rates that are recommended by PFM, rates of either 5.1 or 6 percent, the unfunded liability is \$42 billion. Using a corporate bond index rate, which non-governmental plans are required to use, the indication is that the funding is actually \$64 billion. Finally, if the U.S. Treasury rate at 2.72 percent is used, the unfunded liability is \$84 billion. Mr. Chilton said that the \$64 billion sum is the calculation that is closest to what non-governmental plans are required to use. Therefore, \$64 billion is the amount his office has used.

Mr. Chilton discussed how the underfunding occurred for Kentucky Employees Retirement System (KERS) non-hazardous and Kentucky Teachers' Retirement System (TRS). The most often cited reason is inadequate investment returns and lack of adequate funding. The funding method, the percentage of payroll, has been used and embedded in statute, and involves an actuarial back loading of payments that would reduce the unfunded liability. An employer rate is established each year as a percentage of payroll and is paid to the pension fund. The percentage growth in aggregate payroll has not been increasing at the target estimate of 4 percent and actuarial back loading combined with the faulty assumption has resulted in 25 percent of the underfunded amount. Mr. Chilton also discussed other areas of underfunding, including actuarial assumption changes of 22 percent, a market performance assumption of 15

percent, cost of living adjustments (COLA) of 9 percent, a plan performance market of 8 percent, and plan experience of 6 percent.

Mr. Chilton said that while TRS and CERS non-hazardous plans are in better shape than other Kentucky plans, the funding levels for both plans are below 60 percent – specifically, 59 percent for CERS non-hazardous and 54.6 percent for TRS. Using the Corporate Bond Index rate, TRS' unfunded liability goes from \$15 billion to \$34 billion, and the unfunded liability for the CERS non-hazardous plan goes from \$5 billion to \$9 billion. Using the same Corporate Bond Index rate, the aggregate underfunding for all eight plans goes from \$33 billion to \$64 billion.

Representative Kay said that a pension bond could be another option to raise the \$1 billion. A pension bond was done in 2011, and the PFM Group, in its second report, indicated that it was a successful way to raise money and fund the debt. Representative Kay said that his biggest concern was with revenues not matching up with what is being budgeted. He asked Mr. Chilton how the state could assure there is not a \$200 million revenue shortfall. Mr. Chilton stated that the \$200 million shortfall in revenues goes to the general fund and is not from the money that goes into the pension plans. In the budget for the Commonwealth, there is going to be \$200 million less than what was planned during the budget process. A separate component that relates to funding for the pension plans is how much money comes out of the budget and is available to put into the pension plans. Representative Kay said he was aware that the shortfall was with the general fund and wants to avoid, during the 2018 Regular Session in January, writing the budget in such a way that results in a big shortfall. Mr. Chilton stated the Governor addressed that in 2016 in the budget he presented to the legislature by not budgeting to 100 percent of what the Consensus Forecasting Group adopted. The budgeting practice in the past had been to budget every dollar that was adopted by the Consensus Forecasting Group.

Senator Bowen stated that pension obligation bonds are a solution if the market performs, but there is no guarantee.

Public Pension Performance Audit (Final Report & Recommendations)

Mike Nadol, PFM Group Consulting LLC (PFM), discussed that through past legislative reforms, recent board actions, and significant additional funding in FY 2017-2018, Kentucky has already taken many positive steps to address its retiree benefits. Without these prior actions, the current situation would be far worse. Even with a stronger foundation placed quickly and decisively into place, a long-term commitment to reform will also be needed to

rebuild on this foundation toward regaining fully sustainable fiscal health. The actuarial, funding, benefit, and investment approaches across the Commonwealth's different plans are complex, interconnected, and impact many, diverse stakeholders in varying ways. In their recommendations, PFM sought to balance these concerns through a consistent approach that also resolves the current crisis on a sustainable basis. In so doing, PFM has also sought to reflect the policy principles and direction set forth by Governor Bevin and the Commonwealth's leadership.

Mr. Nadol discussed key policy principles and goals. He stated that the severely distressed condition of the KERS non-hazardous plan, and the systemically high level of unfunded liabilities across all of Kentucky's plans in the aggregate, require strong action to reduce the risks of: continued increases in funding that crowd out other vital public spending and/or reach levels that cannot be sustained in the budget while keeping the state's taxes at a competitive level to support the Commonwealth's growth; resorting to the payment of benefits on a pay-as-you-go cash basis, which would be fiscally unsustainable; and plan insolvency, jeopardizing the retirement security of tens of thousands of former state and local government workers. To the extent possible, accrued benefits for service earned by employees and retirees should be protected within a framework consistent with the state's inviolable contract provisions and federal Employee Retirement Income Security Act (ERISA) standards for private plans. While legal challenges to any changes the General Assembly may make are almost inevitable, based upon advice of counsel who have studied KRS 61.692 and similar statutes nationwide, it appears that the legislature has many options that would pass judicial scrutiny in light of the extremely serious pension situation facing all Kentuckians. Long-term solvency of the retirement system as a whole must be ensured so that current retirees and future retirees can rely on secure retirement benefits. Risk levels systemically and for each individual plan should be reduced as much as possible to avoid recurrence of the severe deterioration in the retirement systems' health. Future liabilities should be valued conservatively, and the future risk to the Commonwealth associated with changes in economic conditions, investment returns, demographics, and actuarial methods and assumptions should be minimized. The Commonwealth's benefit structures should reduce future exposure to risk and the potential for unfunded liabilities to reemerge, in order to safeguard plan sustainability for KRS, TRS, and Judicial Form Retirement System (JFRS) participants, employers and the taxpayers. The Commonwealth's overall approach as

an employer should provide career state and local employees and teachers a sufficient and sustainable benefit for a dignified retirement through a combination of benefits from KRS, TRS, and JFRS, social security, and personal savings, while also accommodating and providing flexible and competitive options for workers who may spend only a portion of their career in public service.

Adam Reese of PRM Consulting Group (PRM) discussed the actuarial assumption recommendations. First, the study recommends modifying statutory provision KRS 61.565 to convert the level percent of payroll amortization method for KRS to a level dollar method. This consistent approach to reducing the Commonwealth's long-term pension debt will substantially increase the likelihood of steady and meaningful progress toward regaining a healthy funded status. The second recommendation was to modify KRS 161.550 and KRS 21.525 to apply a level dollar amortization method to TRS and JFRS. Third, the Kentucky state-administered retirement systems should adopt and maintain prudent and realistic investment return assumptions, such as, KERS non-hazardous and SPRS at 5.0 to 5.25 percent, KERS hazardous and CERS at 6.0 to 6.25 percent, TRS at 6.0 to 6.25 percent, and JFRS at 6.0 to 6.25 percent. The magnitude of the impact of the recommended actuarial assumptions on the estimated FY 2019 aggregate actuarially determined employer contribution for all systems, employers and funds total \$1.836 billion.

Mr. Reese discussed altering the funding policies of the systems relating to the method of discharging any legacy unfunded liability for each system. In this set of recommendations, Mr. Reese said that KRS and TRS, respectively, should maintain the current 30-year amortization periods beginning June 30, 2013 and 2014. Also, it was recommended that JFRS apply a 30-year amortization period for its existing unfunded liability, with 20-year closed periods for future unfunded amounts. A reset period of 30 years under a new level dollar amortization might be considered to modestly smooth the fiscal impact of the significant shift in assumptions approved in May and July. As to the other retirement plans, PFM recommended in this Report similar amortization schedules, as well as the resulting escalation in required contributions in the near term.

J. Michael Brown asked Mr. Nadol about his statement that the frame work of the recommendations should necessarily be consistent with the inviolable contract provisions of Kentucky pension law. Further, he addressed Mr. Nadol's reference in his comments that there was an analysis provided by government counsel and outside counsel. Mr. Brown asked

if the outside counsel referenced was Stites and Harbison. Mr. Nadol said yes. Mr. Brown asked why there was no reference in the report to any definition of the inviolable contract. Mr. Nadol said the written report does not detail any of those issues. Mr. Brown asked if the legal analysis of the recommendations in light of the inviolable contract was or could be made available to the PPOB. Mr. Nadol said he could not speak for the Commonwealth's counsel, but he would expect that they would be in a position to address questions of a legal nature. Senator Bowen said that the Governor has stated time and time again that this mission is to save the floundering pension systems and at the same time keep the promises made. The mission has not varied from that pledge.

Mr. Nadol discussed the benefit recommendation options for future hires. For KERS non-hazardous, CERS non-hazardous, and JFRS plans, the recommendation is to provide future hires with a 401(k) style defined contribution (DC) retirement benefit with a mix of employer and employee contributions. The components of this DC plan should include the following: (1) mandatory employee contribution of 3 percent of salary; (2) a guaranteed base employer contribution of 2 percent of salary; (3) an employer match to be set at 50 percent of additional employee contributions up to 6 percent of salary (i.e. up to an additional 3 percent from the employer); and (4) a maximum employer contribution of 5 percent and total maximum employee/employer contribution of 14 percent. Employer contributions would vest 100 percent after 5 years and 50 percent after 4 years.

For new hires in the KERS hazardous, CERS hazardous, and SPRS plans, the recommendation is to retain the current cash balance structure for hazardous plan participants, modifying only the requirements for normal retirement eligibility to age 60, and eliminating the option for retirement at any age based on years of service.

For new hires in TRS, the recommendation is a shift to a combination of social security participation and a DC retirement benefit. The components of this DC plan should include the following: (1) mandatory employee contributions of 3 percent; (2) a guaranteed base employer contribution of 2 percent of salary; (3) an additional employer match to be set at 50 percent of additional employee contributions up to 6 percent of salary (i.e. up to an additional 3 percent from the employer); and (4) a maximum employer contribution of 5 percent and total maximum employee/employer contribution of 14 percent. The employer contributions would vest 100 percent after 5 years and 50 percent after 4 years.

Mr. Nadol discussed the benefit

recommendation options for current plan participants. For KERS non-hazardous, CERS non-hazardous and JFRS, the recommendations were as follows: (1) freeze accrued benefits under the applicable existing pension tiers; (2) offer an optional buyout for the actuarial value of accrued service with the equivalent cash value to be rolled over to the plan participant's new DC account; (3) eliminate the application of unused sick and compensatory leave to increase pension benefits; (4) eliminate the portion of any pension benefit payments to retirees resulting from COLAs granted between the years of 1996-2012; and (5) establish a normal retirement age of 65. For KERS hazardous, CERS hazardous, and SPRS, members would retain the primary benefit associated with their current tier, modifying only the requirements for normal retirement age to 55 for Tier 1 and age 60 for Tiers 2 and 3. He also noted that employees can retire earlier with an actuarially reduced benefit. For TRS, the recommendations were as follows: (1) maintain a continued plan design with DB characteristics for incumbent teachers; (2) establish a normal retirement age of 65; (3) eliminate enhanced benefit features provided outside of any inviolable contract requirements; and (4) suspend all future COLAs until the system reaches a minimum 90 percent funded level using realistic actuarial assumptions, then, after reaching the 90 percent funded level, COLA payments could resume but only to the first \$1,500 of the monthly benefit.

Mr. Nadol discussed the retiree medical and insurance funds and stated the review of the retiree medical benefit program, led by PRM, found opportunities for reducing the cost of providing coverage by as much as 25 percent. Many Commonwealth retirees were found to receive significantly richer, more costly coverage than their active and pre-Medicare retiree counterparts.

Mr. Reese stated that the analysis found that the benefit coverage for retirees, after reaching Medicare age, is materially more generous than the health care coverage provided to current employees. Further, career retirees pay no premium, where current employees pay premiums every month. In addition to the benefit benchmarking to other states: (1) pursue harmonization of the level of retiree healthcare benefits for KRS, TRS, Legislative Retirement Plan (LRP), and Judicial Retirement Plan (JRP) non-Medicare and Medicare retirees so that the basic plan and benefit provided to the retirees is consistent with the LivingWell PPO coverage provided to active Commonwealth employees; (2) pooling JFRS with KRS so that JFRS will be able to leverage the additional scale of the other plans to obtain more competitive premium rates; (3) limit retiree healthcare eligibility to employees retiring directly from Commonwealth service.

Based on these estimated levels of premium reduction, the KRS actuarial liability would decline by about \$1.4 billion and the annual employer contribution funding cost would be about \$147 million lower. This corresponds to an estimated \$37 million in annual savings in the Commonwealth's General Fund budget for KRS plan OPEB, and an additional \$40 million in annual General Fund savings attributable to the TRS recommended changes. Using the current amortization method and schedule, the estimated savings would be roughly \$114 million in employer contribution, and \$22 million in annual General Fund savings.

