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## Kentucky eyes reforms to reduce inmate population

by Rebecca Hanchett  
*LRC Public Information*

FRANKFORT— Having a steady job is a key to keeping former Kentucky inmates out of prison, lawmakers were told during the August 22 meeting of the Interim Joint Committee on Local Government.

Former inmates who stay employed for one year are about 35 percent less likely to return to jail than those who don't work, said Kentucky Justice and Public Safety Cabinet Secretary John Tilley. He praised county jails that offer GED and work certification programs which, he said, are helping Kentucky reduce its inmate population and grow the state economy.

"We release 16,000 people a year from state prison alone – 16,000," Tilley told the committee. "Imagine if we could count on having those people ready for the workforce."

Fewer than one-third of the state's 76 county jails have some kind of program to ease reentry for prisoners, he said. Among the jails that do offer such programs is the 297-bed Marion County Detention Center where programs ranging from GED classes to R.E.A.C.H. (Re-Entering American Communities with Hope) help inmates succeed once they are released.

A high-profile former inmate at the Marion County center who Tilley said praised the jail's programming is former Northern Kentucky football star Zeke Pike, a one-time Auburn quarterback who has struggled with addiction and arrest in recent years.



Senate President Pro Tem Jimmy Higdon, R-Lebanon, talks about jail reforms at the Aug. 22 meeting.

"I encountered him at the jail several years after he left Auburn ... Long story short, he told me that inmates want to be at this jail because they know they'll get programming help and get back on their feet. And as far as I know, Zeke's doing pretty well," said Tilley.

But with its successes, the jail has also faced challenges, said Barry Brady, jailer at the Marion County Detention Center. The cost of incarceration is rising. So are operational costs, which Brady said have increased from a little more than \$2 million in 2005 to \$4.8 million. Simi-

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## Lawmakers study protections for the vulnerable

by Jim Hannah  
*LRC Public Information*

FRANKFORT – Bridgett Howard lived with spina bifida for 32 years before pancreatitis sent her to the hospital where she developed and died from bedsores – in nine days.

That's what her father, Tom Howard of Salyersville, said while testifying during the Sept. 19 meeting of the Interim Joint Committee on Health and Welfare and Family Services.

"This doesn't need to happen," he said, adding that Bridgett never developed a bed-sore while under her mother's care for more than three decades.

Howard was joined by Rep. John Blanton, R-Salyersville, who introduced legislation in 2017 relating to pressure sore treatment and prevention, named the Bridgett Ann Howard Act (House Bill 297). The men's testimony came at a meeting dominated with issues concerning Kentucky's most vulnerable citizens, particularly children, and public policies to protect them.

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## Vulnerable, from page 1

Two of the state's top pediatric oncologists testified at the meeting about the Kentucky Pediatric Cancer Research Trust Fund. The fund was created in 2015 with the passage of Senate Bill 82 and appropriated \$5 million in the current biennium budget. The appropriation spurred a private donor to contribute an additional \$6 million to the fund, said Jamie Ennis Bloyd, the president of the fund's board.

Dr. John D'Orazio of the University of Kentucky said his school is spending the money on two research projects dealing with leukemia, one with brain tumors and one with sarcomas.

"Thank you for helping us reduce the burden of disease caused by pediatric cancer in the commonwealth," D'Orazio said to the committee members.

Dr. Ashok Raj of the University of Louisville testified while wearing a sports jacket of gold ribbons given to him by a patient. He explained that the international awareness symbol for childhood cancer is the gold ribbon.

Raj said U of L is spending part of the money on CAR T-cell therapy. It is a type of treatment in which a patient's T cells, a type of immune system cell, are changed in the laboratory so they will attack cancer cells.

"I know it is kind of the nerd in me talking,

but when you talk about the CAR T-therapy that, to me, is incredibly exciting," said Sen. Ralph Alvarado, R-Winchester, who is a pediatrician. "I try to emphasize that for all of the members of this committee to understand. This is revolutionary stuff."

The committee also heard an update from the Child Fatality and Near Fatality External Review Panel. The panel was established with the passage of House Bill 290 during the 2013 Regular Session after news reports about Kentucky leading the nation in the number of caregiver-related child deaths.

"What this (panel) does best is to try to identify gaps in the system," said retired Jefferson County Family Court Judge Paula Sherlock, who serves on the panel and testified before the committee. "What are emergency rooms not doing? What is the Cabinet (for Health and Family Services) not doing? What are the courts not doing?"

"This is a forum where we can put it all on the table and look at it and not in the blame game but be in the let's fix this game."

Sherlock said drug and alcohol abuse leads to many injuries and deaths, prompting Sen. Danny Carroll, R-Paducah, to ask if there should be a law requiring doctors to report suspected drug and alcohol abuse to police. He said he



Rep. John Blanton, R-Salyersville, listens as Tom Howard of Salyersville testifies before the Interim Joint Committee on Health and Welfare and Family Services on Sept. 19.

considered such legislation a couple of years ago. Panel member Dr. Jaime Pittenger, who also testified, said the fear was that it would discourage parents from sending their child to the pediatrician or being honest with the doctor.

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## Inmates, from page 1

lar stories have been reported by other jailers in a state where the county inmate population is currently between 12,000 and 14,000.

Senate President Pro Tem Jimmy Higdon, R-Lebanon, suggested that performance-based funding for jails may encourage more counties to "step up" by becoming accredited or offering effective inmate programs.

"Not all jails are created equal. Some jails in counties work hard to offer every program that they can offer. Some jails, the only thing they can do, the way they're set up, is to warehouse prisoners – 'three hots and a cot,'" said Higdon. "We've talked about performance-based funding in education. It's time we talked about performance-based funding for jails."

Some solutions are expected to come from 2017 Senate Bill 120, sponsored by Rep. Whitney Westerfield, R-Crofton. The legislation, now law, is expected to reduce the inmates in Kentucky jails and prisons through alternative sentencing—including reentry programs—and

prison industry enhancement programs. Tilley said the state is waiting on regulations to move those reforms forward.

Committee Co-Chair Joe Bowen, R-Owensboro, asked about the education level and skill set of inmates in Kentucky jails. Brady said many inmates do not have their diploma or GED, while Tilley said around 70 percent of state inmates come to prison with their diploma or GED.

"There is a line of thinking, and there is certainly validated evidence, to suggest that a lack of education is a predictor of prison," said Tilley. While there are highly-educated professionals who suffer from addiction or other events that could land them in prison, he said those individuals often "don't end up in prison because they're able to get help and diversion and treatment outside the walls of a prison or jail."

Rep. Steve Riggs, D-Louisville, said another predictor of incarceration is a person's mental health. Good mental health, he said, comes

before a desire for job training and educational attainment.

"So my question about performance-based funding: Does it include the factor of, is mental health counseling and proper medicine being administered...or is in only based on job training opportunities and GED opportunities?" asked Riggs.

Tilley said he agrees mental health should come first, but "there's ... reality and there's what policy should look like." Community mental health centers in Kentucky haven't received a Medicaid reimbursement increase since 1998, he said, and mental health professionals today are scarce.

"To the question of whether we should include that as a factor... We've got good people working in community mental health," said Tilley.

"So yes, the answer's yes. What it looks like is really up to you ... We want to build it with you ..."



# Kentucky dairy, other farms look to the future

by Rebecca Hanchett  
*LRC Public Information*

FRANKFORT — Millions of gallons of milk—including milk produced in Kentucky—will be purchased by the federal government to benefit U.S. dairy farmers and food banks, state lawmakers heard during a Sept. 5 meeting.

Tobacco Settlement Agreement Fund Oversight Committee Co-Chair Myron Dossett, R-Pembroke, said 56 truckloads of milk containing 2.3 million gallons of milk will be hauled through Kentucky as part of the U.S. Department of Agriculture's (USDA) \$50 million purchase of 11-13 million gallons from dairy farmers nationwide. All of the milk purchased by the USDA will be distributed to food banks across the country, including some in Kentucky.

"That's going to be beneficial not only to our farmers, but also to those people who desperately need the services of the food bank. So we're very happy on that right there," said Dossett.

Kentucky Governor's Office of Agricultural Policy Executive Director Warren Beeler told the committee that the USDA purchase is welcome news to Kentucky dairies that he said have been hard hit by milk quotas in other countries, namely Canada.

"They have what we need. They have a quota-based system where they can control how much milk they produce," said Beeler, adding that Kentucky may lose 75 dairies this year due to economic pressures. "When consumption's going down and production's going up, you're going the wrong direction ... and that's what happened to us. So, we're thankful for anything the federal folks can do to help."

Kentucky dairies are also helping themselves by expanding the products they offer. In Todd County, Dossett said some dairy farmers are looking at opening a cheese plant sourced by the milk that the farmers produce.

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# 'Don't apply on the fly' when it comes to REAL ID

by Jim Hannah  
*LRC Public Information*

MONTICELLO – Kentucky will begin introducing new driver's licenses in January, putting the commonwealth in compliance with a federal law passed after the Sept. 11 attacks designed to tighten security requirements for state-issued identification.

Officials have launched the Confident Kentucky initiative to educate residents of the phased, statewide rollout, said Department of Vehicle Regulation Commissioner Matt Henderson. He made the remarks while testifying before the Sept. 12 meeting of the Interim Joint Committee on Transportation at the Wayne County Public Library.

Kentucky is one of 22 states and U.S. territories operating under an extension to comply with the 2005 domestic security program known as Real ID. The program was a recommendation of the 9/11 Commission.

Residents are not required to get a Real ID, but starting on Oct. 1, 2020, those who travel by air and visit certain federal facilities, such as Fort Campbell, will need it or a U.S. passport or military ID.

To get a Real ID, residents will have to have a proof of identity document such as a birth certificate, U.S. passport or permanent resident card; a proof of Social Security number document such as a Social Security card or W-2 form; and two proofs of residency documents such as a utility bill, lease, payslip or voter registration card.

"Take a minute to pull out your license now

and check your expiration date," Henderson said. "Begin gathering and updating your required documentation and encourage your friends, family and constituents to do the same. Don't apply on the fly."

He stressed that if a resident's current legal name, date of birth or gender is different from what is displayed on their proof of identity document, they must show legal proof of the changes such as a marriage license.

Residents age 21 and over can pick between a \$24 Real ID that lasts four years or pay double for one that last eight years. There are different price structures for different types of driver's licenses that cover people such as commercial truck drivers.

Those who don't want a Real ID can just bring in their current license or ID when it is up for renewal. That renewal will cost \$21.50 for four years or double that for eight years.

The Real ID-compliant licenses and the non-compliant licenses will be mailed to recipients after they apply at their local circuit court clerk. The clerks will only issue a temporary paper license good for one month.

Rep. Robert Goforth, R-East Bernstadt, asked whether Transportation Security Administration officers would accept the temporary paper licenses at airports. Henderson said TSA officials would only accept the temporary licenses if they are accompanied by the old voided li-

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## Calendar set for 2019 Regular Session

FRANKFORT – The 2019 Regular Session of the Kentucky General Assembly is scheduled to begin on Jan. 8 and will last 30 legislative days.

As usual during an odd-numbered year, in which sessions are half as long as in even-numbered years, the session will have two parts. The first four days of the session – Jan. 8 to Jan. 11 – will focus on organizational work, such as electing legislative leaders, adopting rules of procedure and organizing committees. The introduction and consideration of legislation can also begin during this time.

The second part of the session begins on Feb. 5, with final adjournment scheduled for March 29.

Legislators will not meet in session on Feb. 18 in observance of Presidents' Day. The House and Senate will also not convene on March 8 or 11.

The veto recess – the period of time when lawmakers commonly return to their home districts while the governor considers the possibility of issuing vetoes – begins on March 14. Lawmakers will return to the Capitol on March 28 and 29 for the final two days of the session.

The 2019 session calendar is online at: [http://www.lrc.ky.gov/calendars/19RS\\_calendar.pdf](http://www.lrc.ky.gov/calendars/19RS_calendar.pdf).

# 2018



# General Assembly

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# 2018 Kentucky General Assembly

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## INTERIM JOINT COMMITTEE ON TRANSPORTATION

### Minutes of the 3rd Meeting of the 2018 Interim

August 6, 2018

#### Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Transportation was held on Monday, August 6, 2018, 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. The minutes from the Committee's July 9, 2018 meeting were approved.

#### Present were:

Members: Representative Ken Upchurch, Co-Chair; Senators Joe Bowen, Jared Carpenter, C.B. Embry Jr., Jimmy Higdon, Paul Hornback, Dorsey Ridley, Albert Robinson, Brandon Smith, and Johnny Ray Turner; Representatives Lynn Bechler, Tim Couch, Ken Fleming, Al Gentry, Robert Goforth, David Hale, Dennis Horlander, Kenny Imes, James Kay, Suzanne Miles, Robby Mills, Tim Moore, Rick Rand, Steve Riggs, John Sims Jr, Jim Stewart III, and Walker Thomas..

Guests: Royce Meredith, Project Manager, Bridging KY Program, Kentucky Transportation Cabinet (KYTC), Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC, and Paul Looney, Deputy Secretary, KYTC

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

#### Bridging Kentucky Program

Royce Meredith, Project Manager, Bridging Kentucky Program, KYTC, gave a brief overview of the Bridging Kentucky Program. The Bridging Kentucky Program plan is to rehabilitate, repair, or replace more than 1,000 of Kentucky's bridges in all counties at a cost of approximately \$700 million over a six year period. The goal is to deliver all bridges for construction by 2024. The first bridges that will be addressed will be those that the legislature funded in the biennium budget for FY 2019 – FY 2020, which allotted \$340 million for rehabilitation, and replacement or repair of bridges, \$148 million for maintenance and inspection, and \$60 million for complex bridges.

Mr. Meredith stated that KYTC has assembled a strong team, establishing a quick-start 120-day plan that consists of setting up systems, starting evaluations of structures

simultaneously, developing efficient processes to move the project along, and preparing bridges for construction. One of the most valuable parts of the program is the screening process. During the screening and evaluation of bridges a data-driven, life-cycle cost approach is being used to determine rehab versus replacement needs.

The three main factors used to prioritize the bridges are budget matters, condition of the structure, and project challenges. KYTC wants to address closed bridges as soon as possible and then bridges funded in the biennium budget. There are nearly 350 bridge projects identified in the highway plan. Several bridges are under construction, and rehab projects are set to begin in the fall of 2018. Mr. Meredith anticipates a large volume of rehabs or replacements in 2019.

In response to a question asked by Chairman Upchurch concerning the number of bridges that will be added over the next few years to the program, Mr. Meredith stated KYTC has identified approximately one-third of the bridges that will have rehab or replacement needs. There are approximately 14,000 bridges in Kentucky.

Representative Riggs suggested using the number of vehicles that travel over any given bridge as a determining factor for prioritization of the rehabilitation or replacement of the bridge. Mr. Meredith stated traffic counts are a factor but there are times when more lightly traveled bridges offer the only access to homes. Senators Smith and Embry spoke in opposition of the suggestion to use the number of vehicles that cross a bridge as a determining factor for prioritization.

In response to a question asked by Representative Goforth, Mr. Meredith stated that the list of funded bridges from the biennial budget is on KYTC's website. The list of the 1,000 bridges that are to be funded in this program will be uploaded to the website soon.

Representative Imes expressed concern that a lane of the Interstate 24 Bridge in his district had been closed for a significant period of time. Mr. Meredith stated that KYTC would look into the issue.

#### Road Fund Update

Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC, gave a brief update on the Road Fund. Ms. Brewer stated the FY 2018 official revised revenue estimate was a total of \$1.503 billion. The actual revenues received were \$1.511 billion, exceeding the estimate by \$7.7 million. In FY 2018, KYTC received 764.9 million in motor fuels taxes,



\$493.1 million in motor vehicle usage taxes, and \$252.9 million in other taxes. The FY 2018 actual revenue was \$3 million more than that of \$1.508 billion received in FY 2017.

The official enacted Road Fund revenue estimate for FY 2019 includes \$759.2 million in motor fuels tax, \$494 million in motor vehicle usage tax, \$115.2 million in motor vehicle license fees, \$82.1 million in weight distance tax, \$35 million in other income, \$16.7 million in motor vehicle operators fees, and \$3.1 million in investment income, resulting in a total estimate of \$1.505 billion. The official enacted Road Fund revenue estimate for FY 2020 includes \$761.2 million in motor fuels tax, \$492.6 million in motor vehicle usage tax, \$116.3 million in motor vehicle license fees, \$83.2 million in weight distance tax, \$35.1 million in other income, \$16.8 million in motor vehicle operators fees, and \$3.3 million in investment income, resulting in a total estimate of \$1.508 billion. Ms. Brewer reiterated that, between FY 2019 and FY 2020, there is no projected growth. A graph displayed the historical motor fuels tax revenues, which have essentially remained flat since FY 2016 due to the average wholesale price of gasoline being below the statutory floor of \$2.177 per gallon. While revenues remain flat, construction costs tend to rise.

In response to a question asked by Chairman Upchurch concerning the amount of time before a negative impact is seen due to current funding levels, Paul Looney, Deputy Secretary, KYTC, said that negative impacts are coming soon. The need for repairs is more urgent as roads and bridges age. KYTC is unable to be as proactive as it would like, therefore deferring maintenance results in more future costs. The federal tax credits the state receives for tolling will soon expire.

In response to a question asked by Representative Thomas, Ms. Brewer stated the price of gasoline would have to reach approximately \$2.80 or \$2.83 to even reach the floor. The gas price would have to remain above that for a significant period of time to change the gas tax rate.

Senator Robinson asked if there was a measure of how construction costs have increased over time. Mr. Looney said that the costs have increased, but he did not know a specific percentage.

In response to a question asked by Senator Hornback, Ms. Brewer stated KYTC is estimating Kentucky will run out of toll credits of approximately \$120 million per year in 2020. Not all of that \$120 million is being spent each year, but it is being committed. KYTC is trying to determine an estimated dollar amount that will impact the state within a year. A factor is that there will be fewer state funds for projects

Representative Lynn Bechler stated he would like determine if there is a better way to collect motor fuels tax than using the method of taxing the wholesale price of gasoline.

In response to a question asked by Representative Imes, Ms. Brewer stated the \$1.5 billion includes the revenue sharing portion that is shared with counties, cities, and the rural secondary road fund.

In response to a second question by Representative Imes, Mr. Looney stated he is confident the state will receive several federal grants for which KYTC has applied.

In response to a question asked by Senator Higdon, Ms. Brewer stated after the purchase of a vehicle that there is an ad valorem tax that goes into the General Fund, but the motor vehicle usage tax on the purchase of the vehicle goes into the Road Fund.

Representative Rand inquired about the savings realized after the repeal of prevailing wage has taken place. Mr. Looney stated the KYTC will have to follow up with him on that issue.

Chairman Upchurch gave details of the September meeting to be held in Monticello. There being no further business, Chairman Upchurch adjourned the meeting at 2:00 P.M.

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

### **Minutes of the 3rd Meeting of the 2018 Interim**

August 6, 2018

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

The 3rd meeting of the Interim Joint Committee on Natural Resources and Energy was held on Monday, August 6, 2018, at 1:30 PM, in Room 154 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., John Schickel, and Brandon Smith; Representatives John Blanton, Larry Brown, McKenzie Cantrell, Jeffery Donohue, Myron Dossett, Jim DuPlessis, Daniel Elliott, Kelly Flood, Angie Hatton, Dennis Keene, Reginald Meeks, Suzanne Miles, Robby Mills, and Rick G. Nelson.

Guests: Bruce Scott, Deputy Secretary, Energy and Environment Cabinet; Peter Goodmann, Director, Division of Water, Energy and Environment Cabinet; Gary Larimore, Executive Director, Kentucky Rural Water Association; Jimmy Keeton, Director of Government Affairs, Kentucky American Water and Brent O'Neill, Director of Engineering, Kentucky American Water.

LRC Staff: Stefan Kasacavage, Janine Coy-Geeslin, Tanya Monsanto, and Susan Spoonamore, Committee Assistant.

The July 5, 2018 minutes were approved, by voice vote, without objection, upon motion of Senator Schickel and second by Representative DuPlessis.

## **Discussion of State Water and Wastewater Infrastructure Needs**

### **Energy and Environment Cabinet**

Pete Goodmann, Director for the Division of Water, stated that water is the most important natural resource and that it is critical to Kentucky's public health, economic development, economic and environmental sustainability, and quality of life. Water and wastewater infrastructure includes water treatment plants, wastewater treatment plants and their distribution and collection systems, and dams. Kentucky has already made significant strides in expanding water and wastewater infrastructure throughout the state. Over 95 percent of Kentuckians are provided public water. Most Kentuckians are connected to regional sewers that require extensive infrastructure. However, the current investment is not sufficient to meet the needs for long-term maintenance. Consolidation of systems is ongoing, and they involve old infrastructure where maintenance had been deferred. Extensive data on water and wastewater has been compiled and can be used for funding decisions, asset management, and future planning. Bruce Scott, Deputy Secretary of the Energy and Environment Cabinet, noted that the Division of Water had spent a lot of time assessing the data to determine the age of the infrastructure and redundancy.

Mr. Goodmann stated that the Louisville Metropolitan Sewer District (MSD) is the largest wastewater utility in the Commonwealth and has regionalized the most facilities. Since 1996, more than 145 small wastewater treatment plants (WWTPs) have been taken offline, but there are still more in operation. The 180 wastewater treatment systems are priority candidates for regionalization. Mr. Scott said that the passing of 2018 House Bill 513 allows the cabinet to provide better regulatory oversight of small private wastewater treatment plants. It also allows sanitation districts, water districts, and others to own and operate systems outside of their jurisdictions with voluntary agreements. Each of the 180 remaining public and private systems are unique and have to be dealt with in order to move forward. Mr. Goodman stated the compliance history in wastewater reached about 64 percent but has been declining. Some plants have met their compliance ceiling only because of old infrastructure. Mr. Scott said that all wastewater and water systems rely upon competent operators. Because those individuals

are often not paid much, the operators at smaller plants are recruited to work for bigger entities.