Mr. Nadol discussed the impacts to local boards of education, explaining that while local school boards do not currently contribute any of the employer contribution for teacher pensions, there is a local employer share for retiree medical. The recommended changes to TRS may produce an estimated \$55 million of retiree medical savings. In addition, non-teaching staff of local school boards comprise 39 percent of the salary base in CERS non-hazardous, and would potentially save an additional estimated \$18 million collectively in retiree medical expenditures from recommended changes. These savings would offset the estimated initial costs to school boards of enrolling TRS new hires in social security that would give an estimated initial \$11 million statewide in the first full year and would increase roughly \$10 million per year in the future.

Mr. Nadol discussed voluntary buyouts and stated that a voluntary buyout of accrued service would allow employees who would prefer to manage their own assets in a DC plan to convert their benefit from the fixed DB plan to a lump sum account balance in the DC plan, on a tax-exempt basis. This opt-out would be voluntary on an employee-by-employee basis, except for Tier 3 of KERS non-hazardous, CERS non-hazardous, and Tier 4 of the Kentucky Judicial Retirement Plan and Kentucky Legislative Retirement Plan (JRP/LRP). This conversion would remove the liability from the retirement system, value the employee's accrued service as of the date of the conversion without applying future pay increases to the frozen portion of the benefit, improve the funded ratio, and reduce risk to the plan.

In response to a question from Representative Miller, Mr. Nadol stated that PFM had not considered forcing inactives to take a buyout.

In a response to a question from Auditor Harmon, Mr. Chilton stated that their understanding is that new hires would be able to go into the social security system unrestricted.

In a response to questions from Auditor Harmon, Mr. Reese stated that under a 401(k) style plan, employees would be afforded a set of

target life cycle funds. Also, PFM's report does not include any recommendations on employee legacy fee contributions for Tier 1 or Tier 2 employees.

In response to a question from Representative Kay, Mr. Nadol stated that the report does include estimated costs based on a certain set of assumptions and scenarios. PFM worked with the plan actuary's to develop the majority of the analysis leading into cost estimates. All of the estimated impacts of the different approaches exist in a dynamic relationship with the actuarial assumptions and approach that is used.

In response to a question from Representative Kay, Mr. Reese stated that the current government contributions for FY 2018-19 are set. To the extent that there is employee behavior that is different from the past, that will be reflected in the next valuation. The valuation assumptions already include a very high percentage of employees retiring when first eligible.

In response to a question from Representative Fleming, Mr. Reese stated there is a risk if the 2008 downturn in the market were to happen again. Plans that were funded and had a 38 percent investment loss wiped out 25 years of good funding.

In response to a question from Representative Fleming, Mr. Chilton stated that the Consensus Forecasting Group has done an evaluation of what they expect to happen in the future to the economy and recognizes that there has been a severe downturn, maybe every 7 to 8 years, and the plans are already 10 to 11 years into a cycle looking at the bottom of the last recession.

In response to a question from Sharon Mattingly, Mr. Chilton stated the Commonwealth has a 401(k) in which employees can now participate. Mr. Chilton stated that he is not sure if they will use the same platform or a new one established.

Mr. Nadol discussed the funding recommendations. Funding for all plans should be based on the actuarially determined contribution (ADC). For all the state funded plans, the following rules should apply: (1) budget the total amount based on the ADC; (2) continue to allocate normal cost as percent of payroll; and (3) charge the unfunded liability as a dollar amount based on the unfunded liability amortization associated with that employer's liability for accrued service. With TRS, the social security costs for new hires could be picked up by local school boards. The funding would be manageable statewide with \$11 million in costs in first year, increasing gradually by \$10 million each year, with potential retiree healthcare savings to offset. With CERS, the legislature

should consider imposing caps/collars on ADEC percent increases.

Mr. Nadol discussed governance and investment practices and stated that aggregating all TRS and KRS assets (investment centralization only) would potentially generate more than \$5 million of annual savings in investment management fees based on current KRS rates without factoring in additional negotiating leverage. PFM's analysis of KRS investment manager fee schedules indicates increased annual fees for both KERS/SPRS and CERS, if split, due to lower asset bases. These additional costs would be \$1.1 million for KERS/SPRS and \$0.7 million for CERS.

Mr. Nadol summarized that PFM sees that more dollars are required to stabilize these plans. He stated the plans are grossly underfunded and correcting that through improved actuarial assumptions is going to take substantial increased resources. The initial impact on the Commonwealth's General Fund of applying the more conservative assumptions to all state-funded plans is an estimated increase to the FY 2019 budget of over \$1 billion beyond the significant added investments in the FY 2017-18 budget. The combination of implementing all the recommended benefit options is estimated to offset the impact of the assumptions system-wide and reduce the recommended employer contribution by approximately 13 percent below the prior published/current assumptions if all preliminary options are included and fully realized.

Mr. Nadol states that it is the hope of PFM that all future Kentucky state and local government employees would have access to a balanced set of retirement benefits providing positive income replacement levels, including social security participation (not now available to teachers and many local government public safety employees), additional defined contribution (401(k)-style) plans with significant minimum employer contributions and additional employer matches, and quality retiree healthcare coverage consistent with that provided to active employees. All current Kentucky state and local government employees would have the value of their accrued benefits maintained and receive benefits for future service as good as or better than those available for future hires. All retired Kentucky former employees would receive at least the same benefit level guaranteed upon retirement, and would see significant improvements to the funding of their benefits by strengthening the solvency of these vital commitments. In addition, all Kentucky stakeholders would begin to see steady and meaningful restoration of fiscal stability to the Commonwealth's retirement systems, along with greatly reduced risk of renewed pension crises

in the years ahead. In turn, this progress would ultimately lead to more resources available for critical investments and services, fair employee raises going forward, and improved financial health and credit strength.

In response to a question from Auditor Harmon, Mr. Reese stated that under the buyout, some employees could roll their money over to a 401(k) and continue to work.

In response to a question from Representative Kay, Mr. Nadol stated that PFM does not recommend CERS separating from KRS. The analysis and benchmarking indicates a consolidated approach can be more efficient and more cost effective.

Senator Bowen stated that the presentation was a third-party analysis and, while the information is useful, it will be up to the General Assembly to ultimately craft an effective and fair plan going forward.

With no further business, the meeting was adjourned. The next scheduled meeting is Monday, September 25, 2017.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes of the 7th Meeting of the 2017 Interim

September 6, 2017

Call to Order and Roll Call

The 7th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, September 6, 2017, at 10:00 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Stephen Meredith, Dennis Parrett, and Whitney Westerfield; Representatives Kim King, Phillip Pratt, Rick Rand, Brandon Reed, and Dean Schamore.

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy, Bill McCloskey, Deputy Executive Director, Governor's Office of Agricultural Policy, Linda Hampton, Acting Executive Director, Kentucky Governor's Office of Early Childhood, Christa Bell, Director, Division of Childcare, Department of Community Based Services, Dr. Tom Lottman, Director, Innovation Lab, Children, Inc., and Paula Goff, Branch Manager, Early Childhood Development, Department for Public Health.

LRC Staff: Tanya Monsanto and Kelly Ludwig, and Rachel Hartley, Committee Assistant.

The July 5, 2017 and August 4, 2017 minutes were approved by unanimous voice vote.

Governor's Office of Agricultural Policy

Report

Bill McCloskey described the Agricultural Development Board's approved projects and future projects under the program. Mr. McCloskey highlighted programs including County Agricultural Investment Program, Deceased Farm Animal Removal Program, and Youth Ag Incentives Program.

The County Agricultural Investment Program Council, Inc. requested an additional \$18,000 in Russell County funds.

Governor's Office of Early Childhood

Linda Hampton stated early childhood investments in brain development, language acquisition, kindergarten readiness, third grade reading, high school graduation, and college readiness last for a lifetime. These are focus areas emphasized by the Early Childhood Advisory Council (ECAC).

Early Childhood received \$24,516,000 from the Tobacco Settlement.

Funded projects include:

STARS for KIDS NOW

Child Care Subsidy

HANDS Home Visiting

Child Care Health Consultants

Early Childhood Scholarship Program

Community Early Childhood Councils

Effective February 3, 2017, the name of the Early Childhood Development Authority has been changed to the ECAC.

In 2015, ECAC created the School Readiness Summit to engage superintendents and the Early Care and Education community by providing an opportunity for collaboration and action planning. There were 46 districts represented with 300 participating team members.

The Early Childhood Institute (ECI) was held June 28-30, 2017, with 1,500 in attendance. There were 150 professional development sessions with 14,471 child care training hours. ECI provides an opportunity for teachers, administrators, leaders, and advocates to collaborate and gain skills to lead.

Community Early Childhood Councils (CECC) mobilize local community members to build collaborative partnerships to help Kentucky improve Kindergarten readiness. A total of \$1,269,113.64 was awarded to 74 councils during the 2016-2017 grant cycle.

The ECAC Data Subcommittee leads efforts to communicate about early childhood education data to the public, parents, educators, policymakers, and communities.

Dr. Tom Lottman stated social-emotional learning (SEL) contributes to academic success. SEL should be viewed as the acquisition of knowledge and skill sets necessary to succeed in school, work, relationships, and in communities.

The state level efforts should be accelerated to develop capacity for implementing SEL best practices through professional learning and training opportunities for early childhood and school district professionals including teachers and administrators.

Christa Bell overviewed programs administered by the cabinet of Health and Family Services including the Scholarship Program which allows childcare staff to obtain a scholarship to increase their qualifications and credentials.

Paula Goff summarized the HANDS Program. Parents can enroll prior to birth of an infant or up to 90 days after birth. The program provides support through pregnancy and after birth. Moving Beyond Depression is a new program under HANDS that will allow new mothers to have in home therapy.

In response to a question from Representative Schamore, Ms. Goff stated HANDS is offered through local health departments. There is no income eligibility, but criteria must be met to determine if family is overburdened.

In response to a question from Senator Meredith, Ms. Hampton stated there are five learning domains including cognitive, language, physical, literacy, and mathematics. The Department of Education controls the screening process and is thoroughly reviewing the process since data has been collected. Dr. Lottman stated the model developed in Northern Kentucky will not be used statewide. Each model should be uniquely created to satisfy the needs of a specific district.

The next meeting of the Tobacco Agreement Oversight Committee will be October 4, 2017. Documents distributed during the meeting are available in the LRC Library.

There being no further business, the meeting was adjourned.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

September 11, 2017

Call to Order and Roll Call

The Government Contract Review Committee met on Monday, September 11, 2017, at 10:00 AM, in Room 131 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 Stan Lee, Co-Chair; Senator Paul Hornback; Representatives Chris Fugate, and Dennis Horlander.

Guests: Lee Smith, John Horne, Jeff Harmon, Patrick McGee, Scott Brinkman, Phillip Brown, Michelle Landers, Barry Swanson, Tom Barker, Lee Smith, Jimmy Adams, Lauren

Graves, Norman Arflack, Michelle Buffin, Mark Bowman, Zeb Weese, Darron Sammons, and Amy Barnes.

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

DEFERRED ITEM:

UNIVERSITY OF LOUISVILLE

Isaacson Miller, Inc., 17-029. Lee Smith discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Lee seconded the motion, which passed.

A motion was made by Representative Lee to approve Minutes of the August 2017, meeting of the committee. Representative Fugate 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. Representative Fugate 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. Representative Fugate 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. Representative Fugate 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. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Representative Lee 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.

A motion was made by Representative Lee to consider as reviewed the Film Tax Incentive 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 Representative Lee to consider as reviewed the Correction List. Representative Fugate seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

Crisis Prevention Institute, 1800000367.

DEPARTMENT OF REVENUE

Dassault Systems Americas Corporation, 1800000175.

KENTUCKY HOUSING CORPORATION

Novogradac & Company, LLP, 2017-9.

KENTUCKY RIVER AUTHORITY

Lloyd Thomas Russell, 1800000323.

KENTUCKY STATE UNIVERSITY

Johnson Bearse, LLP, 18-01.

MOREHEAD STATE UNIVERSITY

Metis Associates, Inc., 18-031.

MURRAY STATE UNIVERSITY

Ruffalo Noel Levitz, LLC, 012-18.

NORTHERN KENTUCKY UNIVERSITY

Schoepf/Associates, 2017-627; Keaton Real Estate Services, LLC, 2017-628; SHP Leading Design, 2018-102.