Mr. Goodman stated that the challenges facing wastewater plants are the age of infrastructure, deferred maintenance and investment in infrastructure, and insufficient planning for the future. There are approximately 800 wastewater treatment plants that are beyond their design lives. The average age of a plant is 36 years, and the average age for the 18,000 miles of sewer lines is 42 years. There are more than 4,000 sewage lift stations. According to the Environmental Protection Agency's 2014 Clean Watersheds Needs Survey, Kentucky needs \$6.232 billion in investment funding through 2035 to address its wastewater infrastructure needs. The American Society of Civil Engineers' 2017 report gave Kentucky a D+ in wastewater infrastructure.

Mr. Goodman stated that, in 1974, Kentucky had approximately 2,200 public water systems. There are 213 water treatment plants, with an average age of 38 years. There are 64,000 miles of distribution lines, with an average age of 40 years, as well as aging water storage tanks and pumping stations. Kentucky will need \$8.2 billion in infrastructure funding through 2035 to address its drinking water infrastructure needs.

Mr. Goodman explained the benefits and risks of dams. Dams serve as flood protection downstream, provide reservoirs for water supplies for drinking water, and provide opportunities for recreation. The risks include inundation zones if failure occurs and risk creep when development occurs in the downstream inundation zone. Kentucky has 954 dams; 72 dams are state-owned, 14 are federally-owned, 315 are owned by local governments, and 553 are privately-owned. Of the 954 dams, 177 are classified as high-hazard, 131 are moderate-hazard, and 646 are low-hazard dams. According to the 2014 Dam Safety Mitigation Plan, it was estimated that \$100 million would be needed to cover dam failures that could result in the loss of homes, businesses, infrastructure, and agricultural assets.

Mr. Scott stated that water, sewer, and dam infrastructure systems are foundational to who Kentucky is as a state, along with gas and electric infrastructure systems. Kentucky cannot have economic development or a good quality of life if investments are not made in infrastructure. There are several funding options including public-private partnerships. Kentucky is not meeting the funding needs for all systems, nor are all of the systems availing themselves of current funding options. Small systems, public and private, have inadequate fee rate structures, insufficient borrowing capacity, or inadequate technical capacity. Nobody wants to inherit the responsibility and challenges of a substandard

operating system.

Mr. Scott recommended creating a Kentucky-specific Water Infrastructure Fund. Funds would be dedicated to target investment in Kentucky's water infrastructure and develop community partnerships.

By investing in infrastructure, 15 jobs are created for every \$1 million spent. The cabinet believes it would be beneficial to establish a workgroup to address the issues.

In response to Representative Miles, Mr. Goodman said that planning and zoning play a role in establishing guidelines for building in areas surrounding places like Rough River Dam. Flowage easements are common. When package plants and home units are built, operational permits require hookup after sewer service is available.

In response to Senator Carpenter, Mr. Scott stated that some systems are regulated by the Public Service Commission (PSC) and some are not. The systems that are regulated by PSC typically do a better job of maintaining a decent rate structure.

In response to Representative Meeks, Mr. Scott stated that the cabinet has good relationships with MSD and the Louisville Water Company, which have the capacity to do more by crossing county lines to put agreements in place to better serve adjacent areas. Mr. Goodman said that he speaks regularly with MSD to help provide regional solutions. Mr. Scott said a consent decree several years ago dealt with combined sewers and sanitary overflows. The cabinet and the Environmental Protection Agency (EPA) can deal with situations where there has been no "demonstrative progress," which is an ambiguous term.

In response to Representative Blanton, Mr. Scott said that the cabinet has tools to force entities to fix their problems, but if the entity ends up paying a penalty, then that money is not available to them to fix the problem. Most of the problems are financial, not regulatory. A regulation mandating that rates be assessed regularly might help, but that would create another problem as to who assesses the rates.

Representative Gooch said that many small communities do not have the money to fix old lines. Having a source of revenue to help with matching funds would be useful.

#### **Kentucky Rural Water Association**

Gary Larimore, Executive Director of the Kentucky Rural Water Association (KRWA), stated the KRWA performs multiple rate studies through the Public Service Commission for the utilities at no charge.

The KRWA serves 112 water districts, 21 non-profit water associations, approximately 210 municipalities, and wastewater utilities. Contributing factors for the success of Kentucky's

water and wastewater utilities success are: KRWA, climate, geography, federal laws, state laws and regulations, federal funding, state funding, and natural consolidation.

In 1974, there were 2,178 public water supplies, but the number has decreased to 400 in 2018. There are also 361 community water supplies. Public water supplies are not as prevalent in Hickman, Carlisle, Ballard, Calloway, and Graves counties due to an abundant groundwater supply in the Purchase Region.

There is an \$8.2 billion need in funding for aging infrastructure, including transmission lines and leaks. Interest rates are at a historic low, and waiting on grants can create significant costs. Kentucky utilities currently have \$3.93 billion in water and wastewater debt; however, utilities are unable to expand without borrowing money.

#### **Kentucky American Water**

Jimmy Keeton, Director of Government Affairs, Kentucky American Water (KAW), stated KAW is a subsidiary of American Water, which is the largest and most geographically diverse publicly-traded water and wastewater service provider in the United States. KAW treats and delivers more than one billion gallons of water daily and manage more than 370 individual water systems across the country, and provides services to approximately 15 million people in 46 states. KAW has 6,900 employees.

KAW serves approximately 500,000 people with more than 2,000 miles of water mains, 20,000 valves, over 8,000 public fire hydrants, three surface water treatment plants, and four wastewater treatment facilities.

Brent O'Neill, Director of Engineering, KAW, stated that there has been a 35 percent decrease in the condition of the pipes in Kentucky from 1980 to 2010 due to deferred maintenance and delayed pipe replacement. Six percent of pipes are more than 70 years old, 10 percent are 51 to 70 years old, and 29 percent are 31 to 50 years old.

Neglecting water infrastructure could cost American businesses \$734 billion and 700,000 jobs because failing systems limit the ability for the economy to grow. According to the United States Conference of Mayors, every dollar invested in water infrastructure adds \$6.35 to the national economy.

In response to Representative DuPlessis, Mr. O'Neill stated that KAW uses anti-corrosion agents and monitors pH levels to combat lead.

The next meeting will be September 6, 2018. Documents distributed during the meeting are available in the LRC Library and at [www.lrc.ky.gov](http://www.lrc.ky.gov)



There being no further business, the meeting was adjourned.

**INTERIM JOINT COMMITTEE ON  
APPROPRIATIONS AND REVENUE**  
**Budget Review Subcommittee on Justice  
and Judiciary**  
**Minutes of the 1st Meeting  
of the 2018 Interim**

July 26, 2018

**Call to Order and Roll Call**

The 1st meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, July 26, 2018, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Jason Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Jason Nemes, Co-Chair; Senators Ray S. Jones II, John Schickel, and Robin L. Webb; Representatives Daniel Elliott, Joseph M. Fischer, Brandon Reed, and Arnold Simpson.

Guests: Mike Harmon, Kentucky Auditor of Public Accounts, Chris Hunt, General Counsel of Public Accounts, and Tiffany Welch, Performance and Evaluations Manager; John D. Minton, Jr., Chief Justice of Kentucky and Laurie K. Dudgeon, Director, Administrative Office of the Courts.

LRC Staff: Zachary Ireland, Savannah Wiley, and Rhonda Schierer.

Auditor Harmon, Mr. Hunt, and Ms. Welch discussed the findings of the Administrative Office of the Courts (AOC) special examination and the Auditor's recommendations.

In response to a question from Senator Schickel, Mr. Harmon clarified that, when he spoke of separations of powers, he was talking about the Kentucky Supreme Court.

In response to a question from Chairman Nemes, Mr. Harmon agreed to provide any policy he had to the legislature regarding smaller expenditures that could be used to promote the state.

In response to a question from Representative Reed, Mr. Harmon stated that a special examination—not a financial audit—was done, but that a yearly financial audit should be performed. He was appreciative that Chief Justice Minton asked the Auditor to conduct an examination.

In response to questions from Chairman Nemes, Mr. Hunt stated that the decision to choose the lease with Justice Wright's son, was done through a discussion of a decision memo that is submitted internally according to AOC policy. This memo was given to the

former executive officer, Mr. Brown. Various individuals within AOC including Mr. Brown, Director Dudgeon, the Budget Director, and the Facilities Manager approved the lease according to emails, modifications and amendments, and photographs they were able to obtain. Mr. Hunt stated that AOC's internal process was to start with county facilities to procure private office space they start with county facilities and the lower cost alternative space was one of those county facilities. Based on the documentation in the bid file, there was little information comparing the two office spaces. Mr. Hunt stated that he was not aware of any deliberations to place Justice Wright in the new courthouse in Pikeville.

In response to a question from Senator Webb, Mr. Harmon agreed that if proper documentation of the lease proposals had been kept, with reasons for accepting the higher bid, it could have not been an issue with the auditor's findings.

In response to a question from Representative Elliot, Mr. Harmon stated he was surprised at AOC's opposition to key transparency and accountability recommendations.

In response to a question from Representative Simpson, Mr. Harmon stated that he believes that the most important recommendation not being acted on yet by AOC is agreeing to an annual financial statement audit. His office has taken it under advisement to audit the Legislative Research Commission and is reflecting on it. The Auditor having first right of refusal is consistent with what it does with counties, but the Auditor does not have enforcement power and can only make recommendations. In this particular case, it made referrals to the Attorney General's office, the IRS, and the Treasury.

In response to a question from Chairman Nemes, Mr. Hunt stated that a financial statement audit will render an opinion about the financial statements that AOC has prepared and indicate whether those can be relied upon by outside parties. This is a formal opinion in that context. It will examine how money was spent and whether it complied with laws, rules, and regulations.

In response to a question from Representative Fischer, Ms. Dudgeon stated that internal AOC auditors periodically audit the Master Commissioner Fund and some Circuit Court Clerk funds, but internal audits were very limited.

In response to a question from Representative Fischer, Ms. Dudgeon stated that there are three credit cards specific to individuals with a certain limit on them.

In response to questions from Chairman Nemes, Mr. Harmon stated that there were other people in the private sales with personal and vehicle sales. Mr. Hunt stated that there

is no policy prohibiting a set the sale price, coordination of sales, and participation. There was an individual who was involved on both sides, and that should not have occurred. That identifies a lack of policy and oversight. Some are minor and some will be paid back, but there is an overall atmosphere that needs to be addressed.

In response to a question from Representative Reed, Mr. Harmon stated that this is AOC's first external exam in 42 years. Without external oversight or strong internal controls, it is easy for people to get off track. This is the first time the AOC has had an examination, and it is not a reflection of a certain AOC administration. The timeframe examined, in most cases, was the two year span from 2015 and 2017.

Chief Justice Minton and Ms. Dudgeon responded to the Auditor's findings.

In response to questions from Representative Simpson, Chief Justice Minton stated that the overall governance of the Judicial Branch has been evolving since the mid 1970s. The Judicial Branch is operated differently because the decision making is through a collaborative process. Six people were elected by the voters in their districts, and he shares a good deal of deliberation and discussion with them to benefit from their wisdom and experience. However, it is ultimately the responsibility of the Chief Justice for AOC to make final decisions. Research indicates that there are 14 states that audit courts in some capacity, eight of which are regular comprehensive court audits; six of those eight have an appointed rather than elected auditor. AOC does not dispute that the auditor has the authority of the financial statements through the Comprehensive Annual Financial Report (AFR). However, establishing a regular audit schedule and making the determination of whom should be engaged to do that audit lies within the business affairs of the Judicial Branch.

In response to questions from Chairman Nemes, Chief Justice Minton stated that this allegation was not based on any party or politics. Ms. Dudgeon stated that there is quite a bit of testimony in a deposition as public record in the Frankfort Circuit Clerk's office that can be reviewed related to current litigation. In response to Chairman Nemes, Ms. Dudgeon stated that Scott Brown was the only one she knew who knew who purchased property and that no property had been requested to be returned to the AOC from Mr. Brown or anyone who bought it. Ms. Dudgeon stated that she signed the lease for Justice Wright's office space after the Budget Director signed it, the Facilities Director recommended it, and AOC's General Council reviewed it. She said it was a legitimate lease. She understood that the only other bidder's space was going to need significant renovation although it was significantly higher. Chief Justice



Minton stated that it would be the most efficient, effective, best use of the money to have the Chief Justice in the courthouse where he or she lives, but that has not been a formal policy. Justice Wright could have been placed in the new Pikeville courthouse, but he lives 50 miles from it and staff would have to travel that distance as well. Chief Justice Minton stated that he believes an audit is appropriate but that it should be through bid by an outside group to respect separation of powers. Any auditor's recommendations will be made public. AOC had 72 hours to respond over the July 4<sup>th</sup> holiday and did its best to respond and correct some inaccuracies. This should not be viewed as any resistance. AOC agreed with at least 95 percent of the recommendations and acknowledges certain mistakes and obligations. He believes that an annual public report is appropriate.

Ms. Dudgeon stated that the AOC already has an employee ethics policy; the Auditor's recommendations is for more work on the policy.

In response to a question from Representative Reed, Ms. Dudgeon stated that building a true internal auditing function would require a substantial resource investment.

In response to Senator Schickel, Chief Justice Minton stated that, under the Judicial Code, a candidate running for the Supreme Court could indicate whether he or she would require an annual external audit of the Judicial Branch.

There being no further business, the meeting was adjourned at 11:58 AM.

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

### **Minutes of the 1st Meeting Of the 2018 Interim**

August 13, 2018

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

The 1st meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Monday, August 13, 2018, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Tim Moore, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Albert Robinson, Co-Chair; Representative Tim Moore, Co-Chair; Senators Julian M. Carroll, Perry B. Clark, C.B. Embry Jr., Ernie Harris, Jimmy Higdon, Dennis Parrett, Whitney Westerfield, Mike Wilson, and Max Wise; Representatives John Blanton, Tom Burch, Jeffery Donohue, Myron Dossett, Jim DuPlessis, Chris Fugate, Chris Harris, DJ Johnson, Ruth Ann Palumbo, Rob Rothenburger, Dean Schamore, and Walker Thomas.

Guests: Commander Lew Anderson; Steven

Ray, Political and Program Director of Boys State, Dr. Peter Trzop, Executive Director of Boys State, Ryan Getler, Carl Olde Loohuis, Boys and Girls State; Rebecca Willis-Nichols, Becky Stinsky, U.S. Department of Veterans Affairs; Heather French Henry, Deputy Commissioner, Kentucky Department of Veterans Affairs (KDVA); Brigadier General (Ret.) Steve Bullard; Captain Tim Olsen, Kentucky National Guard; Heath Dolen, Behavioral Health Administrator, Cabinet for Health and Family Services; Laura Begin, Executive Staff Advisor, Cabinet for Health and Family Services.

LRC Staff: Erica Warren, Jessica Zeh, Jonathan Philpot, and Elizabeth Hardy.

#### **Distinguished Veteran**

Commander Lew Anderson and his father, Arthur Anderson, who served in the Vietnam War, were each recognized as a Distinguished Veteran. This was the first time two distinguished veterans were recognized in the same meeting. Commander Anderson summarized his time in the military, primarily on the ethos of a Navy Seal. Commander Anderson and his father led the committee in the Pledge of Allegiance.

#### **Boys and Girls State Presentation**

Dr. Peter Trzop, Executive Director of Boys State, and Ryan Getler and Carl Olde Loohuis, Boys State Alumni, discussed the American Legion's Boys State and Girls State programs and their desire to see veteran policy reform. Dr. Pete Trzop discussed the redesign of the Boys State Program in the last 5 years. Changes have included increased staff, adding the Women's Auxiliary, new curriculum, and taking the program to a college level. Enrollment and funding have increased. There is also a new internship program.

Ryan Getler and Carl Loohuis discussed veteran policy reform, including changes to the Kentucky Constitution and laws. They said that veterans are struggling. The goal is to provide veterans with better lives. They had a PowerPoint presentation and distributed a 'White Paper' handout, which included proposed legislation by multiple Kentucky veterans and leaders.

In response to a question from Representative Rothenburger, Mr. Getler said there the American Legion has 144 posts in Kentucky, but five have closed in the last year because of the high property taxes owed. Representative Rothenburger then suggested that they look at other tax exemptions because the county property tax is a small part of the tax receipt.

Also discussed was a resolution honoring veteran service organizations and encouraging legislation that would provide tax relief for veterans. Chairman Moore emphasized that veteran service organizations have an important role in communities. Follow a motion by

Representative Burch to adopt this resolution and a second by Senator Wise, the resolution was adopted by voice vote.

#### **Suicide Prevention Program**

Rebecca Willis-Nichols, Suicide Prevention Coordinator, and Becky Stinsky, Suicide Prevention Social Worker, testified on behalf of the U.S. Department of Veterans Affairs. They focused on preventing veteran suicide and offered a portion of a current training that they have been providing others.

The VA discourages the use of some terms regarding suicide and instead offered more positive sounding terminology. Instead of 'failed suicide attempt,' saying 'suicide survivor' or 'attempted suicide' has a more positive connotation. Kentucky is ranked 16<sup>th</sup> in the nation in its suicide rates. Nationwide, there are 764 suicide attempts each month among veterans receiving VA benefits. Common myths about suicide were discussed. For example, asking about suicide does not create suicidal thoughts but instead offers an opportunity to the individual to talk about feelings.

The presentation also mentioned the acronym S.A.V.E., which stands for Signs Asking Validating Encouraging Expediting: Signs of suicide, Asking about suicide, Validating feelings, Encouraging help, and Expediting getting help.

Resources include the veteran crisis hotline, crisis text, and online chat, and there are local resources. The Lexington location offers mental health support, telemental health services, REACHVET, and Primary Care Mental Health Integration (PCMHI).

Heather French Henry, Deputy Commissioner of the KDVA, discussed veteran suicide prevention and how the KDVA partners with multiple state, federal, and non-profit organizations. Many veterans are not enrolled in VA benefits. KDVA reaches out to those not enrolled. Partners include the Cabinet for Health and Family Services, the VA, and the Sheriffs Association. The partnership between the VA and KDVA is important. They 'co-locate' in rural areas, have increased mental health services through telecommunication, and provide gun locks for those who want them. A unique aspect of the partnership is the Hansen Veterans Center, where the VA has a Community Based Outpatient Clinic inside the veteran's nursing home.

Captain Tim Olsen from Kentucky Army National Guard Behavioral Health discussed the impact of mental health facilities on soldiers and how internal staffing had been increased from one full-time employee to six full-time employees to help service members. Approximately 100 soldiers are treated for mental illness each month. The Air National Guard has also increased services.

Representative Blanton asked for an update on the Bowling Green nursing facility. Deputy Commissioner, Heather French Henry, said the application had been submitted to the federal VA, and the facility is on a priority waiting list.

#### **Consideration of Referred Administrative Regulation**

The committee considered the referred administrative regulation 902 KAR 101:040, relating to safety at Kentucky youth camps. Representative Rothenburger asked about the language indicating that licenses were required in addition to permits. Laura Begin from the Cabinet for Health and Family Services clarified that the licensure requirements only apply to camps that also meet the definition of child care facilities. Senator Parrett moved to approve 902 KAR 010:040. The motion was seconded by Senator Clark, and the committee concurred by voice vote.

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

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

### **Minutes of the 3rd Meeting of the 2018 Interim**

August 3, 2018

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

The 3rd meeting of the Interim Joint Committee on Judiciary was held on Friday, August 3, 2018, at 10:00 AM, at the Lake Barkley State Resort Park's Convention Center. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Joseph M. Fischer, Co-Chair; Senators Danny Carroll, Alice Forgry Kerr, Dan "Malano" Seum, and Robin L. Webb; Representatives McKenzie Cantrell, Jeffery Donohue, Angie Hatton, Joni L. Jenkins, Chad McCoy, C. Wesley Morgan, Jason Nemes, Jason Petrie, and Brandon Reed.

Guests: John Tilley, Davis Paine, Damon Preston, and Rebecca DiLoreto.

LRC Staff: Katie Comstock, Alice Lyon, Dale Hardy, Breanna Miller, and Yvonne Beghtol.

Chairman Westerfield welcomed those in attendance. Due to not having a quorum, the July minutes will be presented at the September meeting for approval.

#### **Update from the Justice and Public Safety Cabinet**

Secretary John Tilley, of the Justice and Public Safety Cabinet, began by giving an update on the prison and jail population. Kentucky is experiencing record highs. Prior to 2018, the state inmate population had not yet met 25,000. However, the population is currently over 25,000. Secretary Tilley stated that without

reform, the state inmate population is projected to be approximately 30,000-35,000 for this year. Four different sources were used in obtaining the estimated prison growth rate. With these estimates, we will officially be out of space by May of 2019. This puts Kentucky ninth, per capita, in terms of incarceration, and second for female incarceration. The female growth rate is five times that of the males. The Cabinet is working on finding solutions to reduce this number and to find alternatives for the women who are there largely due to substance abuse and mental health issues. Kentucky is unique in that we house half of our inmate population in county jails. We have 76 full service jails. Roughly 24 offer rehabilitation or treatment. Jails were never meant to house long-term, so some are not set up to offer treatment. Thirty-four states have lowered their prison population and crime rates, and Secretary Tilley stated that is where we want to be.

In response to Representative Petrie, Secretary Tilley stated that revocation is the main driving force behind the growth in incarceration. Parolees miss a meeting, relapse, and then wait to be taken back to prison. The Cabinet is using administrative services to help bring down that number. If they can help them succeed, then there are less victims, less crimes, and fewer inmates. There is a report from an outside consulting group of the top 10 crimes that have been the driving force for incarceration. It shows an influx of Class D felonies, mostly possession and theft. Kentucky is still at a historic low for violent crimes. Mental illness and addiction are the greatest challenges for law enforcement and jailers.

In response to Representative Donahue, Secretary Tilley stated that the average yearly housing cost per inmate is roughly \$25,000.00. Medical costs are increasing dramatically. Moral Reconation Therapy (MRT) is a program that correctional officers have seen as an effective treatment. As for jails, the cost is lower. Jails are paid \$31.40 per day per inmate, plus \$9.00 per day per inmate if involved in substance abuse treatment. A system currently in place in Kenton County using Medically Assisted Therapy and other efforts focuses on getting the inmate sober and clean, having a job while in jail, and employment when they get out. The money appropriated from SB 192 is used to help fund these programs. In response to the cost of how much is lost when an inmate is kept at a county jail, when there is no room in the prisons, in spite of the per diem paid for that inmate, there can still be a loss of funds. The cost will be different for each jail, but Secretary Tilley will get an estimated amount to the committee.