STATE POLICE, DEPARTMENT OF

Brian D. Sumner, 1800000317.

TRANSPORTATION CABINET

Osborne & Heaberlin, PSC, 1800000118; DLZ Kentucky, Inc., 1800000184; DLZ Kentucky, Inc., 1800000190; DLZ Kentucky, Inc., 1800000267; Bacon Farmer Workman Engineering & Testing, Inc., 1800000283; DLZ Kentucky, Inc., 1800000300; Stantec Consulting Services, Inc., 1800000302; Aecom Technical Services, Inc., 1800000306; WSP USA, Inc., 1800000309; DLZ Kentucky, Inc., 1800000312; QK4, Inc., 1800000321; HDR Engineering, Inc., 1800000332; Burgess and Niple, Inc., 1800000343; QK4, Inc., 1800000362; Palmer Engineering, 1800000364; GRW Aerial Surveys, Inc., 1800000366; DLZ Kentucky, Inc., 1800000372; DLZ Kentucky, Inc., 1800000376; DLZ Kentucky, Inc., 1800000385; DLZ Kentucky, Inc., 1800000391; DLZ Kentucky, Inc., 1800000398; Strand Associates, Inc., 1800000402; DLZ Kentucky, Inc., 1800000404; Palmer Engineering Company, 1800000406; H.W. Lochner, Inc., 1800000408; Strand Associates, Inc., 1800000409; QK4, Inc., 1800000418; HDR Engineering, Inc., 1800000419; Integrated Engineering, Inc., 1800000420; HMB Professional Engineers, Inc., 1800000421; J.M. Crawford & Associates, Inc., 1800000447; DLZ Kentucky, Inc., 1800000460; Aecom Technical Services, Inc., 1800000481;

QK4, Inc., 1800000487; Palmer Engineering County, 1800000488; Integrated Engineering, 1800000489; HDR Engineering, Inc., 1800000490.

UNIVERSITY OF KENTUCKY

Fourth Quadrant d/b/a Up and Up Services, K18-129; Herter Design Group, K18-131.

UNIVERSITY OF LOUISVILLE

BarkleyREI, LLC, 18-023; HBSA "Supporting Organization for PIRE", 18-035.

WESTERN KENTUCKY UNIVERSITY

The Scorer's Table, 171813.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

BOARD OF PROFESSIONAL COUNSELORS

Marisa Neal, 1600003192.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Stantec Consulting Services, Inc., 1000001351; URS Corporation, 1000001352.

EASTERN KENTUCKY UNIVERSITY

Alexander Haas, Inc., 18-018; Sturgill, Turner, Barker & Moloney, PLLC, 18-060; Murphy Graves & Trimble, 18-090.

EDUCATION, DEPARTMENT OF

Maria Isabel Pereira, 1700001581; Ameresco, 1700001856.

EDUCATIONAL TELEVISION, KENTUCKY

Carla Gover Barnett, 1700002111.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING

Omni Architects, 0700003255; EOP Architects, PSC, 1400000675; Sherman Carter Barnhart, 1400001413; EOP Architects, PSC, 1500000584; Ross Tarrant Architects, Inc., 1500001017; CMTA, Inc., 1500002374; Paladin, Inc., 1600000070; Paladin, Inc., 1600001124; Paladin, Inc., 1600001124; Paladin, Inc., 1600001243; Greg Best Consulting, Inc., 1600003924; Neel-Schaffer, Inc., 1700001479.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM

Economic Modeling Specialists International, LLC, 712.

MURRAY STATE UNIVERSITY

Multi, 001-18; Multi, 003-18; Multi, 006-18; Multi, 008-18.

TRANSPORTATION CABINET

Lochner H. W. Consulting, Inc., 1000002376; HDR Engineering, Inc., 1200001709; Stantec Consulting Services, Inc., 1300000367; GRW Engineers, Inc., 1400000506; Vaughn & Melton Consulting Engineers Kentucky, Inc., 1400000764; Vaughn & Melton Consulting Engineers (Kentucky), Inc., 1400001085; URS Corporation, 1500000075; ICA Engineering, Inc. f/k/a Florence & Hutcheson, Inc., 1500000091; Stantec Consulting Services, Inc., 1500000096; Integrated Engineering, PLLC, 1500001416; Stantec Consulting Services, Inc., 1500002598; Occupational Health Center of Southwest, 1600002773; Michael Baker International, Inc., 1600003185; QK4, Inc., 1700001237; ICA Engineering, C-99005084-5.

UNIVERSITY OF KENTUCKY

SSI (US), Inc., K17-230.

UNIVERSITY OF LOUISVILLE

Multi, 17-018 A-D.

VETERANS AFFAIRS, DEPARTMENT OF

Sturgill, Turner, Barker & Moloney, PLLC, 1700002210.

WESTERN KENTUCKY UNIVERSITY

Multi, 161807; Bowling Green Warren County Community Hospital d/b/a Medical Center Psychiatry, 161822; Adelphi Technology, Inc., 161826.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

CORRECTIONS, DEPARTMENT OF

Louisville Metro Corrections, 1700001463; Centerstone of Kentucky, Inc., 1700002793.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Headwaters, Inc., 1700002794.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Jefferson County Board of Education, 1700002816; Multi, 1800000078; Multi, 1800000308; Green River Area Development District, 1800000327.

DEPARTMENT FOR MEDICAID SERVICES

Trustees of the University of Pennsylvania, 1800000237.

EDUCATION, DEPARTMENT OF

Eastern Kentucky University, 1700002330; Murray State University, 1700002344; University of Kentucky MERR Student Financial

Aid, 1700002347; University of Louisville Research Foundation, 1700002348; Western Kentucky University Research Foundation, Inc., 1700002379; Bullitt County Board of Education, 1700002565; Marion County Board of Education, 1700002787; Jefferson County Board of Education, 1700002808; Western Kentucky University Research Foundation, Inc., 1700002825; Collaborative Center for Literacy Development, 1700002835; Jefferson County Board of Education, 1700002841; Carter County Board of Education, 1700002851; Edmonson County Board of Education, 1700002854; Franklin County Board of Education, 1700002857; Grant County Board of Education, 1700002858; Johnson County Board of Education, 1700002862; Lewis County Board of Education, 1700002865; McCreary County Board of Education, 1700002869; Newport Independent Board of Education, 1700002871; Powell County Board of Education, 1700002872; Eastern Kentucky University, 1700002880; Martin County Board of Education, 1700002905; Eastern Kentucky University, 1700002911; Research Foundation of Suny, 1700002923; University of Louisville Research Foundation, 1800000008; Lee County Board of Education, 1800000055; Western Kentucky University Research Foundation, Inc., 1800000073; Jefferson County Board of Education, 1800000108; Ohio Valley Educational Cooperative, 1800000126; Burgin Board of Education, 1800000196; Corbin Independent Board of Education, 1800000197; Newport Independent Board of Education, 1800000235; Ashland Independent School District, 1800000243; Campbell County Board of Education, 1800000246; Eminence Independent Board of Education, 1800000249; Erlanger Elsmere Board of Education, 1800000250; Fayette County Board of Education, 1800000251; Greenup County Schools, 1800000252; Henderson County Board of Education, 1800000257; Jefferson County Board of Education, 1800000258; Jessamine County Board of Education, 1800000259; Knott County Board of Education, 1800000260; Newport Independent Board of Education, 1800000263; Paducah Independent Board of Education, 1800000264; Pike County Board of Education, 1800000265; Whitley County Board of Education, 1800000266; Collaborative for Teaching, 1800000299; Anderson County Board of Education, 1800000411.

EDUCATION, OFFICE OF THE SECRETARY

Multi, 1800000280.

JUSTICE CABINET

Kentucky Association of Sexual Assault Program, 1800000192; Kentucky Coalition

Against Domestic Violence, Inc., 1800000193; Kentucky Association of Child Advocacy Centers, 1800000194.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT

Floyd County Fiscal Court, 1700002909; Harlan County Fiscal Court, 1700002918; City of Clarkson, 1800000161; City of Crofton, 1800000166; Knott County Fiscal Court, 1800000186; Daviess County Fiscal Court, 1800000222; Harlan County Fiscal Court, 1800000228; Harlan County Fiscal Court, 1800000229; City of Earlington, 1800000254; Barren River Area Development District, 1800000284; Big Sandy Area Development District, 1800000285; Buffalo Trace Area Development District, 1800000287; Cumberland Valley Area Development District, 1800000288; Fivco Area Development District, 1800000289; Gateway Area Development District, 1800000290; Green River Area Development District, 1800000291; Lake Cumberland Area Development District, 1800000294; Purchase Area Development District, 1800000298; Madison County Fiscal Court, 1800000301; Shelby County Fiscal Court, 1800000491.

TOURISM DEVELOPMENT CABINET

Multi, 1700002780.

WESTERN KENTUCKY UNIVERSITY

Hart County Board of Education, 2018-005.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF

Multi, 1700001659; Multi, 1700001659.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

Bluegrass Regional Mental Health Mental Retardation, 1600001661; Hazelden Betty Ford Foundation, 1600001732.

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Pharmacy Education and Research Foundation, Inc., 1600002278.

EDUCATION, DEPARTMENT OF

University of Louisville Research Foundation, 1700000254; Jefferson County Board of Education, 1700000315; Jefferson County Board of Education, 1700001633; Kentucky Valley Education, 1700001674; Boone County Board of Education, 1700001736; Madison County Board of Education, 1700001742; Franklin County Board of Education, 1700001760; Boyd County Board of Education, 1700002521.

JUSTICE CABINET

University of Kentucky, 1600003475; University of Tennessee Anthropology Department, 1600003487; University of Louisville, 1600003489.

OFFICE OF THE GOVERNOR,
DEPARTMENT FOR LOCAL GOVERNMENT

Lee County Fiscal Court, 1700000801.

POST SECONDARY EDUCATION,
COUNCIL ON

Collaborative for Teaching, 1700000585.

THE FOLLOWING FILM TAX
INCENTIVES WERE REVIEWED WITHOUT
OBJECTION:

TOURISM DEVELOPMENT CABINET

Schuetzle Company Productions, LLC, 1800000272; DD Tiger 1 LLC, 1800000281; Come On, Backslider, LLC, 1800000316; TPC Partners, LLC, 1800000325; Play the Flute Movie, LLC, 1800000326; River Runs Red, LLC, 1800000328; Motown Touring, LLC, 1800000401; Hammerheart Productions, LLC, 1800000429; Romero Pictures, LLC, 1800000434; The Cornett Group, Inc., 1800000436; Sunshine Films La Grange, LLC, 1800000437; AOSD Film, LLC, 1800000446; TPC Partners, LLC, 1800000456.

THE FOLLOWING FILM TAX
INCENTIVE AMENDMENTS WERE
REVIEWED WITHOUT OBJECTION:

TOURISM DEVELOPMENT CABINET

Clovehitch Film, LLC, 1700000409.

THE FOLLOWING PERSONAL
SERVICE CONTRACTS WERE SELECTED
FOR FURTHER REVIEW:

DEPARTMENT FOR ENVIRONMENTAL
PROTECTION

Dinsmore & Shohl, LLP, 1800000444. John Horne and Jeff Harmon discussed the contract with the committee. A motion was made by Representative Lee to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

EDUCATION PROFESSIONAL
STANDARDS BOARD

Capital Link Consultants, 1800000271. Jimmy Adams and Lauren Graves discussed the contract with the committee. A motion was made by Senator Hornback to disapprove the contract. Representative Fugate seconded the motion, which failed, with Representative Horlander voting no.

FINANCE AND ADMINISTRATION
CABINET

Frost Brown Todd, LLC, 1700002419. Patrick McGee, Scott Brinkman, and Phillip Brown discussed the contract with the committee. A motion was made by Representative Lee to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.

Embry Merritt Shaffar Womack, PLLC, 1800000268; Wallace Boggs, PLLC, 1800000270. Patrick McGee, Scott Brinkman, and Phillip Brown discussed the contracts with the committee. A motion was made by Representative Fugate to consider the contracts as reviewed. Senator Hornback seconded the motion, which passed, with Representative Horlander voting no.

KENTUCKY EMPLOYERS MUTUAL
INSURANCE

Kenning Consulting, Inc., 18-KEN-001. Michelle Landers discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

UNIVERSITY OF KENTUCKY

Smith Moore Leatherwood, LLP, K18-130. Barry Swanson and Tom Barker discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Lee seconded the motion, which passed, with Representative Horlander voting no.