In response to Senator Carroll, Secretary Tilley highlighted that Kentucky began justice

reinvestment reform in 2011. He suggested focusing prison beds on the most serious offenders, getting treatment for those with substance abuse, and identifying those that are mentally ill. He recommends using data from Texas, Georgia, and South Carolina as models to gauge the results of reform efforts. More recently Louisiana, New York, New Jersey, and North Carolina also enacted criminal justice reforms. Each state does one thing better than the others.

In response to staffing, Secretary Tilley noted that the turnover rate for probation officers is increasing. Applicants are either not qualified or they cannot hire them. Salaries need to be increased. He has met with Governor Bevin who has approved additional funds to help with the hiring. They are working on reducing caseloads for those that do not require supervision. Kentucky is currently at 90 to 1 on caseloads, whereas Texas is 45 to 1.

In response to Senator Webb, Secretary Tilley agrees that the \$9.00 a day does not buy the treatment needed. It may come down to court intervention, where it is mandated from a federal court that treatment has to be offered. This would double their budget. He believes in performance based funding; paying more to the facilities that offer more and the minimum to those who offer less. There is no answer right now as to where the funding for this would come from.

In regards to tracking the utilization of preferred sentencing or treatment prior to sentencing, Secretary Tilley assured the committee that the Cabinet is tracking as much as possible. They are seeing good numbers in probation and parole where there is a 10% reduction in admissions.

If an officer determines that somebody needs to go to a shelter, either because homeless or mentally ill, they can go that route instead of to a jail cell. They are tracking the use of diversion, and the Administrative Office of the Courts could help get some numbers. Some areas of the state are using the diversion where others are not using it at all.

In response to Representative Jenkins, Secretary Tilley stated that Kentucky is still experiencing a shortage of correction officers across the state. Some of those vacancies are being filled by probation and parole officers on their time off, to maintain safety and security at the prisons. Parts of the Oldham County facility have been shut down due to staffing shortages and the condition of the buildings, and moved into a private prison facility. The contract with the private prison is fair and efficient. Inmates are receiving services there that they would not receive in the jails.

In response to tracking HB 169, the Cabinet will be working closely with Lexington,



Louisville, and others to see if the bill has the desired effect of curbing gang violence and where some changes may be necessary.

In response to Senator Kerr, Secretary Tilley would like to see the qualifications for a parole officer expanded to include military, law enforcement, or some other related background as a substitution for a four-year degree. Cyndi Heddleston, Legislative Liaison with the Department of Corrections, commented that about half of states require a degree while the other half allow related background substitutions. Her concern is that we emphasize the desire to hire the right person, with the right training, so that they are effective. It is something the Department of Corrections will continue to review.

In response to Representative Nemes, Secretary Tilley stated that one reason they cannot move inmates into Dismas Charities' facilities is due to classification issues. He agrees that Kentucky has a lot more treatment capacity than most are aware. There is a hotline treatment locator and other sources to link those in need of treatment to the facilities. The Cabinet is working with judges and other officials to make them aware of these facilities, to possibly send people to treatment instead of jail. In regards to the Oldham County prison facility, he agrees that it needs to be closed and moved elsewhere. But this requires funding. Selling the Oldham County property is an option they are considering.

Secretary Tilley closed by thanking the General Assembly for the funds for more new vehicles and firearms for Kentucky State Police. He also noted that the Department of Juvenile Justice's detention center population has been cut in half, with no increase in crime, and the closing of five facilities. In addition, the Department of Corrections reentry program is doing a great job. Sarah Johnson is the new Substance Abuse Program (SAP) Director. Parole board chairs, and probation and parole officers are working with SAP to make it more effective; through employment, treatment, housing, and transportation. A lot of the operations from the Medical Examiner's Office have been transferred to medical schools, which has enabled them to stay within budget. There are only 500 forensic pathologists in the country. The Cabinet has been able to raise salaries to keep the ones we have. The Cabinet is working on school safety. There are some implementation concerns with SB 133, which he is working with the sponsor to resolve. The Department of Criminal Justice Training backlog has been eliminated and they are pushing training throughout the state so that they are not required to come to Frankfort. Kentucky Law Enforcement Foundation Program (KLEFP) funds are no longer being diverted and are used for their intended purpose. Previously,

over \$56,000,000.00 was being diverted.

In response to Senator Carroll, Secretary Tilley stated that one of the issues with SB 133 is the language indicating who should be released. They do not want to release someone who is dangerous, but is clearly pregnant. On the issue of mother and child visits, they are working with other agencies to increase these visits.

In response to Chairman Westerfield, Secretary Tilley will get a report listing the top five issues the Cabinet would like the committee to consider.

Secretary Tilley closed by saying that while overdose deaths rose by 11%, other states had more. The efforts of the "Don't Let Them Die" campaign, along with all of the agencies in contact with the inmates, is working. Heroin has been replaced with fentanyl, and Kentucky is leading the way in policy at keeping on the forefront of the drug epidemic.

#### **Criminal Defense Issues and Concerns**

Damon Preston, Public Advocate with the Department of Public Advocacy (DPA), began by thanking the committee for inviting him to speak, for their support of his position as Public Advocate, and for the additional funding provided this year.

One of the challenges DPA faces is salaries. Attorneys start at \$42,000.00. Their maximum salary averages \$62,000.00. This makes it hard to obtain employees. The number of law school graduates has also declined. Therefore, the choice is to hire applicants who are not qualified, or try to keep with the standard of low pay with high caseloads and risk losing them to higher paying positions.

Case load is another concern. The additional funding has allowed DPA to reduce case load to around 450 cases per attorney. However, the annual report estimates around a 3% caseload increase. That would equal 160,000 cases (almost 5,000 additional) per year which would require 12 additional attorneys just to keep up with the additional case load.

Aging technology is another concern, as is with all state facilities. A growing amount of work comes in digitally. Not just the usual paperwork, but also digital downloads. Outdated computers, storage capacity, processors, and network speed affects their ability to do their job.

Conflicts are another concern. DPA often has one attorney representing two or more clients because they cannot afford another attorney to handle a preliminary hearing. This is not just a budget issue, but an ethical issue.

Mr. Preston also believes that DPA should do better than offering "legal service for poor people". He wants to provide clients with the best legal service in the state. While the general population has grown 37.5% over the last 48 years, the inmate population has increased

695.3%. This means that, more than ever before, you are more likely to be around people or have family members who have been in prison. DPA's clients are people, worthy of respect and dignity, even when they have made mistakes. The response to criminal behavior has to be humane, even while holding people accountable.

As far as recommendations for criminal justice reforms, felony expungement has been a great success. He would like to see it expanded to almost everyone. When hiring, many who see a criminal record on the applicants background check, would no longer consider that applicant, regardless of their other credentials. He would like to suggest expanded expungement that would include staggered eligibility for convictions: 5 years for Class D felonies (with exceptions), 10 years for the remaining Class D felonies and some Class C felonies, 15 years for the remaining Class C felonies, and 20 years for Class A and B felonies. The wait time would begin at the end of their sentence. Instead of listing the felonies by statute number, he feels it would be better to list by class. Even Class A felonies should be considered, because they will have served their sentence. He would also like to expand expungement of dismissals and acquittals, including dismissals without prejudice. He also suggests having automatic expungement of dismissals and acquittals for adults, as was done for juveniles in Chairman Westerfield's SB 200. Particularly, dismissals of misdemeanors, after the 12 month statute of limitations is run.

Mr. Preston also stated that every offense should be discussed. Nothing should be "untouchable". These topics (Persistent Felony Offenders (PFOs), Violent Offenders, Sex Offenders, and Trafficking) have to be addressed, if we want to make a dent in the prison population. His suggestions for each is:

PFO – leave it up to the jury;

Violent Offenders – return to 50% as it was prior to 1994 federal incentive;

Sex Offenders – incentives for compliance for non-predatory offenders; and

Trafficking – distinguish transfers between addicts from commercial sales.

Criminal justice reform needs to be bold. Mr. Preston recommended the 3 Days Count movement that Chief Justice Minton recently announced, recognizing that a few days in jail can make a negative impact on a person's life, by possibly losing a job, creating instability, and in turn making them more of a risk to society. He would like to see gross misdemeanors classified higher than a Class A misdemeanor, but lower than a Class D felony, and on the side of a misdemeanor. He also suggests reexamining prison terms for elderly inmates, having maximum sentences for probated terms, life or decades sentences for Class B offenses, and



mandatory consecutive sentences. Mr. Preston stated that one of the biggest ways to lower the inmate population is to stop raising penalties. These recommendations could improve the justice system, help families, improve outcome for offenders and improve public safety, and save money.

In response to Senator Carroll, Mr. Preston believes there is more common ground between them than what may appear. He believes that victims' opinions matter and are considered. Many victims do not want harsh penalties because the offender is often a family member or friend. He would appreciate a discussion with Senator Carroll to address his concerns in depth.

Rebecca DiLoreto, Legislative Agent with the Kentucky Association of Criminal Defense Lawyers (KACDL), emphasized that her organization's main concern is the protection of the Bill of Rights and just, fair, and workable justice reform. While many come to legislators asking them to use their power to pass particular legislation, Ms. DiLoreto stated that it is difficult to gather all of the necessary information to insure that legislators are making the right decision. Some key areas of concern for KACDL are protection against misidentification leading to wrongful convictions, protection against mistakes in statements to police by witnesses and the accused, ensuring access to accurate data by requiring the right data be collected about cases in the criminal justice system, restoring the proper role of corrections as rehabilitation, and removing unnecessary and harmful collateral consequences.

Ms. DiLoreto stated that mistaken eyewitness identification is the leading factor in wrongful convictions. Facial recognition software does not test accurately those who are not caucasian and technology is not always the best solution. Easy reforms she feels necessary are the "double-blind" procedure (using an administrator who does not have a targeted offender), giving uniform instructions to the witness, establishing standards for composing a line-up, confidence statements given by the witness, and documentation.

Electronic recording of interrogations can benefit both law enforcement from allegations of coercion, and the innocent from being wrongfully convicted.

Ms. DiLoreto stated that having updated and accurate data when mandating legislation is crucial. Data shows that the justice system remains racially imbalanced. A person of color does not have a fair chance. It is important to hear from leadership in African American and Hispanic communities, as well as victims, women, and children. If they are not there, Ms. DiLoreto stated that the General Assembly needs to invite them to get their opinions. Collecting

the data on racial demographics is necessary. She quoted John 8:30, "Then you will know the truth and the truth will set you free."

The Criminal Justice Policy Assessment Council reported that prison admissions have increased by 32% over the last five years. Class D felonies have increased by 38%. 56% charged as Class D felons were convicted as Class D. Of those serving for a Class D felony, 82% do not have a more serious offense, and are serving in jails without services.

Ms. DiLoreto would like to see the committee focus on programs targeting the young adult population. Data indicates that maturing is complete around 25 years of age. Therefore, it is the prime time to rehabilitate and intervene. This is when they need to be building an economic future and the General Assembly needs to examine how we can alter their sentencing.

Drug treatment is crucial for those in prison, jails, and in our communities.

Ms. DiLoreto noted that opportunities need to be provided for those incarcerated. The problem with the job training and other programs is that you have to be close to release in order to qualify. She also stated that HB 169 provides that an offender must serve 85% of their sentence, which increases the length of time before they are eligible for these services. Making these services available for the younger inmates is crucial in reaching them before they reach the maturity age of 25 years.

The National Association of Criminal Defense Lawyers is pushing for an end to unnecessary collateral consequences. Once an inmate has served their time, Ms. DiLoreto stated that we need to stop punishing them by making it difficult to find a job, get a loan, find housing, or voting. KACDL is asking legislators to set the bar in this coming legislation. Listen to your constituents, but consider the real issues. What are the intended and unintended consequences and their costs? Victims often have the same outlook on these issues. They want to see the violence ended, rather than just putting someone away in prison.

Senator Webb commented that she appreciates everyone's thorough efforts to seek truth, justice, and effectiveness in representing defendants. While it is not perfect, it is a good system.

In response to Chairman Fischer, Mr. Preston's opinion as to what qualifies as a non-predatory sex offense could include things that happen in a dating context, possession of child pornography, and indecent exposure.

In response to Chairman Westerfield, Mr. Preston does not believe Kentucky has hit the 10% penalty for not being compliant with the Adam Walsh Act. Ms. DiLoreto commented that we need to educate instead of criminalizing as

there are mental health and maturation levels related to sexual behavior.

Chairman Westerfield reminded members of the September 7<sup>th</sup> meeting to be held at 10:00 am at the Capitol Annex in Room 171.

There being no further business, the meeting adjourned at 2:10 pm.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Minutes of the 3rd Meeting of the 2018 Interim**

August 13, 2018

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

The 3rd meeting of the Interim Joint Committee on Education was held on Monday, August 13, 2018, at 1:05 p.m., in Room 154 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; Senators David P. Givens, Jimmy Higdon, Alice Forgy Kerr, Stephen Meredith, Gerald A. Neal, Reginald Thomas, Johnny Ray Turner, Stephen West, and Mike Wilson; Representatives Linda Belcher, Danny Bentley, Mark Hart, Mary Lou Marzian, Reginald Meeks, Charles Miller, Phil Moffett, Tim Moore, Kimberly Poore Moser, Rick G. Nelson, Melinda Gibbons Prunty, Jody Richards, Steve Riley, Attica Scott, James Tipton, and Russell Webber.

Guests: Erin Klarer, Kentucky Higher Education Assistance Authority; Wayne D. Lewis, Kentucky Department of Education; and Christina Weeter, Kentucky Department of Education.

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

Following the call to order and roll call, Chairman Wise asked for a moment of silence for Representative Carney who was not present due to the recent passing of his grandmother.

#### **Approval of Minutes**

Representative Webber made a motion to adopt the minutes of the June 11, 2018, meeting. Motion was seconded by Senator Meredith and passed by voice vote. Representative Tipton made a motion to adopt the minutes of the July 9, 2018, meeting, seconded by Senator Meredith. Motion passed by voice vote.

Chairman Wise took a moment to make a book recommendation to the committee, "What School Could Be" by Ted Dintersmith. It had been very inspiring to him, and he had several copies available for any committee member who would be interesting in reading it.

#### **Kentucky Community and Technical College System**

Dr. Jay Box, President, Kentucky Community and Technical College System (KCTCS), and

Brian Perry, Government Relations Liaison, KCTCS, were present to give an overview of the system and how it has changed over time. They began by giving a brief history of the creation of KCTCS following the 1996 meetings of the Task Force on Postsecondary Education. KCTCS differs from other systems across the country because it is a single system with 16 accredited colleges, a system office, one governing board, and 16 advisory boards. Other systems are not similarly arranged and their individual schools are not accredited in the same manner. All the schools within the system share resources and curriculum but have ability to customize to meet local employment demands. During the decade between 1998 and 2008 there was an emphasis on improving access through building new buildings, increasing enrollment, and investing in technology and distance learning. In the next five-year span, there were increased budget cuts to postsecondary education, and KCTCS turned its focus toward improving the number of degrees completed by students. This continues to be a focus for the system, impressing upon students, parents, teachers, and community leaders the important impact a community college education can have.

Currently, approximately 40 percent of undergraduates in the Commonwealth are enrolled in a KCTCS college. KCTCS also offers a majority of the certificate programs necessary to meet the mid-skill employment needs of the state. KCTCS is constantly looking for ways to encourage more students and adults to enter careers in Kentucky by gaining technical skills they need from a community or technical college. Despite the decline in enrollment following recent improvement of the economy, a record number of credentials were awarded by KCTCS in the 2016-17 school year, an increase of 12 percent over the prior year.

In response to a question from Senator Givens, Dr. Box answered that the system is very nimble in response to the changing economy and utilizes a three-year review program to meet needs. Additionally, a majority of instructors at KCTCS are not tenured and programs are sometimes suspended but not entirely eliminated. Decisions are made locally on which programs are suspended or cut, but these decisions are overseen by the Board of Regents.

In response to a question from Senator Meredith regarding adults in the workforce who need to acquire new skills, but do not have a high school diploma or GED, Dr. Box said that there are ongoing efforts to address this issue, primarily by improving counseling for those coming to employment centers and encouraging them to consider achievement of credentials at a postsecondary institution to improve their employability.

Responding to a question from Senator Higdon, Dr. Box said the system has not fully realized its potential at this time. KCTCS is working hard to produce the graduates needed for today's workforce, but it will take a collaboration of high schools, parents, counselors, and workforce partners to fully realize the vision of what community college and technical education can be. There is still a stigma attached to 'dirty jobs' and a great emphasis on technology. KCTCS has the capacity to meet Kentucky's workforce needs, but needs greater enrollment and higher completion rates for that to be fully realized. Dr. Box added that regular surveys of area employers are used to determine if graduates are meeting local needs, and indications are that they do, but there are simply not enough graduates.

Dr. Box continued his presentation by illustrating the efforts of all the KCTCS schools to infuse essential skills into all parts of the curriculum. They have also expanded apprenticeship opportunities so that students gain valuable work experience while earning a degree. This greatly enhances the ability of students to garner employment upon graduation. Recently, KCTCS has also worked on improved campus leadership. Dr. Box has overseen the hiring of 13 new presidents during the last four years, nine of whom have specializations in technical education. This has also led to expanded programming to meet technical demands, with over 290 new programs created and over 500 programs removed because they were found to no longer be beneficial. The advisory boards of each college in the system also incorporate input from local businesses, and over 2,000 companies are represented in advisory board membership.

Using funds from the TRAINS program, KCTCS has worked to upskill current employees as well. They have implemented a new Program Alignment Tool which uses labor market indicators to identify specific programs that align with regional labor markets so that local colleges can better tailor their programs to meet area needs. As job markets change, the colleges also need to give good advice and counseling. All the area colleges provide information online about locally available jobs, pay ranges for those jobs, and which credentials are necessary to enter that job or field. Dr. Box also stressed that KCTCS is the solution to address the loss of jobs from coal mining. Essential to retooling individuals for new industries such as Braidy International in Ashland and the growing high speed fiber optic industry in Pikeville, and to greatly improving area employability, Big Sandy Community and Technical College has implemented new certification programs, some of which can be completed in two weeks or less.

Dr. Box then presented an illustration of the KY Skills-U "On Ramp Project"—Career Freeway

Initiative. This model shows the various different "on-ramps" into the KCTCS/Skills-U programs and the many different "off-ramps" including high-wage jobs, associate degree completion, transfer to other universities, or pursuit of bachelor degrees. The goal is to have students think of the education provided by KCTCS as a freeway to the workforce with quick access and quick exit into jobs that allow them to improve themselves and support their families. Another new initiative is co-enrollment with GED programs to allow achievement of workforce credentials alongside the GED, which is often the quickest possible pathway to employment. Dr. Box especially wanted to thank Reecie Stagnolia, Vice President for Adult Education, Council of Postsecondary Education, for his assistance and expertise in the creation of these co-enrollment programs.

Responding to a question from Representative Gibbons Prunty, Dr. Box said the cuts to the Kentucky Coal Academy were direct budget cuts so the coal academy schools will lose funding within the next year. In order to cover needs that still exist, funds will have to be shifted from other areas, but program cuts will likely be inevitable.

In response to Representative Tipton's questions regarding prison education, Dr. Box explained that corrections education was removed from KCTCS oversight in recent years. KCTCS would be very willing to take on corrections education again, but that is currently not something under KCTCS jurisdiction.

Representative Marzian commented that in some cases, felony convictions also prohibit individuals from seeking credentials and perhaps it may help to reconsider the expungement process for certain felonies. In response to her questions about students with substance abuse issues, Dr. Box said the role of KCTCS has primarily been in referring students who exhibit a substance abuse problem to outside agencies that can better assist in treatment and rehabilitation. They do not have any on-site treatment programs.

Continuing his presentation, Dr. Box said enrollment in dual-credit courses by high school students is increasingly on the rise. Currently, over 50 percent of dual-credit students in the state are enrolled in a KCTCS school, and this will likely grow by 11.5 percent in just the next year. This has also resulted in a savings of \$11 million for Kentucky families in reduced tuition costs over the course of a degree program.

Responding to Representative Tipton's questions, Dr. Box agreed the Work Ready Scholarship has been a major motivating factor for students to capitalize on dual-credit while still in high school.

Returning to his remarks on savings, Dr. Box



explained that KCTCS represents a significant return-on-investment for students and their families. According to a study performed by Economic Modeling Specialist Incorporated (EMSI), for every \$1 invested by students in a KCTCS education, they receive a \$5.80 increase in lifetime earnings. Additionally, the state sees a return-on-investment of \$3.40 in added taxes and public sector savings. Converted to annual return percentages, for students this is a 19.6 percent increase on annual return, greater than investment in stocks or savings accounts. To maintain low costs across the system, the governing board has focused on efficiency and reducing costs while still providing an excellent education. KCTCS functions with 800 fewer employees than similarly sized systems by pooling resources into a central governing body. They have also reduced costs through the elimination of unnecessary programs, renegotiated contracts for goods and services, reduction in utilities through energy efficiency initiatives, use of technology to reduce travel for staff, third-party outsourcing where possible (resulting in a savings of \$13.9 million alone), and eliminating the ability of employees to enroll in the state retirement systems. Students would pay approximately \$31 more per credit hour if KCTCS had not taken these steps.

In closing, Dr. Box said KCTCS is committed to performance-based funding, but the model does need full funding to work as intended. Additionally, KCTCS is facing its own workforce shortage struggles. It is difficult to find qualified technical instructors as they can make much more in the private sector. Increased funding for KCTCS in order to improve the pay scale would significantly improve their ability to recruit high skill instructors. Again, he stressed how business and industry partners, high school counselors, parents, and community leaders can help by making jobs attractive and suggesting KCTCS as an opportunity. Dual-credit enrollment is important, but it will not resolve the workforce problem alone, adults also need to enter credentialing programs. He did not want to discredit the impact that general education courses have either, as this is where a majority of essential skills are taught, and they have an overwhelmingly positive impact on society. Finally, KCTCS is committed to being affordable and impactful, and Dr. Box shared a video of student testimonials illustrating the impact that education has had on lives across the Commonwealth.