UNIVERSITY OF LOUISVILLE

R. William Funk & Associates, 18-034. Lee Smith discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Lee seconded the motion, which passed.

VETERANS AFFAIRS, DEPARTMENT OF

Trilogy Healthcare Holdings, Inc., 1700000535-1. Norman Arflack, Michelle Buffin, and Mark Bowman discussed the contract with the committee. A motion was made by Senator Wise to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

THE FOLLOWING MEMORANDA
OF AGREEMENTS WERE SELECTED FOR
FURTHER REVIEW:

KY STATE NATURE PRESERVES
COMMISSION

Finance Real Property, 1700002519. Zeb Weese discussed the contract with the committee. A motion was made by Senator Wise to consider the contract as reviewed. Representative Lee

seconded the motion, which passed.

OFFICE OF THE GOVERNOR,
DEPARTMENT FOR LOCAL GOVERNMENT

Knott County Fiscal Court, 1800000187. Amy Barnes and Darron Sammons discussed the contract with the committee. A motion was made by Senator Wise to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF
AGREEMENTS FOR \$50K AND UNDER
WERE SELECTED FOR FURTHER REVIEW:

OFFICE OF THE GOVERNOR,
DEPARTMENT FOR LOCAL GOVERNMENT

Harlan County Fiscal Court, 1800000227. Amy Barnes and Darron Sammons discussed the contract with the committee. A motion was made by Senator Wise to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

EXEMPTION REQUESTS:

The Kentucky Department of Agriculture requested an exemption from the two year contracting restrictions for eight grant recipients for the purpose of researching and promoting specialty crop farming techniques in Kentucky; 100% Federal Funds. A motion was made by Representative Lee to grant the request to September 30, 2020. Senator Wise seconded the motion, which passed.

There being no further business, the meeting adjourned at 11:25 A.M.

**ADMINISTRATIVE REGULATION
REVIEW SUBCOMMITTEE**

Minutes of the September Meeting

September 11, 2017

Call to Order and Roll Call

The September meeting of the Administrative Regulation Review Subcommittee was held on Monday, September 11, 2017, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Ken Upchurch, Co-Chair; Senators Perry B. Clark, and Alice Forgy Kerr; Representatives Mary Lou Marzian, Jason Petrie, and Tommy Turner.

Guests: Sarah Beth Gregory, Charles Hunt, Auditor of Public Accounts; Shan Dutta, Board of Professional Geologists; Amber Arnett, Ron Brooks, Department of Fish and

Wildlife Resources; Amy Barker, Department of Corrections; Brooken Smith, Michael Swansburg, Labor Cabinet; Stephen Humphress, Heather Mercadante, Department of Alcoholic Beverage Control; Patrick O'Connor II, Department of Insurance; Laura Begin, Erica Brakefield, Brent Irvin, Ken Spach, Robert Silverthorn Jr., Jennifer Wolsing, Office of Inspector General; Elizabeth Caywood, Leitha Harris, Department of Community Based Services; Shannon Stiglitz, Retail Federation; Kyle Hoylman, Steven Rice, Radon Program Advisory Committee.

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 11, 2017, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

AUDITOR OF PUBLIC ACCOUNTS

45 KAR 1:030. Audits of sheriffs' tax settlements. Chris Hunt, general counsel, and Sarah Beth Gregory, chief of staff, represented the Auditor of Public Accounts.

45 KAR 1:040. Audits of county fee officials.

45 KAR 1:050. Audits of fiscal courts.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Office of Occupations and Professions: Board of Registration for Professional Geologists

201 KAR 31:010. Fees. Shan Dutta, counsel, represented the board.

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

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

301 KAR 1:201. Taking of fish by traditional fishing methods. Amber Arnett, counsel, and Ron Brooks, fisheries director, represented the department.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:230. Little Sandy Correctional Complex. Amy Barker, assistant general counsel, represented the department.

In response to questions by Co-Chair

Harris, Ms. Barker stated that a change was made to the statewide policy to prohibit inmates from sending money outside of a facility and to prohibit inmates from opening savings accounts. The individual facility policies were being amended to comply with that statewide policy. The policy was the result of a specific security problem that had occurred. The department was still considering that statewide policy and may further refine it in the future. Inmates were still able to pay certain amounts to outside entities, but were prohibited from directly sending money outside of a facility.

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

501 KAR 6:270 & E. Probation and parole policies and procedures.

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

501 KAR 6:999. Corrections secured policies and procedures.

This administrative regulation was reviewed and amended, without objection and with agreement of the agency, by the Subcommittee in closed session pursuant to KRS 61.810(1)(k), 61.815(2), and 197.025(6).

LABOR CABINET: Department of Workplace Standards: Division of Occupational Health and Safety Compliance: Division of Occupational Safety and Health Education and Training

803 KAR 2:425 & E. Toxic and hazardous substances. Brooken Smith, chief of staff, and Michael Swansburg, general counsel, represented the division.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing

804 KAR 4:390. License renewals. Stephen Humphress, general counsel, and Heather Mercadante, executive adviser, represented the department.

804 KAR 4:400. Applications incorporated by reference.

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

804 KAR 4:410. Product registration and forms.

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

Transportation of Alcoholic Beverages

804 KAR 8:050. Signs on vehicles used.

In response to a question by Senator Clark, Mr. Humphress stated that the department historically had the authority to check premises. KRS 241.090 authorized the department to perform warrantless inspections; however, the department rarely performed warrantless inspections. KRS 243.200 provided for the consent of transporters prior to inspection. The U.S. Supreme Court had recognized that the alcoholic beverage industry is highly regulated; therefore, there was a reduced expectation of privacy.

In response to a question by Co-Chair Harris, Mr. Humphress stated that the department had encountered situations of bootleggers, especially from dry counties who, without a licensed vehicle, purchased large quantities of alcoholic beverages for transport back to the dry counties with the intent to sell. Department investigators in that situation would usually follow the vehicle to determine if a violation was occurring and had existing authority pursuant to probable cause and reasonable suspicion standards.

Department of Insurance: Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:031. Repeal of 806 KAR 5:030 and 806 KAR 5:040. Patrick O'Connor II, deputy commissioner, represented the department.

Investments

806 KAR 7:011. Repeal of 806 KAR 7:010.

A motion was made and seconded to approve the following amendments: 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 amendments were approved.

Agents, Consultants, Solicitors and Adjusters

806 KAR 9:051. Repeal of 806 KAR 9:050 and 806 KAR 9:300.

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.

Health Insurance Contracts

806 KAR 17:575. Pharmacy benefit managers. Shannon Stiglitz, vice president

of governmental affairs, represented the Kentucky Retail Federation in support of this administrative regulation.

In response to questions by Representative Petrie, Mr. O'Connor stated that this administrative regulation was initiated because of significant complaints from stakeholders, primarily pharmacists. KRS 304.17A-162 authorized the department to regulate pharmacy benefit managers and the reimbursement process. This administrative regulation clarified and expanded substantive provisions for appeals in the case of cost disputes. This administrative regulation also increased transparency by requiring benefit managers to include greater detail in individual notifications. The department utilized existing personnel to investigate complaints; therefore, this administrative regulation was not expected to burden the department's budget. Some pharmacy benefit managers had expressed concerns that developing their own online systems would be burdensome; however, the department anticipated that this administrative regulation would streamline the process for all stakeholders and reduce complaints in general.

Ms. Stiglitz stated that the Kentucky Retail Federation, which representation included retail pharmacies and the Kentucky Pharmacists Association, fully supported this administrative regulation. This administrative regulation was necessary to complete the intent of Senate Bill 117 from the 2016 Regular Session of the General Assembly. Pharmacy benefit managers did not need to be concerned about burdensome requirements because complaints would not be filed if reimbursements were conducted appropriately. Senate Bill 117 from the 2016 Regular Session of the General Assembly authorized the department to assist financially with the infrastructure necessary to comply with the mandates.

In response to questions by Representative Petrie, Ms. Stiglitz stated that this administrative regulation should be sufficient to give the department the authority and the necessary standards to enforce Senate Bill 117 from the 2016 Regular Session of the General Assembly; however, whether or not this administrative regulation was sufficient to meet the overall needs of pharmacists was not yet determinable.

In response to a question by Co-Chair Harris, Ms. Stiglitz stated that a good groundwork had been established for a working relationship between the department and the Kentucky Retail Federation. Mr. O'Connor stated that the department had a good working relationship with the pharmacist community and with pharmacy benefit managers. The department had worked with both groups to develop this administrative regulation and also had a good working relationship with Kentucky Medicaid

Services.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 5 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 5 for consistency to require the weekly updates to the maximum allowable cost price list to be provided within two (2) business days of receipt of the request from the contracted pharmacy. Without objection, and with agreement of the agency, the amendments were approved.

Domestic Stock and Mutual Insurers

806 KAR 24:022. Repeal of 806 KAR 24:020.

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

902 KAR 20:360 & E. Abortion facilities.

Robert Silverthorn, Jr., inspector general, and Jennifer Wolsing, general counsel, represented the division.

In response to questions by Senator Clark, Mr. Silverthorn stated that testimony in the litigation related to this administrative regulation ended September 8, 2017. After a briefing period, the matter would be considered by the court. It was unnecessary to defer consideration of this administrative regulation until the court determination because that decision may be many months away. Senator Clark stated that, if we as a Commonwealth believed that abortion should be safe, legal, and rare, this administrative regulation seemed contrary to that ideal. It had been determined that abortion was protected by the U.S. Constitution. While Senator Clark stated that he was not pro-abortion, he recommended deferral of this administrative regulation until the court determination was issued.

In response to questions by Representative Marzian, Mr. Silverthorn stated that, in addition to abortion facilities, there were certain ambulatory care centers that, through the State Health Plan and Certificate of Need process, were required to have a patient transfer agreement. In order to be licensed, a facility was first required to obtain a Certificate of Need, which was the component that required the patient transfer agreement; therefore, the ambulatory care centers were indirectly required to establish patient transfer agreements for licensure. Representative Marzian requested to be recorded as voting in opposition to this administrative regulation.

Department for Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 3:025. Technical requirements. Elizabeth Caywood, executive advisor, and Leitha Harris, section supervisor, represented the program.

In response to a question by Representative Petrie, Ms. Caywood stated that the requirements for able-bodied adults in the program had not changed. The purpose of this administrative regulation was to open the employment and training program to other households that could benefit but were not necessarily required to participate.

921 KAR 3:042. Supplemental Nutrition Assistance Program employment and training program.

Other Business: Co-Chair Harris led a moment of silence in honor of the victims of the September 11, 2001 terrorist attacks on the U.S., including citizens lost that day and those who had sacrificed since that time in the fight against terrorism around the world. Thoughts were also offered for victims of the recent hurricanes, especially in Texas, Florida, Georgia, and other regions.

Sarah Beth Gregory, former member of the Subcommittee and current chief of staff for the Auditor of Public Accounts, was recognized and welcomed.

Co-Chair Harris stated that agencies' efforts to comply with the Red Tape Reduction Initiative were appreciated and, in so doing, it was important to remain in compliance with KRS 13A.221, which required subject matter to be divided into topics. A separate administrative regulation was required to be promulgated for each topic. If several topics were consolidated into one (1) administrative regulation, the resulting administrative regulation could be cumbersome to amend and difficult for stakeholders to use.

The following administrative regulations were deferred or removed from the September 11, 2017, Subcommittee agenda:

COUNCIL ON POSTSECONDARY EDUCATION: Public Educational Institutions

13 KAR 2:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities.

13 KAR 2:130. Comprehensive funding model for the allocation of general fund appropriations to the Kentucky Community and Technical College System institutions.

Adult Education and Literacy

13 KAR 3:050. GED® eligibility requirements.

FINANCE AND ADMINISTRATION CABINET: Teachers' Retirement System: Board of Trustees

102 KAR 1:070. Application for retirement.

DEPARTMENT OF MILITARY AFFAIRS: Division of Administrative Services: Military Assistance Trust Funds

106 KAR 2:040. Survivor benefits for death of a National Guard or Reserve Component member.

GENERAL GOVERNMENT CABINET: Board of Pharmacy

201 KAR 2:380. Board authorized protocols. Board of Medical Licensure

201 KAR 9:260. Professional standards for prescribing and dispensing controlled substances.

Board of Embalmers and Funeral Directors

201 KAR 15:030. Fees.

201 KAR 15:050. Apprenticeship and supervision requirements.

201 KAR 15:110. Funeral establishment criteria.

Board of Nursing

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses.