In response to a question from Senator Higdon, Dr. Box said the data regarding dual-credit and the 19 percent return on investment had come from the EMSI study. EMSI performs studies all over the United States for governmental and education institutions. Responding to

a follow-up question, he answered that the Southern Association of Colleges and Schools (SACS) has made it clear during accreditation proceedings that dual-credit should primarily be reserved for high school juniors and seniors. There are limited approvals for 9<sup>th</sup> and 10<sup>th</sup> grade students to participate if they can show college readiness, but a majority of high school graduates have not been proven college ready, specifically in mathematics. This has been a significant barrier across the entire system and needs to be addressed in the primary and secondary schools.

Responding to questions from Senator Meredith, it was stated that KCTCS is the largest provider for online-based learning, and this will only continue to grow. KCTCS strives to reach those who are already working and need the flexibility. They have also recently expanded services for 24/7 access through a third-party online learning partner.

Regarding a question from Senator West about transfer of credits, Dr. Box said the legislature has mandated that all credits gained at KCTCS will transfer to a public university. However, they may not always align with a specific degree program if a student changes tracks between KCTCS and the university. In those instances, the credit becomes elective credit and does not benefit their degree completion, which can be frustrating. He advises students in these situations to always consult with an advisor before transferring to be fully aware of how credits will carry over.

In response to questions from Representative Belcher, Dr. Box reiterated the need for more promotion of the value of a career/technical college education and the value of a mid-skill credential. He said the greatest selling point may be the information regarding return on investment and the data revealed in the EMSI study.

In agreement with Representative Riley, Dr. Box said society and high school counselors need to stop telling students they are not college material. Every job has value and postsecondary education does not have to be a four-year baccalaureate degree.

Responding to Representative Tipton's concerns about student college readiness, Dr. Box said those who are at the lowest level are not successful. Students who are mid-level can be successful but it can take a significantly longer time for them to reach degree completion, up to an additional year in remediation classes, and that becomes frustrating as well as adding to the expense. This is where the co-enrollment initiative has been very successful, even though there is an additional cost to that program. Despite all of this, KCTCS remains committed to take every student, no matter what, and will continue to do so.

Dr. Box responded to Representative Meeks's questions regarding coal colleges by explaining that KCTCS is not currently funded to address specific types of programs or specific area colleges. During the first decades, more money was given to eastern Kentucky colleges, but with the implementation of performance-based funding, it appeared that those colleges did not need as much to cover expenses. What he proposed was a cap or a freeze on funding for the eastern colleges, but an increase to overall money in the formula to bring the other six colleges up to the level of the 10 coal-area colleges. He answered Representative Meeks question about transfer students, saying that up to 47 percent of students at KCTCS are in transfer programs in order to significantly reduce costs for a four-year degree.

In response to a question from Representative Moser, he reiterated that while KCTCS does partner with drug intervention and prevention agencies, they do not provide their own interventions, primarily due to budgetary constraints. And again, KCTCS would welcome the opportunity to work with corrections populations if given that ability and funding to do so.

Responding to Representative Gibbons Prunty, Dr. Box said that the message about the value and positive impact of community and technical education would be most effective at a local level and encouraged all members of the committee to speak with their local colleges and work within their communities to increase positive perception of KCTCS.

Chairman Wise made an announcement that the next meeting of the committee would be at Glasgow Area Technology Center in Barren County on September 10, 2018. With no further business to come before the committee, the meeting adjourned at 2:30 p.m.

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

### **Minutes of the Third Meeting of the 2018 Interim**

August 15, 2018

#### **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 15, 2018, at 10:00 a.m., at Sullivan University College of Pharmacy, 2100 Gardiner Lane, Louisville, Kentucky. 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, David P. Givens, Alice Forgry Kerr, Stephen Meredith, Reginald Thomas, and Max Wise; Representatives Danny Bentley, George Brown Jr, Daniel Elliott, Joni L. Jenkins, Mary Lou Marzian, Russ A. Meyer, Kimberly Poore Moser, Melinda Gibbons Prunty, Steve Riley, and Russell Webber.

**Guests:** Tom Davisson, Executive Vice President and Chief Operating Officer, Sullivan University System; Cindy D. Stowe, PharmD, Dean and Professor, Sullivan University College of Pharmacy; Steve Gaskins, Program Director, Sullivan University Physician Assistant Program; Jim Tuman, National Youth Speaker; Joe Bringardner, Executive Director, Serve Kentucky, Cabinet for Health and Family Services; Tim Feeley, Cabinet for Health and Family Services; Amanda Newton, Recovery Concierge; Sherri Craig, KentuckyOne Health; Oliver Barber, Kentucky Public Transit Association; Donna Little, Cabinet for Health and Family Services; Steve Bing, Kentucky Local Health Departments; Tresa Straw, Cabinet for Health and Family Services; LaVonne Fingerson and Betty McInter, Moms Demand Action; Lindsey Smith, Thomas Boone Abraham, Casey Detthyer, David Leene, Daniel Malcom, Cassy Hobbs, Christopher Betz, and James Nash, Sullivan University College of Pharmacy; Steve Kelly, Kentucky Hospital Association; Brandon Smith, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services; Glenna Goins, Governor's Office for Policy and Management; Johnny Callebs, Kentucky Association of Private Providers; Erin Klarer, Kentucky Higher Education Assistance Authority; Debra A. McAfee, National Multiple Sclerosis Society; and Terri Thomas, Harbor House.

**LRC Staff:** DeeAnn Wenk, Ben Payne, Chris Joffrion, Dana Simmons, Gina Rigsby, and Becky Lancaster.

### **Approval of Minutes**

A motion to accept the minutes of the July 18, 2018 meeting was made by Senator Buford, seconded by Senator Wise, and approved by voice vote.

### **Welcome and Overview of Sullivan University**

Tom Davisson, Executive Vice President and Chief Operating Officer, Sullivan University System, stated in 1962, Sullivan University was found by A.O. Sullivan and his son, A.R. Sullivan, as a 1-year school preparing people for careers. In 1972, it was named Sullivan Junior College of Business and began to grant associate degrees. In 2008, the first doctoral program, the Doctor of Pharmacy, was added and accredited by the Accreditation Council for Pharmacy Education (ACPE). In 2010, the first Doctor of

Philosophy (PhD) program in management was added. In June 2018, the Southern Association of Colleges and Schools Commission on Colleges approved the merger of Sullivan University, Sullivan College of Technology and Design, and Spencerian to become Sullivan University. The Sullivan College of Nursing and Sullivan College of Allied Health are located on Dupont Circle. The College of Pharmacy and Health Sciences are located in one building on Gardiner Lane. The Sullivan University campus in Lexington opened in 1985 and 1982 in Ft. Knox. Centers for Learning are located in Louisa, Carlisle, and Northern Kentucky.

### **Discussion of the College of Pharmacy**

Cindy D. Stowe, PharmD, Dean and Professor, Sullivan University College of Pharmacy, stated that the mission of is the health and wellness of all Kentuckians and further research. The goal is to educate pharmacists, pharmacy technicians, and physician assistants. Approximately 150 students graduate annually. Between 60 percent and 70 percent of the students that enroll are from Kentucky. As part of the clinical education, students are located all over Kentucky in pharmacies and clinics.

### **Discussion of the Physician Assistant (PA) Program**

Steve Gaskins, Program Director, MPAS, PA-C, Sullivan University Physician Assistant Program, stated that the General Assembly shapes the healthcare of Kentuckians. The intensive PA program curriculum is modeled on the medical school curriculum. The typical PA program extends over 27 continuous months and begins with classroom instruction in basic medical sciences. This is followed by rotations in medical and surgical disciplines including family medicine, internal medicine, general surgery, pediatrics, obstetrics and gynecology, emergency medicine and psychiatry. PA students complete at least 2,000 hours of supervised clinical practice in various settings and locations by graduation. Almost all PA programs now award master's degrees, and by 2020 all programs must do so. In 1967, the first physician assistant class graduated from Duke University. In 1971, the American Medical Association recognized the PA profession, and six states passed legislation authorizing PA practice. In 2000, all 50 states authorize PA practice. In 2007, PAs obtained prescriptive authority in all 50 states and the District of Columbia. In 2010 PAs were named in the Patient Protection and Affordable Care Act as one of three healthcare professionals, along with physicians and nurse practitioners, who provide primary care in the United States. In order to practice, PAs must graduate from an accredited PA program, pass the Physician Assistant National Certifying Examination developed by the National Commission on Certification of

Physician Assistants, and be licensed by a state. To maintain their national certification, PAs must complete 100 hours of continuing medical education (CME) every two years and take a recertification exam every 10 years.

In response to a question by Representative Marzian, Dr. Gaskins stated that laws vary state by state depending on the scope of practice for a PA. In Kentucky rules are promulgated by the Kentucky Board of Medical Licensure.

In response to a question by Representative Wuchner, Dr. Gaskins stated that Sullivan received its PA accreditation in April 2018, and would have to wait five years to begin a satellite PA program.

In response to a question by Senator Buford, Dr. Gaskins stated that one way the General Assembly could help would be to pass legislation that would allow physicians who employ PAs to have more say in how a PA is used and to what extent. PAs move to other states because those states allow broader practice privileges.

In response to a question by Representative Moser, Dr. Gaskins stated that once a PA completes the curriculum and graduates, they are eligible to sit for the national certification exam. PAs have to do clinical rotations with board-certified providers in behavioral health, emergency medicine, family medicine, internal medicine, general surgery, women's health, and pediatrics. After that, PAs have to do an elective rotation. Allot of students do post-graduate residencies if they want to specialize in particular areas such as cardiothoracic surgery, psychiatry, or emergency medicine. Residencies are not required, so physicians hire PAs understanding the PA is a new graduate, and this is the reason it is important for a physician to be able to set the scope of practice for the PA. The scope of practice will be expanded as the PA gets more experience.

### **Teen Suicide Prevention**

After an introduction by Senator Damon Thayer, Jim Tuman, National Youth Speaker, stated that suicide is the number one killer of kids, and teen suicide has become an epidemic. Bullying is a huge factor for an individual to commit suicide. When kids do not feel safe anywhere, the option becomes ending their life. Age demographic, or socio-economic circumstances do not deter someone from thinking about or committing suicide. Children should never fear that they are not loved unconditionally. Prevention should be more important than trying to find a solution to the problem. It is time to start talking about suicide and the ripple effects it has friends and loved ones. Our actions may stop someone from taking their life even if it is as small as smiling at them. Some kids in school feel invisible and just want someone to notice them even if it acting out in horrible ways such as school shootings.

The climate in schools and communities have to change. Always be willing to listen to everyone; it could mean the difference in life or death. Schools should have a youth focus group to talk about problems and solutions. Schools should have a banner that says all kids are safe, valued, and loved. Children need to know that no matter what they have done, parents will always be there for them. Lunch is the worst time of day for some children, and one way to help these children is to start a lunchroom activities program. Loneliness is predominate in 16 to 25 year olds. When someone a kids looks up to commits suicide, they want to kill themselves. Kids need to feel safe with their friends, but have to be careful they do not trust the wrong people who can get them into trouble. A kid feels like they have let everyone down if their suicide attempt fails. There is hope to end suicide, but everyone must step up to help find the solution and stop suicide's momentum.

In response to a question by Senator Raque Adams, Mr. Tuman stated that ways to help combat the problem would be to hand the banners where there is a high traffic area to show that the school is a safe environment where kids can be valued and loved and start lunchroom activities. Everyone needs to be conscious of being kind every day. Senator Raque Adams asked that he provide the committee with a list of his recommendations.

In response to a question by Representative Marzian, Mr. Tuman stated that children need to be taught the importance of gun safety. Adults need to intercede before a situation gets out of control. Parents need to know as much as possible about their children's activities and friends. Parents and educators need to be more pro-active in a child's life and know what they are doing!!

In response to a question by Representative Gibbons Prunty, Mr. Tuman stated that we need to learn how technology plays a role in the problem. Technology has produced a lack of intimacy, and we need to connect with people more. We need to be more vigilant to interface with each other, especially kids. Having face-to-face discussions with others shows you care.

#### **Update on Kentucky AmeriCorps**

Joe Bringardner, Executive Director, Serve Kentucky, Cabinet for Health and Family Services, stated that effective July 1, 2018, Serve Kentucky's name was changed from the Kentucky Commission on Community Volunteerism and Service. Serve Kentucky has a 15-25 bipartisan board that is appointed and reappointed by the Governor. There is \$1.3 billion in grants available every year. Serve Kentucky receives \$11.5 million in federal funding from the Corporation for National and Community Service (CNCS) and is a conduit for 3 administrative grants and 20 AmeriCorps program grants. It also

receives \$22.5 million matching funds from AmeriCorps grant, in-kind match, and state general funds. AmeriCorps has over 12,000 members, approximately 19 million service hours, and education awards (\$6,000 is awarded per year after a year of service) totaling more than \$44.3 million. There are 13 educational programs in literacy and math, college preparation and access, mentor and tutor, and youth development. AmeriCorps' focus areas include economic opportunities, environmental stewardship, healthy futures, disaster services, and veterans and military families. AmeriCorps alumni are more likely to attain a bachelor's degree or higher than the average American adult. AmeriCorps partners with the National Peace Corps Association, AmeriCorps Alums, and Service Year Alliance. Approximately 80 percent of members found a career because of serving in AmeriCorps.

In response to a question by Representative George Brown, Mr. Bringardner stated that some members of AmeriCorps have been incarcerated and had to pass a background check before being accepted to the program. Representative Brown said that more needs to be done for someone who has made a mistake and were incarcerated.

#### **Adjournment**

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

## **INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT**

### **Minutes of the 4th Meeting of the 2018 Interim**

August 16, 2018

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

The 4th meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, August 16, 2018, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Phillip Pratt, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Phillip Pratt, 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, Mark Hart, Joni L. Jenkins, James Kay, Adam Koenig, Russ A. Meyer, Jerry T. Miller, Jason Petrie, Steve Riley, Rob Rothenburger, Dean Schamore, Wilson Stone, Walker Thomas, Russell Webber, and Addia Wuchner.

Guests: Robert Riggs, Legislative Committee Chairman, Kentucky Aviation Association; Stewart Ditto, Executive Director, Kentucky

Aerospace Industry Consortium; Lynn Hudgins, President, Junior Achievement of the Bluegrass; Garry Conley, Volunteer, Junior Achievement of the Bluegrass; Adam Watson, Current President, Kentucky Guild of Brewers; and Jason Smith, Incoming President, Kentucky Guild of Brewers.

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

#### **Approval of Minutes**

A motion to approve the minutes of the July 19, 2018 meeting was made by Representative Russ Meyer, seconded by Representative Adam Koenig, and approved by voice vote.

#### **Aviation and Aerospace Updates**

On behalf of the Kentucky Aviation Association, the Aviation Museum of Kentucky, and the Airport Zoning Commission, Robert Riggs spoke about a pressing matter that could affect businesses that want to come to Kentucky. Kentucky Constitution Section 164 prohibits local governments from granting a franchise or privilege for terms exceeding 20 years, and only after advertising. Mr. Riggs stated that the wording poses a problem for airports that want to attract businesses that would make an investment for longer than 20 years. Twenty years is less than the amount of time that the Internal Revenue Service requires for depreciation. One option to fix the problem is to amend the Constitution to allow economic development projects to have more than 20 years. Another option is for the General Assembly to offer a legislative interpretation of the Constitution that will allow these projects to proceed with their investments with the state's airports without hindrance. Either of these two options would enable Kentucky to continue to attract new business and economic development investments.

After Representative Rob Rothenburger asked for clarification, Mr. Riggs explained by saying that a business would not be able to enter into a 50 year lease with a Kentucky airport. Although businesses are given the opportunity to rebid for contracts, the 20 year limit is a deterrent for some companies.

Senator Wil Schroder expressed concerns about what specific opportunities Kentucky may be missing out on due to the 20 year limit and requested to speak to Mr. Riggs after the meeting for further discussion.

Co-Chair Alice Forgy Kerr asked for a specific example. Mr. Riggs stated that United Airlines had considered placing one of its maintenance facilities in Louisville at one point but opted for Indianapolis partially because of the maximum 20 year length of term that Kentucky could provide.

Mr. Stewart Ditto, the Executive Director of the Kentucky Aerospace Industry Consortium (KAIC), discussed Kentucky's aerospace industry and KAIC goals. KAIC's four main goals and



components contributing to its growth are unification, promotion, business development, and education and research. Unification will be attained by bringing the industry together under one voice by enhancing collaboration and facilitating partnerships. Internal promotion will be done by making Kentuckians aware of the current and future potential of the aerospace industry. External promotion will be achieved by creating a Kentucky aerospace brand that showcases the state as a focal point for growth in the Midwest and South. KAIC is working to improve business development through cyber security, AS9100 certification assistance which is specific to aerospace, exports, and International Traffic in Arms Regulations (ITAR) compliance. Education and research will be done through promoting and enhancing industry driven research, developing an integrated workforce delivery system, and ensuring there is statewide K-12 aerospace STEM education.

With the assistance of Co-Chair Alice Forgy Kerr and Representative Rocky Adkins, 2015 House Joint Resolution 100 directed the Transportation Cabinet, Cabinet for Economic Development, and Commission on Military Affairs to study the economic impact of the aerospace/aviation industry in the Commonwealth. Mr. Ditto was asked to manage the aerospace and defense study that took place from 2016 to 2017. From recommendations from the study, Governor Bevin and Lieutenant Governor Hampton formed KAIC. The study showed that there are over 600 companies in the state in the aviation and aerospace cluster with an estimated 17,000 jobs. With \$11.7 billion in exports in 2017, aerospace products and parts are Kentucky's number one export and third nationally. The growth of the industry in the Commonwealth and the rest of the Midwest and South can be attributed to tax incentives, cheap energy costs, and a military presence whose technologies and expertise are aviation focused. Kentucky is however the focal point of the aerospace growth in the Midwest and South with the state's logistical capabilities of having the UPS Worldport, the DHL Hub, and Amazon Prime Air. Some other companies that contribute to the industry include Raytheon, Safran, Braidley Industries and Ellison Surface Technologies.

Kentucky's postsecondary education institutions are striving to contribute to the aerospace industry as well. The University of Kentucky led the development of Next-Generation Entry Thermal Protection. Morehead State is one of the leaders in cubesat and other small satellite technologies, is a part of the NASA Deep Space Network, and has launched six satellites to date. The University of Louisville supports research in micro and nanotechnology and along with Western Kentucky University

are also conducting International Space Station experiments. Mr. Ditto closed by discussing Elevate Kentucky, which is a new initiative to establish the state as an autonomous vehicle testing center. In doing so, Kentucky will work with companies to open its roadways, waterways, and airways for testing of all autonomous vehicle systems. The goal of the initiative is to bring together the state's universities, companies, and government entities to create a unified approach to this emerging industry. Some roadblocks for this program are restrictive regulatory systems, development of new required infrastructure, and cultural acceptance.

Answering questions from Representative Lynn Bechler, Mr. Ditto said that service providers can consist of a wide range of people that could be those who supply fuel or maintenance at air operation facilities, engineering consultants, or any other service done at an airport. Statistics on exports are gathered by a national organization that gathers information on all states every year to determine who the export leaders are in the aerospace and defense industries.

Replying to Senator Wil Schroder who inquired about how the statistics are put together pertaining to exports, Mr. Ditto explained that a lot of the exports come from the GE Aviation facilities in Madisonville and Hebron that manufacture a multitude of aerospace products. Although many industry products are shipped to and from the state, there are many products manufactured and assembled in the Commonwealth. Statistics may not take into account when aerospace parts go from state to state during the production process.

After Senator Stephen Meredith inquired about required restrictive regulatory systems and the development of new required infrastructure, Mr. Ditto gave the examples of Federal Aviation Administration (FAA) regulations being slow to integrate with new technologies. KAIC is working to form a public private partnership to utilize some of Fort Knox's unused air space and ranges for autonomous vehicle testing. Mr. Ditto also explained the new infrastructure needed such as an air traffic management system which could be possible by collaborating with Rajant Corporation.

#### **Junior Achievement of the Bluegrass**

Lynn Hudgins, the President of Junior Achievement of the Bluegrass (JA) and Garry Conley, a volunteer at Junior Achievement of the Bluegrass, spoke about the impact of the organization and the impact it's having across the Commonwealth. The offices across the state that are in Lexington, Louisville, Bowling Green, Owensboro, and Northern Kentucky. JA has been mentoring and teaching students nationally for 100 years and the Lexington office has been

operating since 1963. One thing that sets JA apart is the volunteer component because the students are mentored by individuals that are actual employed in the particular area of study that they are teaching. Volunteers instruct students with a curriculum that has been prepared by JA based on requests from the teachers at each participating school. From 2017 to 2018, JA had 3,406 volunteers that worked with 126,433 students in 590 schools which amounted to 993,062 instructional hours. Ms. Hudgins expressed gratitude on the passage of HB 132, which dealt with financial literacy, and HB 3, which addressed an essential skills curriculum.

The JA Work Ready and Career Readiness Pathway that curriculum is based on consists of pillars of student success that include youth development, economic development, and education development in the areas of entrepreneurship, financial literacy, and work and career readiness. Therefore, students are taught subject matter pertaining to citizenship, economics, business, and ethics. The vision of the Work and Career Readiness Pathway is to enable students with the skills and knowledge needed to explore, choose, and advance in their future career path partially because only 25 percent of job seekers report receiving any career pathing exploration and 3.6 million jobs in the U.S. are unfilled due to a lack of relevant knowledge and skills in the workforce. JA specifically addresses financial literacy because 21.3 percent of households across the country do not have a sufficient net worth to support themselves at the poverty level for three months, 28 percent of Americans have nothing in their savings account, and 46 percent of adults cannot cover an emergency expense of \$400 without selling something or borrowing money. Research shows that JA students finish high school at a rate of 93 percent and are 30 percent more likely to have a college degree. Students earn 20 percent more than the general population and are more likely to be better off than their parents. Employment is secured at a higher rate and they incur less debt than their peers. According to Ms. Hudgins presentation, JA is a part of a solution that is laying a foundation for greater economic stability across all communities and fulfilling a promise of economic independence for today's youth while offering hands on programs to improve their financial capabilities, understand the importance of staying in school, and expand their vision for their future. For example, JA Biztown is a hands on component of the curriculum that allows students to be a part of a simulated town where they have the opportunity to apply for jobs, run businesses, and engage in the roles of workers and consumers.