Board of Licensure for Occupational Therapy

201 KAR 28:200. Continuing competence.

201 KAR 28:235. Telehealth occupational therapy services.

Board of Licensed Professional Counselors

201 KAR 36:065. Licensed professional clinical counselor supervisor.

201 KAR 36:070. Application, education, and examination requirements.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Waste Management: Identification and Listing of Hazardous Waste

401 KAR 31:002. Repeal of 401 KAR 31:005, 401 KAR 31:010, 401 KAR 31:020, 401 KAR 31:030, 401 KAR 31:035, 401 KAR 31:040, 401 KAR 31:050, 401 KAR 31:070, 401 KAR 31:100, 401 KAR 31:110, 401 KAR 31:160, and 401 KAR 31:170.

Standards Applicable to Generators of Hazardous Waste

401 KAR 32:002. Repeal of 401 KAR 32:005, 401 KAR 32:010, 401 KAR 32:020, 401 KAR 32:030, 401 KAR 32:040, 401 KAR 32:050, 401 KAR 32:060, 401 KAR 32:065, and 401 KAR 32:100.

Standards Applicable to Transporters of Hazardous Waste

401 KAR 33:002. Repeal of 401 KAR 33:005, 401 KAR 33:010, 401 KAR 33:020, and 401 KAR 33:030.

Standards for Owners and Operators of Hazardous Waste Storage, Treatment and Disposal Facilities

401 KAR 34:002. Repeal of 401 KAR 34:005, 401 KAR 34:010, 401 KAR 34:020, 401 KAR 34:030, 401 KAR 34:040, 401 KAR 34:050, 401 KAR 34:060, 401 KAR 34:070, 401 KAR 34:080, 401 KAR 34:090, 401 KAR 34:100, 401 KAR 34:110, 401 KAR 34:120, 401 KAR 34:130, 401 KAR 34:180, 401 KAR 34:190, 401 KAR 34:200, 401 KAR 34:210, 401 KAR 34:220, 401 KAR 34:230, 401 KAR 34:240, 401 KAR 34:245, 401 KAR 34:250, 401 KAR 34:275, 401 KAR 34:280, 401 KAR 34:281, 401 KAR 34:285, 401 KAR 34:287, 401 KAR 34:290, 401 KAR 34:320, 401

KAR 34:330, 401 KAR 34:340, 401 KAR 34:350, 401 KAR 34:360, and 401 KAR 34:370.

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

401 KAR 35:002. Repeal of 401 KAR 35:005, 401 KAR 35:010, 401 KAR 35:020, 401 KAR 35:030, 401 KAR 35:040, 401 KAR 35:050, 401 KAR 35:060, 401 KAR 35:070, 401 KAR 35:080, 401 KAR 35:090, 401 KAR 35:100, 401 KAR 35:110, 401 KAR 35:120, 401 KAR 35:130, 401 KAR 35:180, 401 KAR 35:190, 401 KAR 35:200, 401 KAR 35:210, 401 KAR 35:220, 401 KAR 35:230, 401 KAR 35:240, 401 KAR 35:245, 401 KAR 35:250, 401 KAR 35:260, 401 KAR 35:270, 401 KAR 35:275, 401 KAR 35:280, 401 KAR 35:281, 401 KAR 35:285, 401 KAR 35:290, 401 KAR 35:310, 401 KAR 35:320, 401 KAR 35:330, 401 KAR 35:340, and 401 KAR 35:350.

Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste

401 KAR 36:002. Repeal of 401 KAR 36:005, 401 KAR 36:020, 401 KAR 36:025, 401 KAR 36:030, 401 KAR 36:060, 401 KAR 36:070, 401 KAR 36:080, and 401 KAR 36:090.

Land Disposal Restrictions

401 KAR 37:002. Repeal of 401 KAR 37:005, 401 KAR 37:010, 401 KAR 37:020, 401 KAR 37:030, 401 KAR 37:040, 401 KAR 37:050, 401 KAR 37:060, and 401 KAR 37:110.

Hazardous Waste Permitting Process

401 KAR 38:002. Repeal of 401 KAR 38:005, 401 KAR 38:010, 401 KAR 38:020, 401 KAR 38:025, 401 KAR 38:030, 401 KAR 38:040, 401 KAR 38:050, 401 KAR 38:060, 401 KAR 38:070, 401 KAR 38:080, 401 KAR 38:090, 401 KAR 38:150, 401 KAR 38:160, 401 KAR 38:170, 401 KAR 38:180, 401 KAR 38:190, 401 KAR 38:200, 401 KAR 38:210, 401 KAR 38:230, 401 KAR 38:240, 401 KAR 38:250, 401 KAR 38:260, 401 KAR 38:270, 401 KAR 38:290, 401 KAR 38:300, 401 KAR 38:310, 401 KAR 38:320, 401 KAR 38:330, and 401 KAR 38:500.

Hazardous Waste Fees

401 KAR 39:005. Definitions for 401 KAR Chapter 39.

401 KAR 39:011. Repeal of 401 KAR 39:100 and 401 KAR 39:110.

401 KAR 39:060. General requirements.

401 KAR 39:080. Hazardous waste handlers.

401 KAR 39:090. Hazardous waste permit program.

401 KAR 39:120. Permit review, determination timetables, and fees.

Standards for Special Collection System Wastes

401 KAR 43:002. Repeal of 401 KAR 43:005, 401 KAR 43:010, 401 KAR 43:020, 401 KAR 43:030, 401 KAR 43:040, 401 KAR 43:050, 401 KAR 43:060, and 401 KAR 43:070.

Standards for the Management of Used Oil

401 KAR 44:002. Repeal of 401 KAR 44:005, 401 KAR 44:010, 401 KAR 44:020, 401 KAR 44:030, 401 KAR 44:040, 401 KAR 44:050, 401 KAR 44:060, 401 KAR 44:070, and 401 KAR 44:080.

Special Waste

401 KAR 45:060. Special waste permit-by-rule.

Standards for Solid Waste Facilities

401 KAR 48:005. Definitions related to 401 KAR Chapter 48.

401 KAR 48:090. Operating requirements for contained landfills.

Certificates of Environmental Safety and Public Necessity

410 KAR 1:002. Repeal of 410 KAR 1:010 and 410 KAR 1:020.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:110. Roederer Correctional Complex.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration

601 KAR 2:030 & E. Ignition interlock.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workplace Development: Office of Employment and Training: Unemployment Insurance

787 KAR 1:070. Reasonable time for protesting claim.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Oil and Gas: Division

805 KAR 1:060. Plugging wells.

805 KAR 1:071. Repeal of 805 KAR 1:070.

Coal Bed Methane

805 KAR 9:041. Repeal of 805 KAR 9:040.

PUBLIC PROTECTION CABINET: Department of Insurance: Authorization of Insurers and General Requirements

806 KAR 3:011. Repeal of 806 KAR 3:010, 806 KAR 3:020, and 806 KAR 3:220.

806 KAR 3:210. Privacy of consumer financial and health information.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: State Health Plan

900 KAR 5:020. State Health Plan for facilities and services.

Office of the Secretary: Medical Review Panel Branch

900 KAR 11:010 & E. Medical review panels.

Division of Audits and Investigations: Controlled Substances

902 KAR 55:110. Monitoring system for prescription controlled substances.

Department for Public Health: Division of Public Health Protection and Safety: Radon

902 KAR 95:040. Radon Contractor Certification Program. Laura Begin, regulation coordinator; Erica Brakefield, environmental health supervisor; Brent Irvin, counsel; and Ken Spach, environmental health manager, represented the division. Kyle Hoylman, chair, and Steven Rice, vice chair, represented the Radon Program Advisory Committee and appeared in opposition to this administrative regulation.

Mr. Rice stated that, as vice chair of the Radon Program Advisory Committee, he believed that this advisory committee had been ignored, neglected, and misled during the administrative regulation process pertaining to this administrative regulation. The division had opted to act independently of the advisory committee's ruling regarding this administrative regulation. KRS 211.9105 required the Radon Program Advisory Committee to review and comment on relevant administrative regulations promulgated by the division; however, the division had not contacted Mr. Rice. Emails seemed to have been sent by the division to an incorrect email address. Mr. Rice owned a radon measurement company and represented one (1) component of the industry on the advisory committee. The division had opted not to enforce the prior version of this administrative regulation, which had been developed in coordination with the industry representatives on the advisory committee. Mr. Rice requested deferral of this administrative regulation to allow the advisory committee to consult with the division.

Mr. Hoylman stated that, as chair of the Radon Program Advisory Committee, he wanted to raise awareness of the role radon played in lung cancer in Kentucky. Kentucky leads the nation regarding lung cancer, with 695 new cases diagnosed each year and with 495 deaths annually. The annual financial burden to Kentucky pertaining to radon-induced lung cancer was estimated to be approximately \$153,000,000. Mr. Hoylman was himself a cancer survivor and had lost his father, a nonsmoker, to lung cancer in 2009. The home Mr. Hoylman's father lived in for over thirty (30) years contained indoor radon concentrations seven (7) times greater than U.S. EPA's action level. The division ceased enforcing the requirements of this administrative regulation as a result of litigation and an injunction agreed to by the division and the litigants. The currently proposed version of this administrative regulation was the result of agreements made pursuant to the litigation without approval of the advisory committee. Although the advisory committee had unfilled appointments and difficulty maintaining a quorum, the advisory committee was confident that a better, consensus-based regulatory

outcome was achievable. Most states bordering Kentucky established more stringent radon requirements than those currently proposed. All public comments were not addressed in the division's Statement of Consideration. Mr. Hoylman requested deferral of this administrative regulation to allow the advisory committee to consult with the division.

In response to questions by Co-Chair Harris, Mr. Hoylman stated that this administrative regulation was deficient because the proposed credentialing agencies did not have even minimum specific radon contractor credentialing, training, or standards programs. Additionally, this administrative regulation did not establish adequate consensus-based standards.

Ms. Begin stated that the division was in litigation regarding this administrative regulation, and amending this administrative regulation was an attempt to resolve the litigation so that the program could resume enforcement. The division reduced requirements that were more stringent than the authorizing statutes to the extent that public health and safety were still maintained. The advisory committee had not met in a while and experienced difficulty maintaining a quorum when it did meet; however, individual advisory committee members were sent copies of this proposed administrative regulation. Regarding the credentialing agencies, the National Radon Safety Board was included in the amended after comments version of this administrative regulation.

In response to the statements by Ms. Begin, Mr. Rice stated that KRS 194A.050(1) requires the secretary of the cabinet to promulgate administrative regulations necessary to protect the health of the individual citizens of the Commonwealth. This administrative regulation does not protect the health of the citizens because it fails to establish reasonable standards for the radon industry. Radon testing will be less accurate, and radon mitigation will be less effective at reducing lung cancer.

In response to a question by Co-Chair Harris, Mr. Rice stated that his statement that this administrative regulation would cause radon testing to be less accurate and radon mitigation to be less effective was his opinion and based in fact pertaining to the history of this issue. Mr. Spach stated that this administrative regulation was originally developed for both public health protection and industry regulation. Because of litigation, this administrative regulation was amended to reduce the burden on industry by streamlining and reducing requirements, without sacrificing public health protection.

In response to a question by Co-Chair Harris, Senator Kerr, and Representative Marzian, Ms. Begin stated that the division agreed to defer

consideration of this administrative regulation. Without objection, and with agreement of the agency, this administrative regulation was deferred to the October 10 meeting of the Subcommittee.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4 through 7, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Radiology

902 KAR 100:180. Technologically enhanced naturally occurring radioactive material related to oil and gas development.

Department for Medicaid Services: Division of Policy and Operations

907 KAR 1:045. Reimbursement provisions and requirements regarding community mental health center services.

907 KAR 1:047. Community mental health center primary care services.

Medicaid Services

907 KAR 1:102. Advanced practice registered nurse services.

907 KAR 1:104. Reimbursement for advanced practice registered nurse services.

907 KAR 1:479. Durable medical equipment covered benefits and reimbursement.

Payment and Services

907 KAR 3:005. Coverage of physicians' services.

907 KAR 3:010. Reimbursement for physicians' services.

Division of Protection and Permanency: Child Welfare

922 KAR 1:140 & E. Foster care and adoption permanency services.

922 KAR 1:320. Service appeals.

922 KAR 1:330. Child protective services.

Division of Protection and Permanency: Child Welfare

922 KAR 1:421. Repeal of 922 KAR 1:420.

922 KAR 1:430. Child protective services in-home case planning and service delivery.

922 KAR 1:470. Central registry.

922 KAR 1:480. Appeal of child abuse and neglect investigative findings.

922 KAR 1:490 & E. Background checks for foster and adoptive parents, caretaker relatives, kinship caregivers, fictive kin, and reporting requirements.

922 KAR 1:550 & E. Operator's license for children in the custody of the cabinet.

The Subcommittee adjourned at 2:07 p.m. until October 10, 2017, at 1 p.m.

2018 Prefiled Bills

BR1 - Representative Jerry Miller
(8/16/2017)

AN ACT relating to the overtaking of bicycles on a roadway.

Amend KRS 189.300 to provide that the operator of any vehicle moving upon a highway is to keep to the right unless signage or markings indicate otherwise; amend KRS 189.340 to require vehicles overtaking bicycles to pass at a distance of at least three feet; provide that if there not a minimum distance of three feet available, the passing vehicle is to use reasonable caution; specify when a motor vehicle may pass a bicycle to the left of the center of a roadway.

(Prefiled by the sponsor(s).)

BR2 - Representative Diane St. Onge
(6/5/2017)

AN ACT relating to public safety.

Amend KRS 446.010 to define “unmanned aircraft system”; create a new section of KRS Chapter 500 to prescribe permitted and prohibited uses of drones; provide exceptions; prohibit use of evidence obtained by a drone in violation of stated prohibitions; authorize that section to be cited as the “Citizens’ Freedom from Unwarranted Surveillance Act”; create a new section of KRS Chapter 501 to clarify criminal liability for offenses committed using a drone; create a new section of KRS Chapter 525 to create the offense of obstructing an emergency responder.

(Prefiled by the sponsor(s).)

BR14 - Representative Tom Burch
(6/22/2017)

AN ACT relating to the reporting of child abuse, neglect, or dependency.

Amend KRS 620.030 to establish that if a person knows or has reasonable cause to believe that a child is dependent, neglected, or abused, causes an oral or written report of the dependency, neglect, or abuse to be made, is employed by a local law enforcement agency, the Department of Kentucky State Police, the cabinet or its designated representative, the Commonwealth’s attorney, or a county attorney, then that person shall make the oral or written report to his or her employer and to one of the other entities authorized to receive the report.

(Prefiled by the sponsor(s).)

BR15 - Representative Jim Wayne,
Representative Tom Burch, Representative
Jeffery Donohue, Representative Joni
Jenkins, Representative Mary Lou Marzian,
Representative Reginald Meeks, Representative
Attica Scott
(7/13/2017)

AN ACT relating to taxation.

Amend KRS 140.130 to decouple from changes to the federal estate tax since 2003; amend KRS 141.010 to provide for a reduction and phase-out of the pension exclusion, disallow the domestic production activities deduction, establish a cap for itemized deductions, and define “taxpayer”; amend KRS 141.020 to provide for changes to income tax rates; amend KRS 141.066 to make a technical correction; amend KRS 141.0205 to recognize and order changes in income tax credits; amend KRS 141.0401 to lower the exclusion threshold; amend KRS 141.120 to change apportionment methods to use a “throwback” rule and market-based sourcing for receipts; amend KRS 141.200 to require “combined” reporting for corporations; amend KRS 134.810, 136.310, 136.530, 141.040, 141.121, 141.206, and 141.420 to conform; amend KRS 141.205 to recognize “tax haven” foreign countries and tax all income apportioned or allocated to those countries; amend KRS 141.383, 148.544, and 148.546 to make the film industry tax credit nonrefundable and nontransferable; create a new section of KRS 6.905 to 6.935 to require review and sunset of all economic development tax credits; amend KRS 131.190 to allow LRC employees to review selected tax documents; amend KRS 138.270 to reduce motor fuels dealer compensation to one percent; amend KRS 132.020 to make the real property tax rate 12.2 cents per \$100, remove the rate adjustment provision, and remove the recall provisions; amend KRS 132.260 to clarify requirements for reporting of rental space for mobile or manufactured homes, private aircraft, and certain boats or vessels; amend KRS 132.730, 132.751, 132.810, and 132.815 to clarify property tax treatment of manufactured homes; amend KRS 140.300 to clarify the treatment of agricultural valuation on inherited property; amend KRS 279.200, 279.530, 279.220, and 139.530 to repeal rural electric and telephone co-op taxes; amend KRS 132.097 and 132.099 to amend the exemption for personal property shipped out of state;

amend KRS 139.105, 139.200, 139.220, 139.270, 139.340 and 139.740 to impose sales tax on selected services; create a new section of KRS Chapter 141 to provide for a refundable Kentucky earned income tax credit; amend KRS 243.0305 and 243.990 to recognize changes in the distilled spirits case tax; amend KRS 138.130, 138.140, and 138.143 to change the tax on cigarette rolling papers, to raise the tobacco taxes, to impose a floor stock tax, and to tax e-cigarettes; amend KRS 65.125, 65.674, 67.862, 67.938, 67A.843, 68.245, 68.248, 82.095, 97.590, 132.0225, 132.023, 132.024, 132.027, 132.029, 157.440, 160.470, 160.473, 67C.147, 78.530, 342.340, and 134.810 to remove provisions that allow for recall of certain tax rates and make conforming and technical changes; create a new section of KRS Chapter 141 to provide for a refundable noise mitigation credit; repeal KRS 132.017, 132.018, 132.025, 132.720, 143A.035, and 243.710, relating to recall petitions and to various tax rates; provide that estate tax provisions apply for deaths occurring on or after August 1, 2018, sales tax provisions are effective for periods beginning on or after October 1, 2018, motor fuels compensation provisions are effective August 1, 2018, and property tax provisions are for assessments on and after January 1, 2019.

(Prefiled by the sponsor(s).)

BR25 - Representative Jeffery Donohue
(8/14/2017)

AN ACT relating to death in the line of duty benefits and declaring an emergency.

Amend KRS 16.601 and 61.621 to increase minimum death benefits payable to the surviving spouse of a member of the state-administered retirement systems from 25% to 50% of the deceased member’s final rate of pay if the member died as a result of an act occurring in the line of duty; amend KRS 61.542 to provide that the surviving spouse shall supersede all previously designated beneficiaries in the case of line-of-duty death benefits payable from the systems administered by the Kentucky Retirement Systems unless the member files a valid beneficiary designation form after marriage to his or her spouse; provide that eligible surviving spouses of members who died in the line of duty prior to the effective date of the Act shall receive the increased line of duty death benefits; provide that a surviving spouse of a hazardous duty

member who died as a result of an act occurring in the line of duty on or after January 1, 2017, who was ineligible for the minimum monthly death benefits because he or she was not named beneficiary shall be eligible for the benefits provided by this Act; EMERGENCY.

(Prefiled by the sponsor(s).)

BR28 - Representative Jason Nemes
(9/20/2017)

AN ACT proposing to amend Sections 117, 118, 119, and 122 of the Constitution of Kentucky relating to the election of appellate judges.

Propose to amend Sections 117, 118, 119, and 122 of the Constitution of Kentucky to fill terms of justices of the Supreme Court and judges of the Court of Appeals by appointment by the Governor from a list of three nominees provided by the judicial nominating commission; provide for appointed justices and judges who seek additional terms to stand for elections in their districts; limit individuals to two full terms of office; schedule transitional provisions; submit to the voters for approval or disapproval.

(Prefiled by the sponsor(s).)

BR37 - Representative Scott Wells
(8/25/2017)

AN ACT relating to area development districts and declaring an emergency.

Amend KRS 147A.117 to require that the Auditor of Public Accounts' bill shall not exceed a quote given to an area development district by a certified public accountant for the same audit; EMERGENCY; EFFECTIVE July 1, 2018.

(Prefiled by the sponsor(s).)

BR38 - Senator John Schickel
(5/15/2017)

AN ACT relating to Kentucky school bus drivers.

Create a new section of KRS Chapter 2 to designate and observe May 1 of every year as "School Bus Driver Day."

(Prefiled by the sponsor(s).)

BR39 - Representative Sal Santoro
(5/16/2017)

AN ACT relating to Kentucky school bus drivers.

Create a new section of KRS Chapter 2 to designate and observe May 1 of every year as "School Bus Driver Day."

(Prefiled by the sponsor(s).)

BR40 - Representative Kenny Imes
(6/27/2017)

AN ACT proposing to amend Section 29 of the Constitution of Kentucky relating to administrative regulations.

Propose to amend Section 29 of the Constitution of Kentucky to permit the General Assembly or an agency or committee it creates to review, approve, or disapprove any administrative regulation of the executive branch during or between regular sessions of the General Assembly; submit to the voters for approval or disapproval; supply ballot language.

(Prefiled by the sponsor(s).)

BR41 - Representative Kenny Imes
(6/6/2017)

AN ACT proposing to amend Section 95 of the Constitution of Kentucky relating to the election of state officers.

Propose to amend Section 95 of the Constitution of Kentucky to hold the election of the Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Attorney General, Secretary of State, and Commissioner of Agriculture, Labor and Statistics in even-numbered years, every four years, beginning in 2024; provide transitional calendar; submit to the voters for ratification or rejection; provide ballot language.

(Prefiled by the sponsor(s).)

BR54 - Representative Jeffery Donohue
(6/8/2017)

AN ACT relating to railroads.

Create a new section of KRS Chapter 277 to require two-person crews on trains or light engines used in connection with the movement of freight; establish civil penalties for failure to have a two-person crew.

(Prefiled by the sponsor(s).)

BR64 - Senator Johnny Ray Turner
(6/1/2017)

AN ACT relating to vacating convictions for reckless homicide.

Amend KRS 431.073 to allow convictions for reckless homicide to be vacated and expunged if the offender has first been granted a partial pardon by the Governor.

(Prefiled by the sponsor(s).)

BR67 - Representative Jason Nemes
(9/20/2017)

AN ACT relating to appellate judges.

Amend KRS 118A.110 to define "retention election" for appellate judges; create a new section of KRS Chapter 118A to create an election process for retaining appointed appellate judges, following the ratification of a constitutional amendment to provide for appointments of appellate judges; amend KRS 118A.020, 118A.030, 118A.060, 118A.100, and 118A.140 to conform; repeal, reenact, and amend KRS 21A.020 to set staggered terms for appellate judges; EFFECTIVE contingently on January 1, 2020.

(Prefiled by the sponsor(s).)

BR91 - Representative Regina Huff
(7/25/2017)

AN ACT relating to suicide prevention training.

Amend KRS 156.095 to require two hours of in-person suicide prevention professional development training every other school year for middle and high school principals, guidance counselors, and teachers; require a newly hired staff member to receive a packet of information on suicide prevention when the person is hired in a year training is not provided; amend KRS 158.070 to delete requirement for two hours of self-study review for suicide prevention training.

(Prefiled by the sponsor(s).)

BR97 - Representative George Brown Jr
(7/12/2017)

AN ACT relating to criminal histories of job applicants.

Create a new section of KRS Chapter 344 to prohibit employers from considering or requiring disclosure of prior criminal history as part of the initial job application; title the Act "Ban the Box - The Criminal Record Employment Discrimination Act."

(Prefiled by the sponsor(s).)

BR102 - Representative Suzanne Miles,
Representative Jason Nemes
(6/29/2017)

AN ACT relating to the natural resources severance and processing tax.

Amend KRS 143A.010 to amend the definition of "processing" to include the act of loading or unloading limestone that has not otherwise been severed or treated in the Commonwealth; amend KRS 143A.035 to allow a credit for substantially identical severance or processing taxes paid to another state or political subdivision thereof; provide that no taxpayer may claim a total amount

of credit that exceeds his or her tax liability; allow the Department of Revenue to report tax credit information to the Legislative Research Commission; amend other sections to conform; EFFECTIVE August 1, 2018.

(Prefiled by the sponsor(s).)

BR113 - Senator Brandon Smith
(9/8/2017)

AN ACT relating to sign language interpretation in the House and Senate chambers.

Amend KRS 7.100 to require the Legislative Research Commission to provide sign language interpretation in each chamber of the General Assembly whenever the General Assembly is in session.

(Prefiled by the sponsor(s).)

BR114 - Representative Chris Harris, Representative Rocky Adkins, Representative Angie Hatton, Representative Rick Nelson, Representative Kevin Sinnette
(6/30/2017)

AN ACT relating to the Public Service Commission.