Mr. Conley, a volunteer and the owner of Minuteman Press, described how the



curriculum of JA is taught by the volunteers of the organization and how his experience with human resources and as a business owner aids him in the classroom. The curriculum of Mr. Conley's course called Career Success is divided into a seven week course. The first three weeks students learn about creativity, critical thinking, communication, and collaboration. The next four weeks the students are taught how to demonstrate soft skills, how to identify work priorities, who is hiring in high growth jobs, and personal branding for job hunting. After completing his course, students know what career path they want to take and how to get there. Mr. Conley closed by explaining that JA's curriculum covers all of the essential skills that HB 3 addressed by teaching student things like diligence, working well with others, adaptability, and reliability.

Responding to a question from Representative McKenzie Cantrell, Mr. Conley said although it is not a specific course, students are taught about drug prevention as it pertains to goal setting and decision making.

Replying to Senator Reginald Thomas, Ms. Hudgins reiterated that one of JA's pillars is entrepreneurship and some courses do teach students business and strategic planning if teachers decide on those courses. In the past JA facilitated a business competition where students from different schools formulated their own business plans.

Representative Walker Thomas introduced a member of the audience named Kristal Smith who was appointed as the Chair of the newly formed Economic Opportunity Commission in July 2018. The Economic Opportunity Commission will be within the Cabinet for Economic Development and combines the Governor's Office of Minority Affairs and the Governor's Minority Employment, Business Affairs and Economic Development Council.

#### **Kentucky's Microbrewery Industry**

Adam Watson, President of the Kentucky Guild of Brewers and owner of Against the Grain Brewery, and Jason Smith, incoming President of the Kentucky Guild of Brewers and general manager of Gordon Biersch Brewery Restaurant, explained how the General Assembly's work enables growth and success in the industry, reasons the industry should be supported, and the economic impact of the microbrewery industry in the state. Mr. Watson thanked the General Assembly for the passage of 2018 HB 136. Many breweries now have programs for the keg and package sales. It allows for craft breweries to meet more of customers' demands which in turn drives brand growth and success in the industry. Although there are many larger employers, small businesses make up 99.7 percent of U.S. employers, 64 percent of net new

private sector jobs, and 98 percent of business exporting goods. Kentucky's craft brewers are a significant manufacturing sector that create job opportunities, invest in rural and urban areas, and improve tourism. There is a direct and indirect impact on the state economy through the investment of new dollars, increasing industry revenue and sales, and providing wages and benefits to Kentuckians.

The state currently has 62 licensed craft and microbreweries that represent over 50 different Kentucky companies with 14 additional new breweries that have either opened or are in the planning stages. Thirty-one breweries have expanded to the tune of an additional \$22 million in Kentucky investment and 25 additional breweries are in expansion planning which would add an additional \$6.9 million for a new investment total of \$28.9 million. Kentucky ranks 27 in the nation on positive economic impact with an annual economic impact of \$657 million despite that fact it ranks 40 for the number of breweries located in the state. Craft brewers within the state export to more than 42 states and over 25 countries and directly employ more than 800 Kentuckians. The industry has added an additional 147 new jobs since January 2018 and expansion has continued to lead to the location, creation, and expansion of various new support industries. The brewers in the industry partner with the Department of Agriculture, the Tourism, Arts, and Heritage Cabinet, the Cabinet for Economic Development, local farmers, and Kentucky distillers to advance the Commonwealth and enhance tourism. Mr. Watson briefly spoke about the impact of recent tariffs on the Kentucky craft brewing industry which are still mostly unknown.

There being no further business, the meeting was adjourned at 11:22 a.m.

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

### **Minutes of the 3rd Meeting of the 2018 Interim**

August 16, 2018

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

The 3rd meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, August 16, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Tommy Turner, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representatives, and Tommy Turner, Co-Chair; Senators Rick Girdler, Jimmy Higdon, Stephen Meredith, Wil Schroder, Reginald

Thomas, and Mike Wilson; Representatives Linda Belcher, John Blanton, Larry Brown, George Brown Jr, John Carney, Jeffery Donohue, Chris Fugate, Robert Goforth, Jim Gooch Jr., David Hale, Chris Harris, Angie Hatton, Michael Meredith, Charles Miller, Rick G. Nelson, Sannie Overly, Melinda Gibbons Prunty, Brandon Reed, John Sims Jr, Kevin Sinnette, and Jill York.

Guests: Frank Jemley, Acting Commissioner, Kentucky Department of Fish and Wildlife Resources; Dr. Karen Waldrop, Deputy Commissioner, Kentucky Department of Fish and Wildlife Resources; Eric Gibson, Law Enforcement Director, Kentucky Department of Fish and Wildlife Resources; Ron Brooks, Fisheries Director, Kentucky Department of Fish and Wildlife Resources.

LRC Staff: Carla Montgomery, Andrew Manno, Chip Smith, Emma Mills, and Sasche Allen.

Representative Reed made a motion to approve the minutes of the July 19th, 2018 meeting of the Interim Joint Committee on Tourism, Small Business and Information Technology, seconded by Representative Donohue. The motion passed by voice vote.

#### **Introduction of New Personnel**

Acting Commissioner Frank Jemley introduced Colonel Eric Gibson, the new director of Kentucky Department of Fish and Wildlife Resource's Law Enforcement division. Col. Gibson is a 22 year veteran of the Kentucky State Police. Col. Gibson said he would like to initially focus on a safer environment on Kentucky's waterways. In 2018, Kentucky has experienced 32 drownings, so the department has increased visibility and patrols on waterways. As fall sets in, the department will transition its focus to hunting safety. The department has 102 law enforcement officers and 11 recruits with the goal of starting a new cadet class, pending personnel approval.

Chairman Turner noted his appreciation for Col. Gibson, having worked with him in the past. Chairman Turner also wanted Col. Gibson to know he has noticed positive changes in morale of conservation officers in the field since joining the department.

Representative Fugate commented that Col. Gibson was his supervisor in the drug enforcement division of the Kentucky State Police and that he is a great man to work for. Responding to a question from Representative Fugate, Col. Gibson told the committee the ideal number of enforcement officers in the field would be 140 including supervisors, as a short term goal, and a long term goal of 158 to cover 120 counties.

Representative Blanton noted Col. Gibson's hard work and dedication to the State.

#### **Asian Carp Update**

Mr. Ron Brooks, the Director of Fisheries with the Kentucky Department of Fish and Wildlife Resources, provided an update to the committee about the Asian carp problem in Kentucky's waterways. Western Kentucky is the primary area being negatively affected by the carp, with as much as a 20 percent reduction in tourism revenues in the area. Asian carp are the perfect invasive species. They out forage native species at the bottom of the food chain and affect all other species in the water. Carp can eat 20 to 40 percent of their body weight in a day.

The fish have been coming up through the Mississippi River basin since the 1970s. Kentucky Lake and Lake Barkley are the bodies of water most affected in Kentucky. Mr. Brooks showing pictures of paddlefish caught in a lake with Asian carp and one caught in carp-free waters.

The threat to humans arises primarily from silver carp, a species of carp that has a tendency to jump out of the water. Silver carp can get as big as 70 pounds. The big leapers range from 7 to 30 pounds, which can be a real concern for families enjoying the water. The tourism industry around Kentucky and Barkley lakes is valued around \$1.2 billion annually. The carp are negatively affecting this revenue stream.

Kentucky Department of Fish and Wildlife Resources does receive federal funding to address invasive carp in waterways north of Louisville. The goal is to prevent the carp from establishing reproducing populations. In 2018, the department received \$450,000 to contract carp fishing in the Louisville area. Mr. Brooks, however, does not feel the department is receiving enough federal funding for Kentucky and Barkley lakes.

In 2010, the department started recruiting businesses to find ways to utilize Asian carp as a product. Kentucky currently has three processors, processing 2.8 million pounds of carp per year. However, Mr. Brooks said these businesses need at least 9.5 million pounds per year to be able to establish markets outside of the Kentucky area. The department believes it possible to make Kentucky the largest exporter of Asian carp products in the United States while keeping the carp population at a manageable size.

Kentucky Department of Fish and Wildlife Resources is trying to be proactive in dealing with the Asian carp. The department has a six person crew paid from the department's budget who participate in shared research projects with researchers in Tennessee. The department is also spending money to raise awareness among recreational boaters of commercial fishing boats operating in the area. The department is also prepared to sign a contract to build a new fish house, to be paid for out of Fish & Wildlife funds through an increase in boating

registration. Grants and low-interest loans will be available to the highest bid on the contract in return for a guarantee of processing a minimum of 5 million pounds of Asian carp per year for commercial use, with the potential to process 20 – 30 million pounds per year in the future. The department also has a \$.05 per pound subsidy to commercial fisherman for carp, however Mr. Brooks indicates that a \$.10 per pound subsidy would be ideal since Asian carp is worth much less on the open market than other fish in the state. The department is also experimenting with more focused fishing methods that would allow commercial fisherman to focus their catch solely on Asian carp and avoid affecting the sport fish populations.

Another project being investigated is introducing sonic barriers to the river lock system. The lock chambers at Kentucky Lake and Lake Barkley open between 5,000 and 6,000 times per year into the two reservoirs; an action that has precipitated the Asian carp populations in the two lakes. The U. S. Fish and Wildlife Service and the U.S. Geological Survey has proposed testing sonic barriers on the lock chambers to prevent fish from entering the lakes. The technology has been successful in the past on diverting salmon from specific waterways in the western United States and Great Britain. Mr. Brooks emphasized the department's efforts to combat the situation as well as the need for more funding.

Responding to a question from Representative Belcher, Mr. Brooks indicated pay lakes are not being intentionally stocked with Asian carp, however, he did not doubt they might be inadvertently introduced in pay-lakes due to lack of oversight and the similarities between Asian carp fry and other live bait. Kentucky Department of Fish and Wildlife Resources is proposing new regulations on pay-lake operators to make them aware of the Asian carp problem and to educate operators about how they can mitigate the problem in their own lakes.

In a response to a questions from Representative Miller about carp populations in Kentucky's smaller lakes, Mr. Brooks explained the migration patterns, reproduction requirements, and other factors have prevented carp from establishing large populations in other parts of Kentucky's waterways.

Responding to a question from Representative Carney regarding funding from the Federal Government, Mr. Brooks indicated there had been discussion about funding from the federal Farm Bill, but it proved hard to tie fishing wild Asian carp to an agricultural bill in Congress.

Responding to questions from Representative Hale, Mr. Brooks noted there

are only six or seven commercial fisherman in the state dedicated to catching Asian carp, and none who catch carp full-time. Mr. Brooks emphasized the state needs dedicated, full-time fisherman catching Asian carp, and it is the hope of the department that the new fish house will attract full-time carp fisherman. The fish house will be probably be located close to Kentucky and Barkley Lakes.

In response to a question from Chairman Turner, Mr. Brooks said there have not been any Asian carp identified in any of the Eastern Kentucky lakes.

#### **"Fishing in Neighborhoods" Program (FINs)**

Mr. Brooks continued to address the committee about the Kentucky Department of Fish and Wildlife Resource's "Fishing in Neighborhoods" program, or FINs. This is a program to create interest in opportunities to fish in urban areas. There are forty-four neighborhood ponds in Kentucky. Other than providing for annual upkeep on these ponds, this program accrues no additional costs for local governance or the Kentucky Department of Fish and Wildlife Resources. The program is geared toward individuals and families in the urban environment who have never fished. Mr. Brooks said that 25 percent of participants in the program are either new to fishing or are returning to the sport because they finally have a location to fish. The department regularly stocks these lakes and ponds with catfish, trout, and other native fish that can be used as a food source.

#### **Fees-in-Lieu-of (FILO) Program**

Frank Jemley, Acting Commissioner, Kentucky Department of Fish and Wildlife

Resources, briefly discussed the report on the Fees-in-Lieu-of (FILO) Program. The report is required bi-annually as part of the budget requirements set forth by the General Assembly. Rob Lewis, Kentucky Department of Fish and Wildlife Resources, talked to the committee about the FILO program, or "compensatory mitigation" for damages to the environment. It is used to compensate for impacts or unavoidable losses to wetlands and streams due to development, road-construction, or other projects. The program is available state-wide, as needed. There are about 40 capital projects listed in the report.

Responding to a question from Representative Gibbons-Prunty, Mr. Lewis talked about the different types of projects included in the report. The projects are impacted streams and wetlands that have been degraded by human activity in some way. The funds are used by department staff to restore locations to pre-settlement conditions. Sometimes this requires contractors in addition to department staff.

#### **Black Bears in Kentucky**

John Hast, Kentucky Department of Fish and Wildlife Resources, discussed the department's efforts regarding the American Black Bear. Black bears typically range in Eastern Kentucky to as far west as Clinton County, though an occasional bear will be seen in some western Kentucky counties. During the 1980s and 1990s, surrounding states would remove problems bears into the mountains, right to the Kentucky border. The vast majority of bear reproduction is localized to far southeastern Kentucky counties, such as Harland and Letcher counties.

The Kentucky Department of Fish and Wildlife Resources uses science-based bear management for tracking and counting bears. One example of this type of management is radio collars on a portion of the bear population. Staff will track bears with the collars throughout their lifespan to get information on location, weight, cub numbers, and health. To count the bears, the department uses a gridded system of hare snares, a barbed wire corral with bait in the center. The staff will collect information on the bear to identify it in order to track which bears are going where. The department has partnered with Tennessee Wildlife Resources to track bears. Based on this management system, the department can determine the number of the bear population that can be harvested through hunting.

In 2017, the department re-evaluated bear hunting in Kentucky. The department identified the core bear area around Bell, Harlan, and Letcher counties where it needs to protect the bear population, while expanding opportunities for hunters. As the bear population has gradually increased, the hunting quota increases as well.

Unfortunately, part of Kentucky Department of Fish and Wildlife Resources' work with bears involves dealing with nuisance bears and educating the public in areas with large bear populations on how to manage attractants. To help education and prevention of nuisance bears, states in the Southeastern United States created a website, [www.bearwise.org](http://www.bearwise.org), to provide a consistent message about how people can learn to live with bears in the area without unnecessarily attracting bears to human habitats. Mr. Hast reminded everyone that it is illegal to directly or indirectly feed bears in Kentucky. The department has seen some issues regarding this problem, and individuals have been found feeding bears for entertainment purposes. Mr. Hast emphasized that Kentucky does not have a large enough area of bear habitat for them not to come in contact with humans and trapping & moving bears will not solve the problem of bear/human interaction, so it is best for people in this area to be pro-active about not attracting bears.

Responding to a question from Chairman Turner, Mr. Hast explained that two separate

groups of bears started population Eastern Kentucky around the same time. Though the department has not done a large scale DNA testing of bears recently, Mr. Hast assumes these two separate groups of bears have been intermingling around the Jellico, TN area.

Representative Hale commended Mr. Hast on the department's swift and thorough response to some bear issues in his district. Representative Hale said the department had a meeting for area residents to educate them on how to successfully take care of trash and other attractants. He also noted a recent incident in his district where an elementary school went on lockdown due to a bear on school grounds.

In response to a question from Chairman Turner about the expanding population of bears, Mr. Hast acknowledged the bear population has expanded more than he would have expected. Mr. Hast explained that the entire Southeast has seen this same expansion in their bear numbers as well. He thinks perhaps it is a combination of prime habitat and a willingness on the part of humans to co-exist with the bears.

Responding to a question from Representative Gibbons-Prunty, Mr. Hast indicated he thought bear expansion into Western Kentucky would be slow, if it happened at all. The fertile females tend to stay in these core counties in Eastern Kentucky. The bears the department finds roaming outside of Eastern Kentucky tend to be two year old male bears that have been kicked out of their communities by older, more dominant males.

Representative Hatton wanted to thank Mr. Hast and his work with the community regarding the bears.

#### **Kentucky Wild Program**

Laura Burford, Wildlife Program Coordinator with the Kentucky Department of Fish and Wildlife Resources spoke to the committee about Kentucky Wild, the department's newest program offering citizens of Kentucky who do not hunt or fish the opportunity to support the Kentucky Department of Fish and Wildlife Resources, which is funded primarily through the sales of hunting and fishing licenses and federal taxes. But only about 9 percent of Kentuckians hunt and about 12 percent of Kentuckians fish. Kentucky Wild is a partnership program with Kentucky Department of Fish and Wildlife Resources with individual memberships with six different levels. With each membership level, members have an opportunity to go out into the field with staff members to participate in the work the department's doing. The department will offer corporate sponsorships for businesses interested in partnering with the department. All of the money generated will go directly to the department's Wildlife Diversity Program, the program supporting all non-game animals in the

state.

Ms. Burford said that Kentucky Wild could not come at a better time from a national standpoint. She said there are growing initiatives to evaluate wildlife conservation from the Alliance for America's Fish and Wildlife. This alliance was created in order to help secure funding for much needed conservation of fish and wildlife. Kentucky Department of Fish and Wildlife Resources staff feel it is important to be proactive to prevent native species from declining. Once a species is on a decline, it becomes much more resource intensive and costly to help that species recover. Ms. Burford gives the example of the whippoorwill and monarch butterflies as species in decline. There is currently a bill in the U.S. House of Representatives and a companion bill in the U.S. Senate that would divert existing funds to Kentucky to help fund programs.

In response to a question from Representative Gibbons-Prunty, Ms. Burford said there are plans for future Kentucky Wild memberships for children, families and schools.

Representative Belcher requested additional brochures to pass out to friends and family.

#### **Grouse Restoration Project**

Dr. Karen Waldrop, Deputy Commissioner of the Kentucky Department of Fish and Wildlife Resources, was asked to speak about the grouse restoration projects in Eastern Kentucky. Dr. Waldrop talked about how grouse have been on the decline for years, mostly due to habitat loss. Grouse need different habitat types to thrive. These habitats include very young forest as well as a mature forest habitat. The first step in helping to restore grouse was to establish a plan. The grouse restoration plan is available on the Kentucky Department of Fish and Wildlife Resources website. Dr. Waldrop said there is a meeting on August 24<sup>th</sup> at 6:00 p.m. at Jenny Wiley State Park for the public to come talk to staff biologists with concerns or questions about the grouse restoration plans. Dr. Waldrop also noted a project the department is working on with the Rocky Mountain Elk Foundation and the Wisconsin Department of Natural Resources to help with funding for the grouse project. Kentucky provided Wisconsin with some elk in recent years. In return, they are willing to help fund the grouse restoration efforts. The main goal is to increase survey work taking place on grouse to look at how some of the department's efforts are either increasing or decreasing the numbers of grouse in the area.

Responding to a question from Chairman Turner, Dr. Waldrop said the money Wisconsin paid for the elk from Kentucky has been received.

In response to a question from Senator Wilson, Dr. Waldrop said efforts to maintain the quail population are going well. On lands managed by the state, Dr. Waldrop said she is



seeing impressive increases in quail numbers, though she acknowledged conservation efforts on private land is much harder to maintain. Feral hogs are invasive. The General Assembly passed legislation a few years ago making it illegal to transport a wild hog into the state. The department has staff available to trap wild hogs found on private property.

#### **Upcoming Committee Meetings**

The next meeting will be September 20 in Covington.

There being no further business, the meeting was adjourned at 2:40 p.m.

## **CHILD WELFARE OVERSIGHT AND ADVISORY COMMITTEE Minutes**

August 20, 2018

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

The Child Welfare Oversight and Advisory Committee meeting was held on Monday, August 20, 2018, at 10:00 a.m., in Room 129 of the Capitol Annex. Ben Payne, Analyst, called the meeting to order at 10:07 a.m., and the secretary called the roll.

Present were:

Members: Representative David Meade, Co-Chair; Senator Julie Raque Adams, Co-Chair, Senators Tom Buford, Denise Harper Angel, Reginald Thomas, and Whitney Westerfield; Representatives Lynn Bechler, Angie Hatton, Joni L. Jenkins.

Guests: First Lady Glenna Bevin; Eric T. Clark, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Elizabeth Caywood, Deputy Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Lesa Dennis, Chief of Staff, Department for Community Based Services, Cabinet for Health and Family Services; Jennifer Warren, Executive Advisor, Department for Community Based Services, Cabinet for Health and Family Services; Kelly Stephens, Government Affairs Liaison, Administrative Office of the Courts; Rachel Bingham, Executive Officer, Family and Juvenile Services, Administrative Office of the Courts; and Adam Meier, Secretary, Kristi Putnam, Deputy Secretary, and Tim Feeley, Deputy Secretary, Cabinet for Health and Family Services.

LRC Staff: Ben Payne, Gina Rigsby, and Becky Lancaster.

### **Election of Senate and House Co-Chairs**

A motion was made by Senator Westerfield and seconded by Senator Buford to nominate Senator Julie Raque Adams as Senate Co-Chair. A motion was made by Senator Westerfield and seconded by Senator Buford that nominations cease and Senator Raque Adams be elected

Senate Co-Chair by acclamation.

A motion was made by Representative Bechler and seconded by Representative Jenkins to nominate Representative David Meade as House Co-Chair. A motion was made by Representative Bechler and seconded by Representative Hatton that nominations cease and Representative David Meade be elected House Co-Chair by acclamation.