Create a new section of KRS Chapter 278 to require the Public Service Commission to reconsider previously issued orders that involve multistate transactions if the orders involve a multistate transaction that requires approval from another state public utility commission and the out-of-state public utility commission fails to approve the transaction or utility plan; require the Public Service Commission to review its previous order and determine whether the order is still in the public interest of Kentucky ratepayers; provide that the provisions of this Act shall apply retroactively to all Public Service Commission orders issued on or after July 1, 2013.

(Prefiled by the sponsor(s).)

BR115 - Representative Chris Harris, Representative Rocky Adkins, Representative Angie Hatton, Representative Rick Nelson, Representative Kevin Sinnette
(6/30/2017)

Direct the Public Service Commission to reexamine the electric rates charged to certain ratepayers to determine if they remain fair, just, and reasonable.

(Prefiled by the sponsor(s).)

BR149 - Representative Dennis Keene
(9/18/2017)

AN ACT relating to the expansion of gaming and making an appropriation therefor.

Create a noncodified section to state the findings of the General Assembly; amend KRS 154A.010 to define, “authorizing location,” “casino,” “county,” “county legislative body,” “department,” “full casino gaming,” “gaming licensee,” “gross gaming revenue,” “handle,” “licensee,” “limited casino gaming,” and “principal”; amend KRS 154A.030 to expand the Lottery Corporation board membership and duties; amend KRS 154A.040 to include casino licensees; amend 154A.063 to remove prohibition against casino gaming; create new sections of KRS Chapter 154A to require a local option election in any precinct wanting to host a casino; describe the duties of the county clerk and sheriff in a casino gaming local option election; state requirements for local option elections held on a day other than a regular election day; require the corporation to advertise an invitation to bid for casinos; require the corporation to evaluate all proposals for full casinos; establish initial licensing fees for full casinos at \$50 million with an initial licensing period of 10 years and annual renewal thereafter at \$6 million per year; permit limited casino gaming at horse racing tracks licensed under KRS Chapter 230; establish requirements for limited casinos; establish requirements for any track holding a limited casino license; establish requirements for principals of any corporation granted a casino license; create license application requirements for casino, manufacturer, or supplier’s licenses; prohibit anyone not licensed from selling, leasing, or otherwise furnishing gaming supplies; prohibit anyone under the age of 21 from participating in casino gaming; require the Lottery Corporation to determine occupations related to casino gaming that require licensure and establish criteria for occupational licensing; permit the corporation to initiate disciplinary action against applicants and license holders; establish an appeal process; establish a gaming tax of 31% and limit that money to the benefit of the state retirement systems for the first 10 years; establish an admission tax of \$3 per person per day; establish the casino gaming revenue distribution trust fund; establish the regional tourism and infrastructure development fund and provide criteria for projects seeking money from the fund; waive 15 U.S.C. sec. 1172, 1173 and 1174 for devices authorized by this Act; require the corporation to promulgate administrative regulations to define and limit games and devices permitted for gaming in casinos; provide guidelines for exclusion or ejection of certain persons; define “cheat” and provide penalties for those who cheat at casino games;

amend KRS 243.500 to exempt limited or full casino gaming; amend KRS 525.090 to exempt persons engaged in casino gaming; amend KRS 528.010 to exempt gambling activity and devices licensed under KRS Chapter 154A; amend KRS 528.020 to conform; amend KRS 528.070 to exempt activity licensed under KRS Chapter 154A; amend KRS 528.080 to exempt those with the appropriate license required under KRS Chapter 154A; amend KRS 528.100 to exempt limited or full casino gaming licensed under KRS Chapter 154A; EFFECTIVE DATE DELAYED.

(Prefiled by the sponsor(s).)

BR155 - Senator Julian Carroll
(9/20/2017)

AN ACT relating to sports wagering and making an appropriation therefor.

Create a new section of KRS Chapter 230 to require the Kentucky Horse Racing Commission to institute a sports wagering system; amend KRS 230.210 to define “exempt sports contest,” “sports wagering,” and “sports wagering facility”; amend KRS 230.215 to declare it the policy of the Commonwealth to encourage the conduct of wagering on sporting events, when allowed by federal law, and to vest forceful control over sports wagering in the racing commission; include consideration of members of professional and collegiate sports organizations in the Governor’s appointments to the commission; amend KRS 230.240 to allow the director of the racing commission to take personnel action relating to sports wagering; amend KRS 230.260 to include promotion of fair sports wagering among the purposes of the racing commission; create a new section of KRS Chapter 230 to establish licensing requirements and establish a licensing fee of \$250,000; create a new section of KRS Chapter 230 to require the racing commission to promulgate administrative regulations prescribing the manner in which sports wagering shall be conducted; provide minimum criteria; prohibit participants from wagering on a sporting event; create a new section of KRS Chapter 230 to establish a 20 percent tax on the total amount wagered at sports wagering facilities; create a new section of KRS Chapter 230 to establish the sports wagering distribution trust fund and appropriate moneys from that fund; amend KRS 230.320 to include sports wagering among the activities that are regulated by the racing commission; amend KRS 230.360 to include sports wagering among the activities that are not subject to local control; amend KRS 230.990 to establish penalties for tampering with the outcome of a sporting event

and participant wagering on a sporting event;
EFFECTIVE UPON CONTINGENCY: Act takes effect only if the federal Professional and Amateur Sports Protection Act is repealed by Congress or is rendered void by the United States Suprem Court.
(Prefiled by the sponsor(s).)

BR165 - Representative Jim Wayne
(8/8/2017)

AN ACT relating to firearms.
Create a new section of KRS Chapter 527 to prohibit the unlawful storage of a firearm.
(Prefiled by the sponsor(s).)

BR170 - Representative Attica Scott,
Representative Kelly Flood
(8/31/2017)

AN ACT relating to student criminal history background checks.
Create a new section of KRS Chapter 164 to prohibit public postsecondary institutions from inquiring about a prospective student’s criminal history prior to admission, except for certain types of offenses; allow an institution to inquire about a student’s criminal history after admission, for the purposes of providing support services and informing decisions regarding a student’s participation in campus activities, organizations, and residency; allow an institution to inquire about a student’s criminal history prior to admission into a professional degree program, but prohibit denial of admission based solely on criminal history; require institutions to provide counseling regarding occupational licensing requirements to a professional degree student who has a criminal history.
(Prefiled by the sponsor(s).)

BR172 - Representative C. Wesley Morgan
(8/22/2017)

AN ACT relating to carrying concealed weapons.
Create a new section of Chapter 237 to allow concealed deadly weapons to be carried without a license in same locations as concealed carry license holders may carry them; amend KRS 237.115 and 527.020 to conform.
(Prefiled by the sponsor(s).)

BR173 - Representative C. Wesley Morgan
(8/18/2017)

AN ACT relating to public assistance.
Amend KRS 205.200 to create

a substance abuse screening program for adult recipients of public assistance, food stamps, and state medical assistance.
(Prefiled by the sponsor(s).)

BR175 - Representative C. Wesley Morgan
(8/24/2017)

AN ACT relating to public protests.
Create a new section of KRS Chapter 525 to create a Class a misdemeanor, disruption of a public protest; create a new section of KRS Chapter 522 to prohibit any public servant from preventing a peace officer from performing official duties at a protest.
(Prefiled by the sponsor(s).)

BR182 - Representative Rick Nelson
(8/17/2017)

AN ACT relating to electric utility billing.
Create a new section of KRS Chapter 278 to place a cap on the amount that an electric utility can bill for a basic service charge.
(Prefiled by the sponsor(s).)

BR195 - Representative Regina Huff
(9/15/2017)

AN ACT relating to a day of prayer for students.
Create a new section of KRS Chapter 2 designating the last Wednesday in September of each year as A Day of Prayer for Kentucky’s Students.
(Prefiled by the sponsor(s).)

BR197 - Representative Dennis Keene,
Representative Rick Rand
(9/18/2017)

AN ACT proposing an amendment to Section 226 of the Constitution of Kentucky relating to casino gaming.
Propose to amend Section 226 of the Constitution of Kentucky to authorize the General Assembly to define and permit casino gaming; prior to July 1, 2029, require that proceeds be used to pay for oversight of casino gaming, and mandate that 100 percent of proceeds in excess of oversight costs go to retirement systems; after July 1, 2029, allow the General Assembly to allocate proceeds.
(Prefiled by the sponsor(s).)

BR199 - Representative Kenny Imes
(9/18/2017)
Urge the United States Congress to amend Title II of the Social

Security Act to repeal the Government Pension Offset provision.
(Prefiled by the sponsor(s).)

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* - denotes primary sponsorship of BRs

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Telehealth, from page 3

health care to our veterans who need it, especially in the rural areas of Kentucky,” said Dr. Tuyen T. Tran of the Lexington VA Medical Center. “It’s FaceTime taken a notch higher.”

The closest VA medical center for the estimated 650 veterans in Jackson County is about 70 miles away, Rader said. There is no hospital of any kind or even a long-term care facility in the county of about 13,000.

Tran described technology that allows doctors to remotely listen to their patients’ hearts and lungs. A high-definition camera can be used to examine ailments such as skin lesions. He said the technology is so good that doctors are able to treat the president with it instead of having to travel with him at all times.

“There is not very much that I can’t do remotely that I have to do in person,” said Tran, who is the medical center’s associate chief of staff specializing in virtual care.

He said patients would still have to come to an outpatient satellite clinic like the one set to open on Oct. 1 at the library in Jackson County.

“But it is still a heck of a lot better than driving all the way to Lexington or Louisville for their care,” Tran said. “The library seems to be a nice place. They can offer us a room in the back so we can have some privacy. Patients and veterans don’t have any anxiety about walking into a library.”

Sen. Jimmy Higdon, R-Lebanon, said he likes the idea of the service being offered in libraries.

“The libraries are working very hard to remain relevant with the way things are changing,” Higdon said.

Rep. Rob Rothenburger, R-Shelbyville, suggested offering clinical video telehealth for veterans at local health departments.

Local food, from page 3

versity’s initial contract with Aramark in 2014 had “stringent requirements” that Aramark commit \$2 million to purchasing either Kentucky Proud or local food. The contract was revised to require a \$1.65 million commitment beginning this year to purchases with a specific impact on Kentucky food and farm businesses.

If the requirements of the contract aren’t met, Smith said cash penalties can be imposed.

That said, there are some obstacles to purchasing locally, Smith said, including what he called “seasonality” – or the fact that not all Kentucky-grown food is harvested year round. But the committee’s co-chair Sen. Paul Hornback, R-Shelbyville, said there are some work-arounds, depending on the crop.

“There are some foods that do have a good shelf life,” said Hornback. One of those foods, he said, is apples. Washington State, which is a major apple grower, has the infrastructure to store apples for long periods of time, said Hornback.

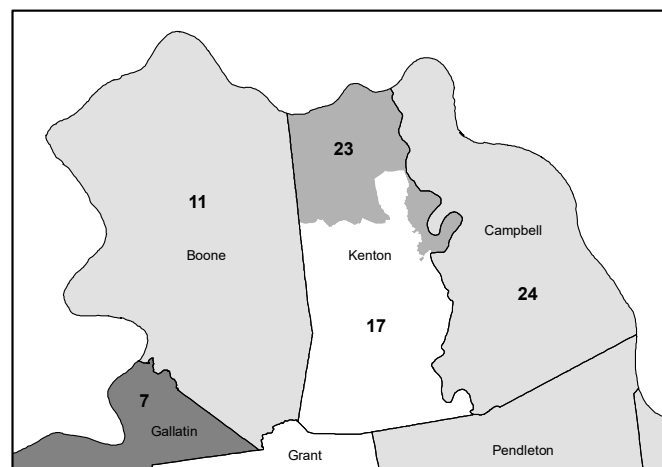
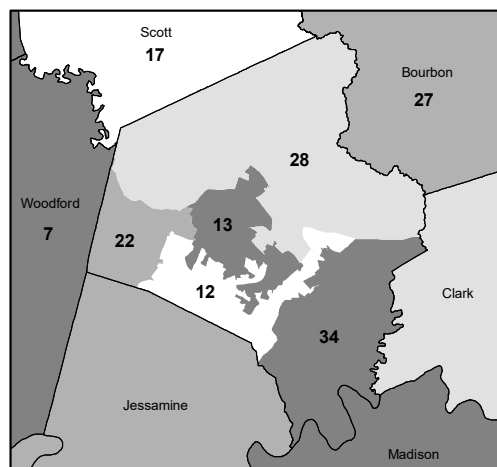
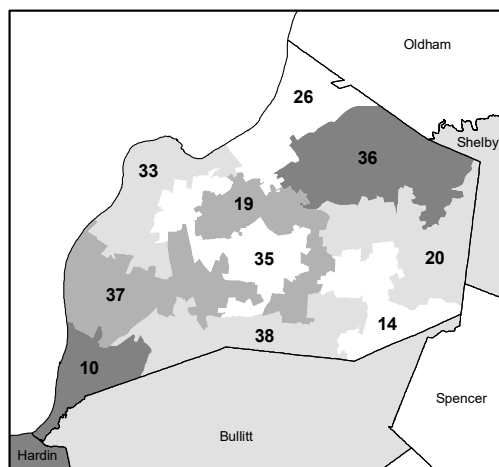
“If farmers or Piazza (Produce) had the proper infrastructure, you could have apples all during the school year,” he said, adding that it could be a great opportunity for Eastern Kentucky farmers if trees were planted.

“There’s no need to import all the apples that we eat. They could be grown here in the state of Kentucky,” he said.

At Kentucky’s state parks, purchasing and serving Kentucky Proud foods has been a priority since at least 2005, Kentucky State Parks Food Service Director Tom Brown said. Dining rooms at state resort parks and state office building cafeterias run by the Kentucky Department of Parks have bought over \$600,000 annually for Kentucky Proud foods in recent years, he said, with Kenny’s Farmhouse Cheese in Austin, KY, Purnell’s Sausage in Simpsonville, and Weisenberger Mills in Midway among those purchases.

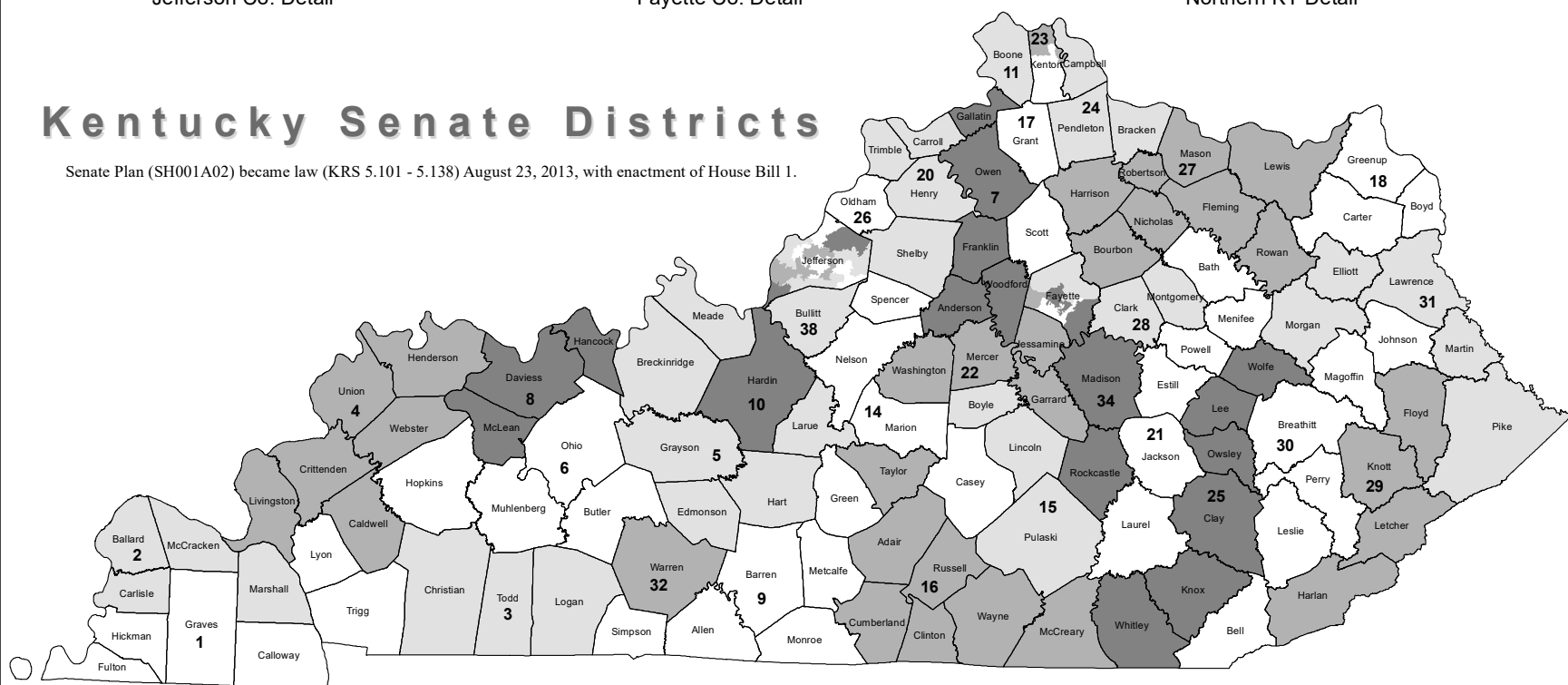
Brown said Kentucky-sourced products have historically been more costly than more generic food products, but the cost gap has narrowed. That has made it easier to incorporate more Kentucky food into their menus, he said.

One of the more innovative Kentucky-sourced menu items that has been served in state cafeterias is the hemp dawg, a beef brat infused with hemp that was also a hit at the Kentucky State Fair. The Department of Parks partnered with farmer and marketer David Neville of Shelbyville to offer hemp dawgs in the cafeterias early this year, said Brown.

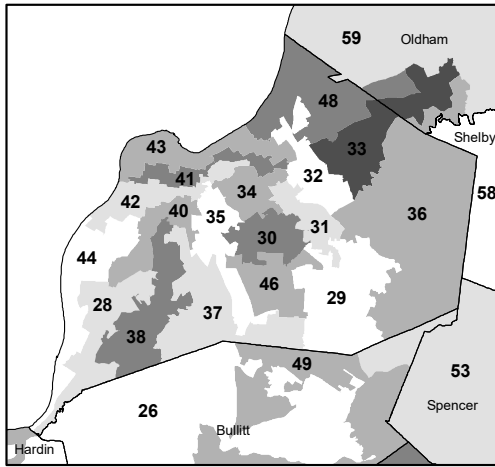


Kentucky Senate Districts

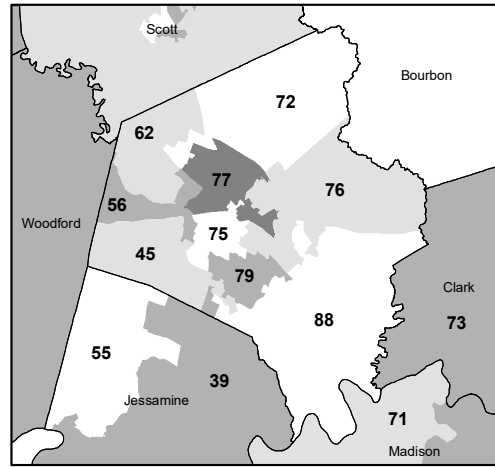
Senate Plan (SH001A02) became law (KRS 5.101 - 5.138) August 23, 2013, with enactment of House Bill 1.



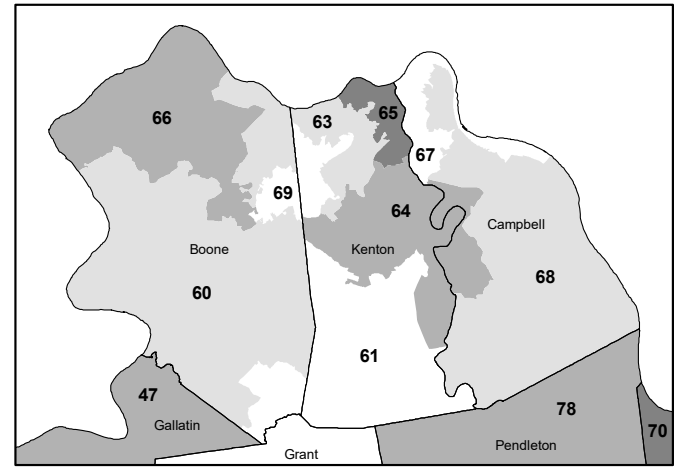
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Jefferson Co. Detail



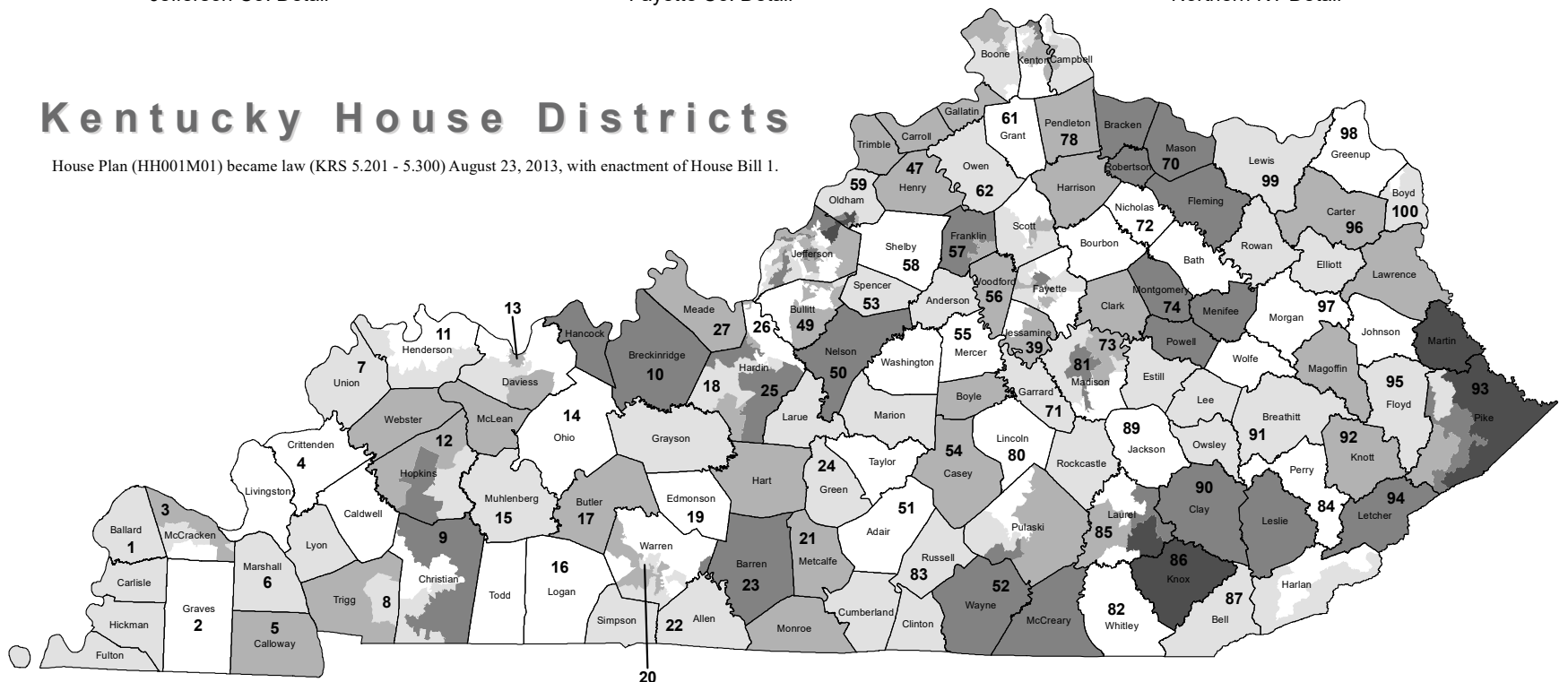
Fayette Co. Detail



Northern KY Detail

Kentucky House Districts

House Plan (HH001M01) became law (KRS 5.201 - 5.300) August 23, 2013, with enactment of House Bill 1.



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2017 Interim

LEGISLATIVE RECORD

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The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the Legislature, employing professional, clerical and other employees required when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual legislators in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, providing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting orientation programs for new legislators, and publishing a daily index and summary of legislative actions during sessions.

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MAJORITY CAUCUS CHAIRMAN

Dennis Keene
MINORITY CAUCUS CHAIRMAN

Kevin D. Bratcher
MAJORITY WHIP
Wilson Stone
MINORITY WHIP

2017 Interim

LEGISLATIVE RECORD

KENTUCKY GENERAL ASSEMBLY

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