### **Judicial Branch 2018 House Bill 1 Implementation Update**

Kelly Stephens, Governmental Affairs Liaison, Administrative Office of the Courts (AOC), and Rachel Bingham, Executive Officer, Family and Juvenile Services, Administrative Office of the Courts (AOC), testified that the secretary of the Cabinet for Health and Family Service, the chief justice, and other agencies meet regularly to discuss common issues relating to juvenile justice and child welfare. The AOC was able to provide webinars to the Court of Justice to give an overview of House Bill 1 and is looking into being able to provide the webinar as a resource for public access. In June, a Family Law Conference was held that included judges and community and court partners to discuss the changes included in House Bill 1. In September and October, House Bill 1 will be discussed at Judicial Colleges for district court judges who still have some non-family jurisdictions and family court judges. There will be a session on House Bill 1 included in the Kentucky Law Updates to discuss the changes occurring from August to December of 2018. House Bill 1 changes have been integrated in the legal training for dependency, neglect, and abuse advocates such as Court Appointed Special Advocates (CASA), Foster Care Review Board, and social workers. House Bill 1 information was included as one of the topics for the Circuit Court Clerk Conference, and information was given to the clerks on updating their manuals and forms. The Citizen Foster Care Review Board (CFCRB) Executive Committee was briefed about changes enacted in House Bill 1. Regional trainings will be centered on the changes to legal proceedings and cabinet procedures.

The Family Court Rules of Procedure and Practice is being reviewed and updated by judges, attorneys, and agency representatives. The Supreme Court Standing Committee on Family Court Rules of Procedure and Practice will discuss recommendations and draft proposed changes. The Supreme Court will consider and adopt appropriate rules consistent with House Bill 1. The Appellate Courts revision to KRS 625:110 that requires the appeals and termination of parental rights cases shall be resolved within 90 days of presentation of the case to the appellate bench for a decision is still under development. In order to assist with the

revision, the Supreme Court is expected to adopt the amendment to CR 76 which establishes an expedited briefing schedule and prohibits continuances except for good cause.

The AOC reviewed and updated forms related to House Bill 1. Collaboration has been done between AOC and CHFS to make sure the forms reflect federal requirements. House Bill 1 requires the Citizen Foster Care Review Boards to conduct regional community forums to discuss concern regarding the foster care system, including barriers to getting children into permanent homes in a timely manner and ensuring their wellbeing and safety while in foster and other out-of-home care. The findings from these forums will be included in the CFCRB's annual recommendations to the Supreme Court, governor, and the General Assembly. The CFCRB community forums will be an opportunity for AOC to gather new information and new data sets to identify areas for opportunities of improvement.

In response to a question by Senator Raque Adams, Ms. Stephens stated that trial judges are aware of the new deadlines required in House Bill 1 for involuntary cases as well as the appeals process. The Court of Appeals is currently operating the new rules required in House Bill 1 regarding the appeal of temporary parental rights (TPR) cases.

In response to questions by Representative Bechler, Ms. Bingham stated that the webinar will be available on the Court of Justice website the first part of September. The committee will be notified when the webinar is available. She said that she would follow up with the Court of Appeals to get examples of good cause to delay an expedited briefing and provide them to the committee. The intention is to cut down on continuances that may be necessary for any reason. Typically these cases are held up at the request of the attorneys who seek more time or there may be issues in locating records.

Senator Westerfield stated that AOC should keep track of how often and the rationale of each on why the courts deviated from an expedited briefing.

### **Executive Branch 2018 House Bill 1 Implementation Update**

Eric T. Clark, Commissioner, Elizabeth Caywood, MSW/CSW, Deputy Commissioner, Lesa Dennis, Chief of Staff, and Jennifer Warren, Executive Advisor, Department for Community Based Service (DCBS), Cabinet for Health and Family Services, stated that the number of youth in out-of-home care (OOHC) has increased 22.5 percent from June 2014 in July 2018. Of the 9,528 youths in OOHC as of July 2018, 2,600 had a goal of adoption. The total DCBS and private child place (PCP) foster homes went from 4,401 in June 2014 to 4,579 in July 2018. The average

number of months children remained in OOHC before reunification rose from 8.4 months in 2014 to 9.2 months in 2018. The average months for adoption remained steady from 2014 to 2018 except for 2016 where it rose to 37.9 months. In 2018, there were 1,026 youth adopted from OOHC and 601 youth aging out of the system. Kentucky is doing a better job with youth who formally spent extended periods of time in OOHC and either aging out of the system or exiting through another permanency goal other than adoption. Due to increased efforts, more of the youth are being adopted thereby decreasing the percent of adoptions occurring in less than 24 months and increasing the median length of stay for youth exiting through adoption. More youth are finding permanency prior to aging out of care. There was an eight percent increase in the number of reports that met acceptance criteria. There was an 11 percent increase in the number of reports with a substantiated or services needed finding in 2018 than 2016. In June 2016 there were 13,500 active cases and 14,838 in July 2018.

The DCBS calculates CPS caseloads on a weekly basis, and the calculation is at a statewide level, a regional level, a county level, a team level, and an individual worker level. Traditionally the department uses two methods to calculate caseloads, current caseloads and current caseloads including past due cases. Caseloads are not easy to calculate because of instability in the workforce with high turnover and an inexperienced staff. In 2016, the department began looking at caseloads differently in an efforts to capture a more accurate reflection of what the frontline worker experiences. Caseloads were calculated excluding staff not at full capacity who are not carrying a caseload or carrying a partial caseload such as a new employee, staff on extended medical leave, or staff on desk duty due to disciplinary issue or other matters. Traditionally staff not at full capacity counted in the overall staffing members and have skewed caseloads making them look lower than what the actual worker was experiencing. In the fall of 2016, the department began excluding these staff in the calculations to get a more accurate count of caseload averages. The average child protective service (CPS) caseload for 2016 and 2017 was 18 and 19 for 2018. The average CPS caseload not at full capacity for 2016 and 2017 was 23 and 26 in 2018. The current average CPS caseload with past dues for 2016 and 2017 was 23 and 24 for 2018. The average CPS caseload not at full capacity with past dues for 2016 was 29, 30 for 2017, and 33 for 2018. The department adopted the recommendation of the LRC Program Review and Investigations Committee and changed the not at full capacity calculation to exclude only staff carrying 10 or less cases. House Bill 1 outlines more specific

requirements in regards to expectations of the department when reporting on caseloads that exceed 25 active cases for 90 consecutive days. Previously only the statewide level of caseloads were reported, but starting October 2018, the department will start reporting at the statewide, regional, and county levels. Commissioner Clark stated that the levels are unacceptable. The goal is to reduce the number of children in OOHC, increase timeliness to permanency, and reduce caseloads.

In October 2017, the federal court made a ruling in the *DO v. Glisson Relative/Fictive Kin Foster Payments* lawsuit that relative caregivers and fictive kin raising kin children would receive the same rate of payment as a foster care caregiver. Eligibility requirements are: (1) individual must be a relative or fictive kin caregiver with an approved home evaluation; (2) the child must currently be in CHFS custody or the child has been placed in CHFS custody for the current removal period prior to the relative or fictive kin receiving temporary custody; and (3) the relative or fictive kin has not yet obtained permanent custody through a Permanent Custody Order (DNA-9). As of August 10, 2018, 1,012 relatives/fictive kin have been notified of eligibility. For June, payments were made for 516 children and 748 for July. To date, the cabinet has paid \$2,619,165 in foster care payment not including outstanding expenses. DCBS projects that it will cost approximately \$9 million from the ruling for this state fiscal year. The Kinship Support Hotline staff are available to assist caregivers in accessing services and problem solving issues and concerns by calling 877-565-5608 or [DCBSChildProtection@ky.gov](mailto:DCBSChildProtection@ky.gov).

In April 2018, the cabinet implemented a project management structure with the central theme of child welfare transformation. The Stakeholder Advisory Group will meet on a quarterly basis, and the Steering Committee will meet bi-annually and both will discuss the progress of the project and will provide guidance to the project management team. The nine workgroups include workforce supports, transition aged youth, prevention supports, fiscal modernization, foster parent supports, foster adoptive process streamlining, relative place supports, service region implementation, and technology.

As of August 1, four administrative regulations (2 ordinary and two emergency) have been filed with the Legislative Research Commission (LRC) relating to provider rates. Three more administrative regulations and one repealer regarding adoption will be filed by September 14. Study groups were formed in August facilitated by DCBS and Case Family Programs. Standards of practice guiding field practice have been revised for disciplinary

actions. Statutorily mandated reporting and submission requirements are under review that were affected by House Bill 1. Contracts with Family Preservation Program providers are being updated. House Bill 1 required that a putative father registry be established by July 14, 2018. An emergency and ordinary administrative regulations (922 KAR 1:560) were filed to affect the registry. Forms and information regarding the registry are available online.

In January 2019, KRS 620.180(2) relating to case review requirements, will become effective. Ongoing efforts are being coordinated with the courts, regional attorneys, private providers, and consults to effect more timely permanency for children. Efforts will be made to have a more expedient foster parent approval process and improve supports for foster parents. Kinship care includes relative caregiving. There is a Kinship Care Program in Kentucky that is established by administrative regulation that has been under a moratorium since 2013. Since 2017, the cabinet has been looking at relative caregiving and kinship care and engaged the Annie E. Casey Foundation to conduct a study group. The foundation surveyed family court judges, relative caregivers, youth in care, and DCBS staff statewide, and released a report in August. DCBS tries to place a child first with a willing relative first. Late winter/early spring 2019, the department will be able to fully implement the array of services to be offered to relative and fictive kin caregivers.

House Bill 200, the 2018-2020 budget bill, appropriated \$2.5 million tobacco funds for adoption and foster care, \$14 million for more staff and workforce supports, \$11 million in salary increases, \$1.8 million for Kinship Care, \$11.3 for relative placement supports, \$7.8 million in adoption savings, \$3.9 million in provider rates, and \$375,000 for the Fostering Success Program. Salary increases for 230 new positions were put into effect on July 1, 2018. Social service workers received a 7 percent salary increase and family services office supervisors received a 10 percent increase. On October 16, 2018, a reorganization plan to support enhanced service provision, new staff recruitment, and career ladder for staff will be put into place. Mobile technology and related solutions are being deployed to workers in the field. DCBS continues to voluntarily maintain and pursue accreditation through the Council on Accreditation of Child and Family Services. A foster and adoptive parent portal will be deployed in three phases beginning August 25, 2018. Private child care provider rate increases were implemented August 1, 2018. The Fostering Success program is a summer work program where partners will hire youth as they prepare to transition out of the foster care system.

On February 9, 2018, the federal Families



First Prevention Services Act (FFPSA) was enacted. The state will be able to use federal Title IV-E funds for a portion or share of evidence-based prevention services and programs. Historically, these funds have been utilized for foster care maintenance and adoption assistance. Standards or criteria for the prevention services or programs and requirements affecting foster care maintenance payments are attached to the option. State funds must also be available to cover costs not associated with the federal share. States can opt in as early as October 1, 2019, but all states must comply by October 1, 2021. Kentucky will apply for funds in 2018 and hopefully approved by the federal government by October 1, 2019.

The Child Welfare Transformation Structure project encompasses implementation of House Bill 1, the Executive branch budget, the state's Program Improvement Plan resulting from the federal Child and Family Services Review, Family First Prevention Services Act, and the Governor's overall charge. Consultative resources have been secured through the federal Children's Bureau, Annie E. Casey Foundation, Casey Family Programs, Public Consulting Group, Mary Willoughby, university partners, and stakeholders. A communication plan is underway.

In response to questions by Senator Westerfield, Deputy Commissioner Caywood stated that there are regional differences in the reasons why the number of youth increased in OOHC. Over 70 percent of cases have a characteristic of some type of substance abuse/misuse. There has also been an increase in relative caregivers due to the DO v Glisson lawsuit. Senator Westerfield requested that the cabinet provide the reasons for the 22.5 percent increase. Ms. Dennis said that there are a lot of variables that have to be considered when figuring caseloads. Traditionally, caseloads were determined by looking at the current caseload of a worker and also looking at current caseloads with past dues. Traditionally, when calculating caseloads, staff that were not actually carrying a full caseload or not carrying a caseload at all for various reasons were included in the overall calculation, and it made it look as if staff were carrying lower caseloads. In 2016, the department began to identify staff not at full capacity and removed them from the overall caseload calculation. Cases are assigned and managed by the local family service office supervisor. The academy takes approximately four to five months and by the end of the academy, most staff have built up a full caseload. Deputy Commissioner Caywood stated that the department is working with the Kentucky State Police on background checks and fingerprinting. This past spring the department implemented the Adam Walsh agreements with

all of the private agencies that facilitates their direct access to full criminal results in order to have the new ability through House Bill 1 using the cabinet's statutory authority. Licensure requirements for the private agencies to make sure their background checks will meet their licensure standards as well as to make sure there are no unintended consequences for the cabinet's foster care funding utilized for those agencies.

In response to questions by Senator Raque Adams, Deputy Commissioner Caywood stated that the vast majority of denials of why relative caregivers did not receive funds for OOHC placement were based on the fact that the child was never in the cabinet's custody. The cabinet is looking to leverage some federal funds that will necessitate the State Plan amendments, and are working on a long-term policy solution that is congruent with the DO v Glisson ruling, but actually supersedes it. Senator Raque Adams asked that the committee receive a copy of the Annie E. Casey study. Deputy Commissioner Caywood stated that the foster/adoptive parent portal that will be implemented on August 25, 2018 would be for all DCBS publicly approved foster/adoptive homes, not private foster/adoptive homes. The funding for contracts with Family Preservation Program providers is a mixture of state general funds and the Temporary Assistance for Needy Families (TANF) block grant. Kevin Newton, Director, Division of Administration and Financial Management, Cabinet for Health and Family Services, stated that the contracts are mostly funded with federal funds. Deputy Commissioner Caywood stated that the statutory provision in existence for the Family Preservation Program tied it to one specific model and would not allow the program to service any others. House Bill 1 gave the cabinet the ability to get away from one specific model and add additional flexibility to serve individuals with substance abuse/misuse.

In response to a question by Senator Harper Angel, Commissioner Clark stated that the 230 positions that were funded in House Bill 200 are merit positions and would have to go through the KRS Chapter 18A process. Ms. Dennis stated that funding for the positions did not become available until July, but the cabinet intends to start the process of filling the positions soon. Senator Harper Angel asked that the cabinet report back to the committee on the progress of filling the positions.

In response to questions by Senator Buford, Commissioner Clark stated that it would be possible for the child welfare transformation governance groups to meet in conjunction with the committee. Ms. Warren stated that there is a stakeholder meeting that will include several youth not just the one sitting member. Deputy Commissioner Caywood stated that the House

Bill 1 study group includes a foster youth.

In response to questions by Senator Thomas, Commissioner Clark stated that building the workforce will improve the length of time it takes a case worker to close an open case. If the department is working at full capacity and cannot get the case resolved in 45 days, the timeframe required in statute will need to be re-evaluated. Deputy Commissioner Caywood stated that there is an exception process for the 45-day timeframe. The department is developing a more robust service array, and part of the program development is to fully inform relative/fictive caregivers of all available options. A program already available to relative/fictive care caregivers is the TANF cash assistance program. A more streamlined process for relatives to become fully approved foster adoptive parents is being reviewed.

In response to questions by Representative Hatton, Ms. Dennis stated that the department will send the committee information on retirement statistics of case workers. Currently, there are 116 frontline social work positions available that are in various stages to be filled. The number of positions stays about the same due to the turnover rate. There is greater turnover in Jefferson County, Hardin county, and Northern Kentucky. She agreed with Representative Hatton that two of the goals the committee should address is the enormous turnover rate and the experience lost when someone retires. Ms. Dennis stated that she would provide the committee with the statistics by region. Representative Meade stated that House Bill 1 requires the statistics pertaining to caseloads be provided by the cabinet.

In response to questions by Representative Bechler, Deputy Commissioner Caywood stated that under the Families First Prevention Services Act there is an opportunity to build a more robust service array wrapping services around the relative/fictive kin provider, but it does not address the cash benefit that relatives want. There is a relative placement support benefit that is an upfront benefit to help place the child in the home, a child-only Kentucky Transitional Assistance Program (KTAP) benefits, opportunities under DO v Glisson, as well benefits under the traditional foster care system. The department has limited funding to provide financial support to everyone. Representative Bechler stated that he would like to see consistent data reported.

In response to questions by Representative Jenkins, Deputy Commissioner Caywood stated that the Kinship Care Program rose to over \$50 million in 2014. Some projections have been done in regard to lifting the Kinship Care moratorium, and it would require over \$30 million a year. Representative Jenkins stated that the General Assembly needs to appropriate more



funds in the 2020 budget. Keeping a child from state custody whenever it is appropriate is a good for the child.

Representative Meade stated that the child's safety should not be hindered in any way by making them remain with his or her family when it is not safe. In response to questions by Representative Meade, Deputy Commissioner Caywood stated that there is a workgroup dedicated to streamlining the foster parent approval process. Ms. Warren stated that in the Foster Parent Supports workgroup, there is a Diligent Recruitment Subcommittee that is looking at the issue. Part of the focus of the workgroup is to make more classes available when foster parents or prospective foster parents are more readily available. Deputy Commissioner Caywood stated that an in-state background check is done on all relatives. Relatives that qualify under the DO v Glisson or who wish to become foster adoptive parents, there are comprehensive fingerprint based background checks done both at the national and state levels.

Commissioner Clark stated that the Fostering Success program is available to a child that is aging out of the system as well as mentors that can teach them how to adjust to life on their own. Ms. Warren stated that in the Transition Aged Youth Workgroup has leveraged funds and working on a life book that prepares a child to know how to navigate outside of the system. Deputy Commissioner Caywood stated that the department is starting at a younger age to prepare independent living skill sets, and the Families First Prevention Services Act extends the cabinet's ability to utilize federal funding for independent living services to youth aging out of foster care up to the age of 23 instead of the current age of 21.

Ms. Dennis stated that the reunification statistics provided include the children who were removed from a home for a short period of time but determined there was not a need for removal. If a child has been removed from a home multiple times, the statistics would show each as a separate removal. She agreed that if a child was removed multiple times, it would be better to count it as one consecutive removal. Ms. Warren stated that she would provide the committee information on the members of Stakeholder Advisory Group.

Commissioner Clark stated that he would provide the committee with a reorganization chart of the DCBS staff.

#### **Adjournment**

There being no further business, the meeting was adjourned at 11:51 a.m.

## **INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT**

### **Minutes of the 2nd Meeting of the 2018 Interim**

August 22, 2018

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

The second meeting of the Interim Joint Committee on Local Government was held on Wednesday, August 22, 2018, at 10:00 AM, in Room 171 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 Rob Rothenburger, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, Wil Schroder, Dan "Malano" Seum, and Damon Thayer; Representatives Danny Bentley, George Brown Jr, Ken Fleming, Kelly Flood, DJ Johnson, Kim King, Adam Koenig, Stan Lee, Michael Meredith, Jerry T. Miller, Robby Mills, Phil Moffett, Steve Riggs, Attica Scott, Arnold Simpson, John Sims Jr, and Kevin Sinnette.

Guests: Senator Jimmy Higdon, Senate District 14; Secretary John Tilley, Justice and Public Safety Cabinet; Barry Brady, Marion County Jailer; Brad Boyd, Christian County Jailer; Commissioner Steve Milby, Deputy Commissioner Tim House, David Startzman, Duane Curry, and Roger Banks, Department of Housing, Buildings and Construction; Commissioner Jim Erwin, Department of Corrections; Tony Wilder, Kentucky Council of Area Development Districts; Frank Doyle, Clark County Jailer; Derran Broyles, Scott County Jailer; David Daugherty, Marion County Judge/Executive; Renee Craddock, Kentucky Jailers Association; Shellie Hampton, Kentucky Association of Counties; Vince Lang, Kentucky County Judge/Executives Association; and Ron Wolf, Associated General Contractors of Kentucky.

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

#### **Approval of Minutes**

Upon the motion of Senator Schroder, seconded by Representative Koenig, the minutes of the June 27, 2018 meeting were approved.

#### **The Operation of Enhanced Jail Programs and Related Potential State Considerations**

Senator Jimmy Higdon said that 2011 HB 463 intended to cap prisoners in Kentucky at 20,000, but the population has exceeded that level putting pressure on counties and county jails. Not all jails are the same; some offer more programs for the benefit of prisoners so that they are better able to become productive citizens upon release, and some jails are able to just warehouse the prisoners. Performance-based funding for jails

would reward those jails that offer programs to prisoners that prepare them for when they leave the jail. Every prison is accredited, but county jails are not accredited. Whether to pay jails to become accredited should be addressed.

Secretary John Tilley said that Kentucky has 76 full service jails, and half of the total state inmate population of 25,000 is housed in county jails. The state and counties must work together. Only Louisiana runs jails like Kentucky, housing many Class D felon state inmates. It presents a very unique set of challenges because jails were never meant to house prisoners long term. Jails were built for a short term stay, to house inmates before adjudication. This is how it is done in most states.

With reference to some of the reform work of the legislature, many people predicted Kentucky's inmate population without reforms to be at 35,000 today. It is at 25,000, which puts Kentucky ninth per capita in incarceration in the country, and second in female per capita incarceration. Kentucky's female incarceration growth rate is five times that of the male incarceration growth rate at this moment. Roughly half of Kentucky's inmate population is represented in county jails at the Class D felon range. This often represents a population that is really in desperate need of drug treatment but also job training, job skills, and other cognitive behavioral therapies. The programs are working, and corrections officers believe the programs are working. The programs are making corrections officers' jobs safer because the inmates are focused on these therapies, job skills, and job training.

Vice-President Pence recently commended Kentucky for its reentry programs. Instead of building warehouses, Kentucky is building reentry centers. Out of 76 county jails, less than one-third offer any type of corrective programming. Jails do not have the funding or the space to offer the programming. Kentucky's per diem does not pay for the kind of programming that is needed.

There were 3,000 people in prison in the early 1970s. Kentucky's prison population has risen considerably while the population has not. There are 48,000 people in active supervision under the Department of Corrections. Kentucky has 12,000 to 14,000 county inmates.

Kentucky is a leader in drug policy and reentry issues. Around 2010, people stopped paying attention to reentry issues, even though there was a division in the cabinet dedicated to reentry filled with people who worked hard on equally important goals such as housing, transportation and treatment. People did not have a connection to helping the released individuals get a job. One year of continued employment reduces recidivism to only 17-18 percent. For those who do not work, the rate is 52 percent.

In the last two years of this administration, Kentucky has experienced record economic development--\$15.2 billion and over 17,000 new jobs. Sixteen thousand people are released from the state prisons each year. This number could help fill the 160,000 open jobs.

Marion County Jailer Barry Brady discussed the rising cost of incarceration, using his jail as an example. The last time that the General Assembly addressed the per diem for jails was in 2005. In 2005 to 2006, it cost the Marion County Detention Center nearly \$3,000,000 to operate. In 2017 to 2018, it cost nearly \$5,000,000. Examples of increasing cost factors include deputy wages, medical services, and food service. The Marion County Detention Center has seen a five-year rising trend due to drug addiction and increased security issues.

The Marion County Detention Center's programming includes the ALPHA/SAP (Substance Abuse Program) Program, which is a six-month inpatient treatment program consisting of 128 beds; the SAP Mentorship Program, which is offered to graduates to assist in building leadership skills within the therapeutic community; and the REACH Program, which is a six-month extension of the SAP Program offered to SAP graduates. Programs offered within the REACH Program include: moral recognition therapy, anger management, relapse prevention, and moral recognition therapy mentorship.

The evidence-based program beds-per-jail-facility percentages include 36 percent for North Point; 28 percent for Eastern Kentucky; 38 percent for Blackburn, 38 percent for Green River, and 70 percent for Marion County Detention Center.

Secretary Tilley said that Kentucky has 9,985 slots available for evidence-based treatment. He is not aware of any state with more slots (to be differentiated from beds) as a percentage of population. The numbers do not include the Lee Adjustment Center's capabilities.

Mr. Brady said that GED completions in 2018 include one for Lee Adjustment, 30 for Eastern Kentucky, 14 for North Point, 18 for Green River, 19 for Blackburn, and 23 for Marion County Detention Center.

Secretary Tilley said that GEDs are not needed for the state prisons' population. Performance-based funding needs should incentivize excellence at the county jail level so jails can get help to offer GED programs to those who need them at the Class D level.

Mr. Brady said the Marion County jail per diems costs are competitive with other facilities, but when a facility offers additional programs, the per diem cost will rise, as has been the case with Marion County.

Christian County Jailer and Kentucky Jailers Association President Brad Boyd said that the

enhanced jail programs are doing well in the jails that have them. Other jails would like the opportunity to have those programs but do not have the space to conduct the programs outside the cells. The Jailers Association is interested in doing its part to bring technology to the jails for classes.

In response to a question from Senator Bowen, Mr. Brady said there was an increase in jail female population due to drug abuse.

In response to a question from Senator Bowen, Secretary Tilley said that 70 percent of state inmates have high school diplomas or GEDs prior to entering the corrections system. There are validated predictors that indicate that a lack of education increases an individual's chance of incarceration. The number one problem is mental illness. Individuals try to self-medicate and end up being incarcerated.

In response to a question from Senator Bowen, Mr. Brady said that Marion County has been able to employ counselors to assist with programs, but that there is a high turnover rate. Faith-based programs use many volunteers.

Secretary Tilley said that the state uses faith-based programs.

Representative Riggs said that good mental health has to come before job training or education. In response to a question from Representative Riggs, Secretary Tilley stated that mental health and medicine should be a factor for performance-based funding, but jails do not have the resources and cannot find qualified mental health providers. The agency is willing to partner with the General Assembly to craft policy on this issue.

Mr. Boyd said that there is a concern that individuals dealing with mental health issues cease taking the medications they are prescribed and end up back in jail.

In response to a question from Representative Moffett, Mr. Brady said that prisons must comply with national standards, such as those issued by the American Corrections Association, in order to be accredited. Jailers comply with Kentucky Jail Standards. Even though additional programs are encouraged by the Kentucky Jail Standards, the offering of those programs does not constitute a basis of accreditation.

Representative Moffett expressed concerns that departing from the core services of jails through the addition of wrap-around programs would eventually increase jail costs to an unsustainable level and that perhaps using existing agencies to provide these services would be better.

In response to a question from Representative Scott, Mr. Brady replied that 30 percent of the 12,000 state inmates are eligible to complete their GEDs.

In response to a question from Representative Fleming, Secretary Tilley stated that outside entities help with the programs and that the agency does not want to duplicate services or increase inefficiency.

In response to a question from Senator Seum, Mr. Brady said prisoners spend an average of 180 days in an SAP program.

Senator Seum said certifying prisoners in some kind of trade is more valuable than completing a GED. Secretary Tilley said that jails are racing to certify prisoners in trades.

Representative Brown said that inmates should be provided with help regarding reentry into society because there is a mainstream economy and an underground economy, and the underground economy is unstable and illegal. The automatic restoration of voting rights, "ban the box" legislation, and expungement should all be considered in justice reform efforts.

In response to a question by Senator Alvarado, Secretary Tilley stated that the state plans to have inmates start SAP medication while in jail. Some prisons administer the medication prior to, at, and one month after release, which helps prevent recidivism.

Senator Bowen asked members to get with staff on issues they would like to see readdressed because, time permitting, Secretary Tilley and the jailers will be reinvented to a future meeting.

### **Consideration of Kentucky Administrative Regulations**

The committee considered the following referred Administrative Regulations promulgated by the Department of Housing, Buildings and Construction: 815 KAR 7:110, criteria for expanded local jurisdiction related to building code enforcement; 815 KAR 7:120, Kentucky Building Code; 815 KAR 7:125, Kentucky Residential Code; 815 KAR 8:011, repeal of 815 KAR 8:007 and 815 KAR 8:045 relating to HVAC; 815 KAR 8:070, HVAC installation permits; 815 KAR 8:080, HVAC inspections and tests; and 815 KAR 8:100, criteria for local jurisdiction HVAC programs. Commissioner Steve Milby, Deputy Commissioner Tim House, and David Startzman, General Counsel, represented the department and discussed the proposed changes.

Senator Bowen stated that a written report of the review will be submitted to LRC.

There being no further business, the meeting was adjourned at 11:35 a.m.

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

### **Minutes of the 2nd Meeting of the 2018 Interim**

August 24, 2018



## Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Friday, August 24, 2018, at 10:00 AM, in Room 129 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Tom Buford, Denise Harper Angel, Jimmy Higdon, Dan “Malano” Seum, and Damon Thayer; Representatives Al Gentry, Chad McCoy, Jerry T. Miller, C. Wesley Morgan, Kimberly Poore Moser, Ruth Ann Palumbo, Phillip Pratt, Sal Santoro, Arnold Simpson, Diane St. Onge, Walker Thomas, and Susan Westrom.

Guests: Representative Chad McCoy; Representative Diane St. Onge; Representative Jason Nemes; Jamie Montalvo, Executive Director KY4MM; Ashely Taylor, Managing Partner, Herbal Healing; Anthony Cotto, Executive Advisor, Office of Legal Services, Department of Public Protection.

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

## Minutes

The minutes of the July 20, 2018 meeting were approved without objection.

## Charitable Gaming

Representative Chad McCoy told members that HB 425 had passed the committee as well as the full House in the last session. The bill sought to help veterans groups resolve an issue relating to pull tabs. As a method to raise money, veterans’ groups use charitable gaming, including pull tabs. However, a previous bill passed the General Assembly and inadvertently restricts the frequency for using pull tabs. He intends to prefile another version of HB 425, to remove this restriction. The Charitable Gaming Commission is in agreement with the change.

## Proposed Legislation on Medical Marijuana

Representative Diane St. Onge told members that she and Representative Jason Nemes are developing legislation legalizing the medical use of marijuana, but she went on to say that the bill is not a path forward for legalization of recreational marijuana. It will not be a source of tax revenue source for the state. The proposed bill is intended to treat illness and people in the last stages of their lives, people whose quality of life has been considerably diminished. This will be an alternative means of treatment. Home-grown marijuana will be limited to six plants and six seedlings because the cost of going to a dispensary could be prohibitive for some clients. Being able to home-grow in a regulated

framework reduces the cost. The distance to get to a regulated dispensary can also be a factor for some patients. The quality of the product is assured in a homegrown plant. Most states are moving to allowing home-growing of marijuana plants for medical use.

The proposed bill will remove the list of ailments that qualify for medical marijuana. The general feeling is that it is best left to physicians to recommend what they feel will help alleviate symptoms. Other states are also looking to change the list of medical conditions to doctor approved conditions. The intent of this legislation is to be a solution for patients with nausea or extreme pain that their physician believes will be helped by medical marijuana. The legislation will allow for a city or a county to opt-out of marijuana sales at the local level.

Representative Jason Nemes said this bill is different than 2018 Regular Session HB 166. This is a medical bill. There will be a regulatory agency created, the Department of Cannabis Administration. It will be the department’s job to ensure that physicians are doing their part and not over-prescribing. There will be no sharing. Doctors will have to register in order to certify that their patients’ need this type of treatment. They will have to notify the Kentucky Board of Medical Licensure that they intend to make these certifications. This will be similar to the KASPER (Kentucky All Schedule Prescription Electronic Reporting) system today.

The prohibition on cooperation between law enforcement has been removed. HB 166 did not allow federal and state law enforcement to cooperate. In the 2019 proposed legislation, if a patient shares, sells, or otherwise violates their right to have a card, the patient will lose their card and could also be prosecuted. There will be no smoking in public or in public accommodations. Land lords are allowed to prohibit marijuana growing on property they own.

The previous bill allowed for possession of a 90 day supply of product. The proposed bill will limit supply to 30 days. The bill restricts home-growers from having the ability to become a distributor. The intent of a home-grown marijuana option, is for people that cannot afford to purchase from a distributor, the ability to have access to marijuana, especially since insurance does not cover the cost of medical marijuana. There will be no marketing that will be colorful and attractive to children. There is also a prohibition for buying across state lines. If your state does not have medical cannabis you are not allowed to come to Kentucky to buy medical cannabis. If you are from a state such as Ohio, that does have a program, you can come to Kentucky and purchase 10 days’ worth of product.

There will be no “medical use” defense. If

you do not have a card and are in possession of cannabis during a traffic stop you are in violation of the law and you can be prosecuted.

The Chamber of Commerce has provided language to protect employers from liability in a court of law.

Regarding licensing, there will be two licenses, one for the individual and one for a business. In order for an individual to get a card they must have a legitimate physician to patient relationship. That physician will certify that this patient has a condition that will be helped by medical cannabis. This document will be filed at the Department of Cannabis Administration for a patient to receive a card. The card enables them to purchase marijuana products from a dispensary. The card will also allow the patient to self-grow. That information will be given to law enforcement.

Four business areas will be authorized to be licensed: the cultivator, who grows the product; the processor, where the raw material is made into a product; the dispensary which is essentially a store front to sell the product; and a safety compliance facility that ensures the safety of the product. These can be separate or combined into one company. Licensure will require that 60 percent of your company’s ownership will be made up of Kentucky residents for at least three years. There will be three tiers depending on the business’s gross receipts.

There are federal law issues as well as Kentucky Medical Association opposition regarding the proposed legislation. The sponsors believe that medical cannabis can help some people and government should not stand in the way of people who are trying to help themselves or their children.

Representative Wesley Morgan stated that in the past he had worked for the Bureau of Alcohol, Tobacco and Firearms as well as the IRS Criminal Investigations Division. During the last 50 years the federal government has spent 40 trillion dollars on drug enforcement without success.

In response to a question from Representative Moser, Representative Nemes said Colorado has a different scheme than which is being suggested for Kentucky. The cases are not anecdotal, they come from studies around the world, including Israel. In Kentucky there is a recent history of doing what is right for the citizens. Even if studies have not been completed, action can still be taken. Hemp legislation was passed before it became legal federally. “Right to Try” legislation gets in front of the study process and the FDA accreditation process. The cost to implement the legislation is unknown. Representative St. Onge said the intent of the legislation is to allow the program to become self-sustaining.

In response to a question from Senator



Schickel, Representative Nemes said patients will not be allowed to smoke cannabis in public. It will not be illegal to smoke it in one's home.

In response to a question from Representative Westrom, Representative St. Onge stated that she has also visited facilities in Colorado and California and agrees that the environment was clinical and is very sterile.

In response to a question from Representative Koenig, Representative Nemes said if a patient self-grows from home, the plants must be inside, in a locked facility. Law enforcement will have a register of who is allowed to grow and who has a prescription or a card, and would not be able to enter a home without probable cause. He added that physicians do not prescribe, but rather recommend that their patient will benefit from medical cannabis. Law enforcement will be allowed to enter a business that sells medical marijuana.

Representative St. Onge added that employers cannot discriminate against hiring someone who is using medical marijuana. Businesses would be able to establish whether or not authorized employees would be allowed to use medical marijuana on premises. Regulations would be established for hazardous duty employees to prohibit medical marijuana use.

In response to a question from Representative Palumbo, Representative Nemes said if the proposed bill passes, medical marijuana will be legal across the Commonwealth of Kentucky. However, if a city or county jurisdiction does not want medical marijuana businesses, they can "opt-out" and businesses will not be able to come to that area to grow and sell medical cannabis. Local communities that opt-out of medical marijuana businesses, then the locality will be ineligible for receipt of tax revenue.

In response to a question from Representative Gentry, Representative Nemes said some of the language in the proposed legislation was supplied by the Chamber of Commerce to protect employers' liability. If an employee, while on the job, hurts themselves or a customer there are protections in place. Based on employer guidelines for hiring, a person cannot be singled out for drug testing. Nor can an employer not hire someone because they have a medical marijuana card. A portion of the revenue will be distributed to the state for self-sustaining the administrative oversight of the program and a portion of the revenue will be distributed to local law enforcement. There is no expected revenue gain for the state.

Senator Seum commented that several doctors have asked for this legislation. As a cancer survivor, Senator Seum stated that using conventional medication such as oxytocin does not relieve nausea.

Representative Miller commented that, in

a survey of his constituents 84 percent were in favor of medical marijuana. Regulation of FDA approved medication has resulted in unintended consequences.

Senator Schickel encouraged Representative Nemes and Representative St. Onge to file a bill.

In response to a question from Senator Thayer, Representative Nemes said CBD oil from hemp can be used for some, but not all of the recommended conditions. The full effect of the marijuana plant is helpful in ways that the CBD oil derived from a hemp plant is not. The doctor will decide which method will best suit the patient. Also, businesses will not have the right to tell law enforcement that they cannot come in to the business without probable cause. There must be probable cause for law enforcement to come into an individual home to perform a search.

#### **Kentuckians for Medicinal Marijuana**

Jamie Montalvo, Executive Director of Kentuckians for Medicinal Marijuana thanked Representatives Nemes and St. Onge for their presentation. Many family members have been affected by cancer and have consumed cannabis to help with the side effects of chemotherapy. In most instances, the marijuana has been smoked. Thirty-one states have defended patients' rights to cannabis. There is an ongoing debate as to which is more beneficial, oil or flower. Having access to the flower allows use of cannabis in any form. In many states only cannabis oil is regulated, which patients do not use due to expense and lack of insurance coverage. Also, in most cases the exact product used in a pill or oil form is unknown. It is known that smoking marijuana eases pain and nausea.

CBD oil was legalized in 2014. These oils are being sold across the state. By federal definition hemp must be below 0.3 percent THC. Patients are using CBD in oil, pill, and vape form. Continued use of these products has a side effect of people testing positive for marijuana. People are losing jobs and even child custody. People consuming a legal product in this state are testing positive for consumption of an illegal product.

Regarding SB 118 and HB 166, both have been discussed by multiple groups across the state. A program was proposed to be managed by a health department at an estimated cost of \$2 million to \$4 million. Money collected from fees for licenses would cover this.

In 2000, Colorado's legislature defended patients' rights to cannabis. Ten years later, Colorado allowed for the sale of medical cannabis. SB 118 addressed issues such as driving impaired and other issues that came to light after Colorado passed their legislation. Nationally, there are 16,000 arrests per year for marijuana possession. However, there has not been a single recorded death from marijuana use. SB 118 proposed strict regulations for medical cannabis

use and distribution. Because marijuana has not been approved as a medicine, it is now being called marijuana for qualifying conditions. A physician will recommend the use of cannabis, much like recommending using an ace wrap or ice for a sprain. The federal government is allowing states to regulate cannabis. Qualifying conditions that were deemed too broad have been tightened.

Medical cannabis bills from last year were an "opt-in" on home-grown so local communities were not forced to spend money to prevent having sales in their community. With "opt-out," however, local communities are forced to spend money to avoid having medical marijuana. Some communities will be for the bill because it will bring in jobs, excise tax revenue, and enforcement rights. Patients who opt to grow will have to get a license and notify the state of their intent to home-grow. They will also have to notify the local sheriff. There will be a fee to register with the local sheriff. If they are caught selling marijuana, the local law enforcement does have the right to intervene.

In response to a question from Representative Moser, Mr. Montalvo said a prescription would put a doctor's DEA license at risk, therefore physicians make a recommendation. This has been upheld by the Supreme Court. Additionally, medication prescribed and obtained over the counter have an LD50 level. The LD50 level of cannabis has not been determined because you cannot overdose from cannabis. You can however overdose from Tylenol and other prescribed medications. Cannabis is a botanical, not a factory-produced pill and there are too many variables that can happen to a botanical for the FDA to approval of qualifying conditions. The flower is the weakest form of cannabis. The oil is the concentrated form, and takes many flowers to produce even a small vial for use. There are potential side effects when using cannabis but none of them is death.

Representative Moser opined that there is a need for more research and tighter controls. Mr. Montalvo responded the GW Pharmaceuticals has a patent pending for use of cannabinoids in treatment of cancer.

Ashley Taylor, Managing Partner for Herbal Healing, said there will be different licenses for medical marijuana. One for a medical marijuana center which, is the dispensary. One for cultivation, where cannabis is grown. Another for infused products, these are products that have been extracted from the plant. There will also be a license for the testing facility. Cities will be allowed to license individuals. This is a separate fee from what is paid for the state license.

The proposed legislation would create 15 districts within Kentucky that will decide the number of licenses issued in each of the

business sectors. In other states the Marijuana Enforcement Tracking Reporting Compliance (METRC) is the system that is used. Using this system is a requirement to get a license, and there is a monthly fee to use the software. Each plant is tagged and this tag stays with the plant through its entire life line. The tags have a radio frequency so that authorities will be able to wand the room and the plants' identification information will appear on a screen. This automates the inventory in each room where plants are being kept or processed. After the plant is harvested from its stalk, the plant tag will become a package tag. When the product is transferred to another company, a manifest goes with the package. No product goes to the consumer without being tested. This ensures that the product has no outside contamination such as pesticides or mildew. Each packing facility follows OSHA, EPA and the Department of Agriculture guidelines. Also, a list of ingredients are on each package as well as an estimate of the onset of action. This lets the patient know the approximate window for feeling the effect of what has been ingested.

Each person that comes into the industry must first have a background check and be registered with the state. There will be a support badge which is issued to entry level workers and a key badge which is issued to a decision maker. There is a charge for the badge and it must be renewed every two years. There are security cameras in each facility.

Eric Crawford, Kentuckians for Medicinal Marijuana, commented that there are 50 years' worth of research on medical marijuana from Israel. Looking at some other states, their cost is very prohibitive. In closing he quoted Thomas Jefferson, "if people let the government decide what foods they eat and what medicines they take, their bodies will soon be in as sorry a state as are the souls of those who live under tyranny."

#### **Administrative Regulations Discussion**

Anthony Cotto, Executive Advisor, Office of Legal Services, Public Protection Cabinet was present representing the Board of Auctioneers, the Board of Barbering and the Board of Licensure for Private Investigation. He said HB 443 passed in the 2017 general session creating the Kentucky Real Estate Authority in the Public Protection Cabinet. This brought together four boards governing all the licensees that are central to real estate transactions, including the Board of Auctioneers. In reviewing regulations for the auctioneers it was discovered that the Board of Auctioneers had failed to properly incorporate some fees within regulations. Therefore, fees are not being increased within the amended regulations, but the regulation is being amended to reflect fees that are already being charged. Senator Schickel thanks Mr. Cotto for his testimony.

There being no further business to come before the committee the meeting was adjourned at 11:48 AM.

## **INTERIM JOINT COMMITTEE ON STATE GOVERNMENT**

### **Minutes of the 2nd Meeting of the 2018 Interim**

August 22, 2018

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

The second meeting of the Interim Joint Committee on State Government was held on Wednesday, August 22, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; and Representatives Jerry T. Miller, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, Wil Schroder, and Damon Thayer; Representatives Lynn Bechler, Tom Burch, McKenzie Cantrell, Joseph M. Fischer, Derrick Graham, Mark Hart, Richard Heath, Dennis Horlander, DJ Johnson, Mary Lou Marzian, Reginald Meeks, Phil Moffett, Tim Moore, C. Wesley Morgan, Jason Nemes, Jason Petrie, Rick Rand, Attica Scott, Ken Upchurch, and Jim Wayne.

Guests: William Landrum, Mike Burnside and Pamela Trautner - Finance and Administration Cabinet; John Hodgson and Ellen Adkisson, Office of the Governor; Representative Ken Fleming, Representative Kimberly Poore Moser; and John Schaaf, Laura Hendrix, and Tony Goetz - Legislative Ethics Commission.

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

#### **Approval of Minutes**

A motion to approve the minutes of the June 27, 2018, meeting was seconded and passed without objection.

#### **Facilities Management Reform**

William M. Landrum III, Secretary, Finance and Administration Cabinet, discussed facilities management reform in the Commonwealth. He was assisted by Mike Burnside, Commissioner, Department for Facilities and Support Services, and Pamela Trautner, Director of Communications.

Secretary Landrum focused on statutory obligations of the secretary, organizational structure and functions of the cabinet and the Department for Facilities and Support Services, reducing the footprint of state government, maintenance of infrastructure, deferred maintenance of aging facilities, and developing and maintaining partnerships with local

governments and the private sector.

The cabinet is the primary support agency for state government, with 1,595 state employees, 412 contract employees, and a FY 2019 budget of \$925.7 million. The cabinet focuses on the procurement of goods and services, finance and accounting operations, debt management, IT infrastructure, collection of fees and taxes, as well as the daily management of state buildings. The cabinet provides direct support for counties with populations of 70,000 or more. Five percent of the budget is allocated for facilities management; debt service and county costs comprise 55 percent. The secretary approves all contracts and master agreements within the model procurement program, works closely with the Government Contract Review Committee, signs all state property leases, and deals with protests. Secretary Landrum later explained that the protests relate to the Model Procurement Code.

The Department for Facilities and Support Services is organized into the Office of Facility Development and Efficiency, the Division of Real Properties, the Division of Surplus Properties, the Division of Historic Properties, and the Office of Building and Mechanical Services. Included within the department's purview are project management, contracting and procurement, landscape design, the floral clock and other plantings, and special activities such as the Derby breakfast, the Christmas tree lighting, and inaugurations. The number of employees has been reduced from 500 to 256; there are approximately 40 contract employees; a dozen or more prisoners are available to assist in daily duties.

In the Office of Facility Development and Efficiency, the Division of Engineering and Contract Administration oversees all capital construction projects for state agencies, except highway projects and projects for the Administrative Office of the Courts, K-12 schools, and universities that have opted out. The Division of Facility Efficiency tracks energy usage and expenditures through the Commonwealth Energy Management and Control System (CEMCS - see "kyenergydashboard.ky.gov"). The office also manages the Energy Savings Performance Contracting (ESPC) program, which includes more than 1,300 buildings. This program has saved approximately \$25 million since 2009.

The Division of Real Properties is involved in space management for the 385,000 square foot building that will be built in downtown Frankfort to replace the Capital Plaza Tower. Secretary Landrum said he signs more than 1,000 leases for state government every year, and his goal is to reduce the footprint of state government. The number of public service employees located



in downtown buildings will increase to about 4,000 when the new building is completed. The consolidation will lead to improved command and control within state government.

Secretary Landrum said the Division of Surplus Properties administers the Federal Surplus Personal Property Program. Just before Christmas 2017, the division provided excess FEMA meal kits valued at \$2.7 million to Kentucky food banks by paying only \$95,000 in shipping costs. The division is taking advantage of the international website "GovDeals.com" to dispose of surplus property. Surplus property sales grossed \$5.5 million in FY 2018, with \$3.8 million returned to state agencies. Cleanup of the Capital Plaza Tower involved three sales and removal of 48 tons of scrap metal. More than 971 filing cabinets, 337 desks, 260 bookcases, shelving, telephones, couches, and 1,200 chairs were sold.

The Division of Historic Properties is charged with preservation and maintenance of state-owned historic buildings and sites, managing and advising on preservation of all Finance-owned structures over 50 years old, and inventory and maintenance of state-owned furnishings, artifacts, and objects of art. Preservation of state-owned properties is important and a primary focus. When the Capitol exterior was cleaned recently, the state saved \$400,000 and was able to clean the east, west, and south sides for less than it cost to clean the front—as a result of repealing prevailing wage. The goal is to clean the dome if funding is available.

The Office of Building and Mechanical Services manages more than 4 million square feet of office space and 497 acres, including 76 state-owned buildings and 341 acres in Franklin County. There are 18 other state-owned buildings across the Commonwealth and the Division of Mechanical Services and the Division of Building Services. The latter is responsible for janitorial services, construction projects under \$250,000, and landscaping and grounds maintenance for all Finance-owned buildings. The division maintains seven greenhouses, plants 18,000 bulbs every year on the Capitol grounds, and spends approximately \$40,000 each year for labor and plants.

Secretary Landrum said the primary focus of facilities management reform is to reduce the footprint of state government, take care of property, and develop and maintain partnerships. He is trying to return property to the tax rolls. He has been able to eliminate three pedways and one parking garage in Lexington and 12 buildings throughout the state, with about \$8.2 million in appraised value returned to the state. He likes to convey property to local governments, giving them direct control and the opportunity to maintain the property. Examples

include the Morehead Youth Development Center in Rowan County, the city of Harlan's workforce development office, and the Stephen Foster Story production in Bardstown's My Old Kentucky Home State Park. In addition to the cleaning of the Capitol façade, other maintenance projects have included the Capitol Annex terrace brick replacement, Annex parking garage ramp repair and resurfacing, and L&N Building renovations. The state has \$194 million in deferred maintenance in Frankfort. The cabinet is working with LRC to upgrade and soundproof the Annex Speaker's Office and to upgrade the HVAC system on the Capitol fourth floor. Both projects are expected to be complete before start of the 2019 legislative session.

Secretary Landrum emphasized the importance of developing and maintaining partnerships with the private sector and local governments. The cabinet is working with Frankfort Mayor Bill May and Franklin County Judge/Executive Huston Wells on redevelopment of the land where the Frankfort Convention Center and Fountain Place Shops once stood. He discussed current public/private partnerships (P3s), which included the health clinic opened by the Personnel Cabinet outside Frankfort, the \$207 million Kentucky International Convention Center, renovation at Beaver Dam State Park, and the Department for the Blind's provision of food service in the Capitol Annex, Transportation Building, Health and Family Services Building, and 300 Building. The new office building to be constructed in the Capital Plaza area will not have a cafeteria.

Representative Meeks asked whether there has been a policy change regarding access to the Capitol. He said that several times this summer groups of citizens were denied access to the building. Secretary Landrum said he is reviewing the policy relating to access to all state buildings in the interest of best serving all citizens. The review will involve a partnership with 8-10 different organizations, including LRC. Representative Meeks requested that Secretary Landrum provide documentation of the policy, and he agreed to do so. Answering other questions from Representative Meeks, the secretary and Mr. Burnside said they were not aware that people had been forced to stand in the rain when trying to enter a government building in Louisville (6<sup>th</sup> and Cedar Streets) but would look into it. They also had not heard of any problems regarding handicapped access to the Capitol.

Representative Wayne asked whether there has been an analysis of deferred maintenance and upgrade needs for the state parks. Secretary Landrum said that he is working with Donnie Holland, Commissioner of Parks, and Don Parkinson, Secretary of the Tourism, Arts and

Heritage Cabinet. He has met with all of the marina owners. Commissioner Holland is identifying deferred maintenance priorities, with safety as a primary focus. When Representative Wayne asked whether the analysis would be available for consideration in the 2020 budget, Secretary Landrum said he believes it is on track to ensure that whatever needs to be done can be included in budget requests. Available funds are being used to address safety hazards. In the future, some park operations might be leased or deeded to local governments, with the stipulation that the park would have to be maintained as it currently exists; if not, it would revert to the state. Representative Wayne said the parks have been shepherded and guided centrally in Frankfort in a very effective way for decades and that leasing of parks would be a major change. He asked whether the secretary could return to another interim committee meeting to discuss this. Secretary Landrum said he would be happy to, along with officials of the Tourism Cabinet. He is looking at opportunities for local governments, in conjunction with the state, to help support and maintain the parks. He cited the new Stephen Foster stage in Bardstown as an example of a lease partnership with a local community. He emphasized that the goal is to develop partnerships, not to dismantle the state parks system. Representative Miller said he believes similar arrangements had been established for Ben Hawes State Park and Fishtrap Lake State Park during Governor Beshear's administration. He said the committee would look forward to hearing more about the proposal.

Representative Graham thanked the secretary for working with Frankfort and Franklin County officials and asked him to clarify the state's plans for the area where the convention center once stood. Secretary Landrum said his objective from the beginning was to turn that property over to a private developer, who would remove it from state and local government tax rolls and place it in the private sector as a taxable mixed-use state property. He has signed a Memorandum of Agreement with the local government to help them determine what they want on that property. City and county officials are in control of the property now. They will oversee the procurement process and select the developer. The state will not dictate what goes on the property.

Representative Graham said that SB 223 and SB 125 were introduced in the 2018 Regular Session to authorize use of eminent domain in connection with KCNA (Kentucky Communications Network Authority). He asked whether eminent domain had been exercised and said he would like to know why the legislation was not pursued. Secretary Landrum said that KCNA had been moving forward independently



with the contractor, Macquarie Capital, and Black & Veatch, the subcontractor. He said he does not plan to exercise his power of eminent domain and would use it only as a last resort. He said he is not familiar with the Senate bills but would be glad to relay that question to KCNA Executive Director Phillip Brown.

Senator Bowen said that the condition of Kentucky state parks is not unique. Parks in other states are also challenged and that changing the model or business plan for the parks would not be unique. The state deeded Ben Hawes State Park to Owensboro. When Senator Bowen asked about the state's involvement in Frankfort's Friday evening concerts, Secretary Landrum said the state's role was to assist in setup for the performances. Representative Graham said that the Friday night concerts in Frankfort are only one example of city and county and state governments working together. He would like to make it clear that the city of Frankfort is not just taking from the state but is also giving back.

Representative Scott asked whether the secretary's statutory obligation relating to protest applied to the protests by persons who were denied access to the Capitol building. Secretary Landrum said it relates only to Chapter 45A, the Model Procurement Code, and his role in handling protests by bidders participating in the procurement process.

Senator Thayer said that alternatives such as privatization and deeding to local governments should be considered. He does not believe a park has to be profitable but should at least meet a certain level of usage and should favorably impact the local economy. He asked what metrics are considered when the Department of Parks decides where to allocate money for maintenance and repairs. Secretary Landrum said that some parks are in poor condition. Commissioner Holland and Secretary Parkinson are the primary decision makers and have visited all of the parks. They look at usage trends and the ability of a park to self-sustain. Feasibility studies play a significant role, and safety is a primary focus. Secretary Landrum said funds are limited and that he is trying to help the parks self-sustain by developing partnerships with local governments and local businesses—with golf courses and marinas, for example.

Responding to Representative Cantrell, Secretary Landrum said that security personnel recommended soundproofing the speaker's office and replacing a glass door with a solid door. Conversation in the office can be heard in adjoining areas. Representative Cantrell said these changes raise questions for her regarding public access. The West Virginia Supreme Court was recently impeached for lavish spending on office accommodations.

#### **Governor's Red Tape Reduction Initiative**

John Hodgson, Operations Director in the Governor's Office, and Ellen Adkisson, Legislative Liaison, testified about the Red Tape Reduction Initiative (RTR), launched by Governor Bevin in July 2016.

Mr. Hodgson focused on growth in the number of administrative regulations from 1975 to 2015, the goals and status of red tape reduction, success stories, pro-business regulation changes, and next steps in the process. The number of administrative regulations has grown steadily in the past 40 years and by 2015 occupied 14 full volumes. Some regulations were dated. In 2016, Kentucky still had a regulation to require that alcohol transported by a retailer from a railroad depot be pulled by a horse and cart. The goals of red tape reduction are to repeal obsolete regulations and amend overly restrictive ones, create the least restrictive regulatory environment without compromising public health or safety, align with federal requirements, avoid inconsistencies and unnecessary duplication, and make regulations easier to consistently update by modernizing and digitizing the regulatory code and process.

There are more than 4,700 regulations. So far, 2,208, or 47 percent, have been reviewed, with 395 repealed and 787 amended. Of those reviewed, 54 percent required repeal or amending. The goal is to eliminate or revise one-third of all regulations by the end of 2019.

Mr. Hodgson discussed RTR success stories, examples of improved service and pro-business regulation changes. Elimination of the "cut rule" reintroduced pro wrestling to Kentucky. The Transportation Cabinet's online system streamlines submission of documents by Kentucky's approximately 140,000 CDL holders and makes it easier for small businesses to operate. A new metal commodities over-weight hauling permit enhances the competitive landscape by enabling aluminum and other metal industries to receive the same benefits extended to the steel industry. The Department of Housing, Buildings and Construction (HBC) has reduced review time of construction plans by 90 percent. In 2018, HBC's Plumbing Division is beginning live skype inspections, which saves time and travel costs and speeds up construction. The Kentucky Claims Commission was reorganized and streamlined, saving over \$300,000 annually, and clearing a six-year backlog of payments to crime victims. The Kentucky Real Estate Authority was reorganized and streamlined, with a reduction in staffing, costs and office space. Online licensing was implemented and has improved service time significantly. The requirement for cast iron piping in buildings over 45 feet tall was eliminated, saving the industry millions without compromising safety. The Department of Professional Licensing in the Public Protection Cabinet streamlined occupational licensing,

using an online licensing application for 23 boards and registries. The Department of Insurance eliminated a regulation requiring privacy notices to be mailed annually. Instead, they are mailed only if there is a change, thereby saving insurance companies millions of dollars with no negative effect on consumers. The Energy and Environment Cabinet successfully petitioned the federal Environmental Protection Agency to drop the reformulated gasoline requirement for northern Kentucky, saving citizens 18 cents per gallon starting July 1, 2018.

Mr. Hodgson said that next steps in the RTR program include continuing toward updating, digitization and modernization of regulatory promulgation, synchronization of state and federal requirements, and reduction in institutional hesitation.

Representative Fischer expressed appreciation for the change in the reformulated gasoline requirement for northern Kentucky and said it is saving money. He has long favored passing a Kentucky Regulations from the Executive in Need of Scrutiny (REINS) Act, which would make a regulation subject to review and approval by the legislature if compliance costs exceeded \$500,000. He asked how the Governor would view passage of a REINS Act. Mr. Hodgson said the Governor was in favor of the spirit of 2017 HB 50, and that a REINS Act would appear to be in the same spirit.

Representative Cantrell said she had been reviewing regulations relating to the Medicaid program and the proposed waiver and that rollback of expanded Medicaid would deny coverage to more than 95,000 people who work in low-wage jobs and cannot afford to pay for health care. She questioned how this would be in accord with the goal of RTR to create the least restrictive regulatory environment without compromising public health or safety. Mr. Hodgson said RTR is intended to improve overall efficiency of state government. The Medicaid waiver process is outside his area of expertise, but he understands that it has had extensive review by the Cabinet for Health and Family Services (CHFS) and the federal government. Ms. Adkisson said she would defer questions about the Medicaid waiver to CHFS.

Representative Morgan said that the Department of Alcoholic Beverage Control (ABC) has been requiring a 3-year waiting period for transfer of certain alcohol licenses. The chief counsel of ABC informed him that there is no regulation or statute that prohibits transfer of a license for three years. He has inquired about this restriction multiple times but been unable to get a satisfactory answer. He questioned why this is being done if state government is really interested in creating a less restrictive regulatory environment and streamlining procedures.

Mr. Hodgson said his presentation was geared toward the red tape reduction process and overall results and that he is not prepared to address the content of any regulation. RTR's website (redtapereduction.com) offers the opportunity to submit questions, comments, and suggestions relating to regulations. Representative Morgan said he appreciates Mr. Hodgson's answer. He said it would behoove everyone to learn the reason for the license transfer restriction.

Representative Miller said he would be interested in knowing the current number of regulation volumes, compared to 2015's total of 14 volumes.

### **Proposed Changes to the Legislative Branch Ethics Code**

Representative Ken Fleming, Representative Kimberly Poore Moser, John Schaaf, Executive Director, Kentucky Legislative Ethics Commission, Laura Hendrix, Counsel for the Commission, and Tony Goetz, commission member, testified.

Representative Fleming discussed 2018 HB 9, which he and Representative Moser sponsored, relating to legislative ethics. The bill passed overwhelmingly in the House but the Senate did not have time to properly vet it. They plan to file similar legislation in 2019. One provision would require the Legislative Ethics Commission to create a 24-hour telephone tip line to allow employees of the legislative branch to report complaints of fraud, theft, ethical or official misconduct, discrimination, harassment, or sexual harassment allegedly committed by legislators, legislative agents, or other persons who interact with legislators or employees of the legislative branch. The intent of the tip line is to provide an improved and comfortable work environment and should not result in the commission being inundated with calls. Review of an audit of the Louisville Metro Council indicated that approximately one percent to two percent of its employees filed complaints from 2010 to 2016. Representative Moser said that HB 9 involved a lot of research by a bicameral, bipartisan task force. The group worked with the private sector and received input from human resource experts. The goal is to provide an efficient reporting mechanism for employees and allow them the comfort of feeling protected in their workplace.

Mr. Schaaf said that the commission unanimously approved recommended changes to the Code of Legislative Ethics in August 2018. The commission worked closely with Representative Fleming on HB 9 and is optimistic that legislation can be developed that everyone will be able to support in the next legislative session.

Mr. Schaaf presented the recommended changes:

*Create a comprehensive ethical prohibition against discrimination and harassment by legislators and legislative agents against legislative employees, legislators, or legislative agents. This would include provisions similar to 2018 HB 9 and includes the following: It would specifically define "discrimination," "workplace harassment," and "sexual harassment" as actions that violate either Kentucky or federal statutes, regulations, or case law relating to protected classifications; prohibit legislators, legislative agents, and the LRC director from intentionally engaging in discrimination or workplace harassment against an employee of the legislative branch, legislator, or legislative agent, and provide that a violation is ethical misconduct; permit a legislative employee, legislator, or legislative agent to file a legislative workplace complaint with the Ethics Commission and authorize the commission to investigate and proceed upon receipt of a complaint; specify that the workplace complaint process is voluntary, confidential, and is an option separate from any other reporting process or provision of law that a complainant may choose; provide an expedited process in which the commission will determine facts and attempt to bring an immediate end to inappropriate activity; and if the legislative workplace complaint is not resolved within 30 days, allow the enforcement counsel to file a formal complaint for investigation under the current practices of the commission.* Mr. Schaaf said that formal complaints necessitate a comprehensive investigation. An important aspect of this recommendation is the creation of a separate optional confidential and expedited process. It would give employees an opportunity to come to the commission in a less formal manner but would not foreclose the ability to use LRC's established complaint process, to go to an outside agency with a complaint, or to submit a formal complaint.

*Authorize the commission to dismiss a complaint without prejudice via teleconference call, if the complaint or preliminary inquiry is publicly disclosed by the complainant, or the complainant comments publicly about the complaint.* Mr. Schaaf said that preliminary inquiry relating to an ethics complaint is confidential, but the complainant or the respondent (the person against whom the complaint is filed) has the ability to make it public. This recommendation would authorize the commission to meet via teleconference, with the requisite public notice and opportunity for the public to be involved in the teleconference, and to dismiss a complaint if the commission believes it is being used for a political purpose, even though it may have merit.

*Clarify that KLEC has authority to adjudicate a complaint filed against a legislator, even if the legislator leaves office after the complaint is filed, as long as the complaint*

*is based upon action that occurred not more than a year prior to the separation from office. Clarify that the commission may adjudicate a complaint filed against a legislative agent up to a year after the agent is no longer a registered legislative agent.* Mr. Schaaf said that two years ago complaints were filed against a legislator who then resigned. During the inquiry process, his attorney argued that he should be immune from answering the complaints. The commission retained jurisdiction over that case and found the legislator in violation of the ethics code. The case was appealed, and the appeal was settled, but the court never ruled that the commission's pursuit of the complaint was out of bounds. The commission feels that the law is solid in its favor, but this recommendation would clarify that it would retain jurisdiction when a complaint is based on action that occurred within the year prior to leaving office.

*Amend the financial disclosure requirements to include a listing of all out-of-state travel associated with the performance of a legislator's duties.* Mr. Schaaf said the commission believes this type of information should be available to the public. One aspect of lobbying that has increased significantly in recent years is the creation of groups that are largely or partly funded by lobbying businesses and organizations. When these groups invite legislators to their meetings, with all expenses paid, the commission views this as another aspect of lobbying. The commission is not trying to regulate this other than to require the travel be reported and made public.

*Add a requirement for ethics training for legislative staff and change the commission's Current Issues seminar to two hours. Require that the seminar qualify for continuing legal education credit.* Mr. Schaaf said that staff play an important and helpful role in activities of legislators. Requiring the staff training, which has been done informally in the past, will help staff to stay informed on the issues. The commission also feels that the Current Issues seminar for legislators can be effectively done in a two-hour session rather than three hours.

*Restrict the political activity of KLEC staff in the same way as commission members are restricted.* Mr. Schaaf said this is a "housekeeping" recommendation to correct an omission from the original 1993 legislation that occurred due to a technical error in drafting an amendment.

Mr. Schaaf said that the General Assembly has complied with the legislative ethics law in an outstanding fashion. The law is a model in the United States. In the 25 years since the ethics code was adopted and the commission was created, with no legislators as members, no legislator has been convicted or indicted for misuse of office. The guidelines established by the law have helped in that regard. He commended



the members of the General Assembly their example. The commission wants to help and is always available.

Answering questions from Representative Wayne, Mr. Schaaf said that anyone may file a complaint against a legislator, a legislative candidate, a lobbyist, or an employer of a lobbyist. When a complaint is based on secondhand knowledge, the commission has sometimes pursued it if there is other supporting evidence; in other cases, it has dismissed the complaint.

Representative Wayne said he believes the commission is inconsistent in its rulings, is not reflective of the Commonwealth because its membership is dominated by white males and includes no person of color, operates under no rules, does not require minutes of proceedings or follow Roberts Rules of Order; and does not publicly record votes. It is also unclear whether complainants have standing and whether evidence is admissible in court. He said there is a need for transparency and that recommendation #2, which would authorize dismissal of a complaint via teleconference, is a bad idea. It would deny people access to hearings, and it implies political motivation if it is brought during a political year. He complimented Mr. Schaaf for his part in drafting the good 1993 legislation but said he does not think it is functioning correctly.

Mr. Schaaf said the General Assembly establishes the rules by which the commission operates, and he believes that current procedures strike an appropriate balance. The commission often gets complaints close to election time that have no merit, but a politically motivated complaint would not be automatically dismissed if it has merit. The initial investigation is confidential until the commission determines there is probable cause, at which time everything is made public.

Representative Burch commended the recommended changes. He expressed concern about sexual harassment by legislators and said that those found guilty of harassment should not be allowed to serve. He said he worries that the commission could be pressured to not follow through on reports of sexual harassment.

When asked by Representative Cantrell, Representative Fleming said he intends to incorporate the commission's recommended changes in the bill that he and Representative Moser plan to file for the 2019 Regular Session.

Representative Graham applauded the commission for its recommendation to disclose out-of-state travel. He said the public should know where legislators travel in connection with their duties as legislators and who is paying their expenses. He thanked Representatives Fleming and Moser for sponsoring ethics legislation.

Senator Thayer said he disagrees with Representative Wayne. He thinks the commission

continues to do a good job establishing guidelines for the Kentucky General Assembly and that they provide solid guidance. He likes recommendation #2, relating to dismissal of a complaint via teleconference. However, if a complaint lacks merit and credibility and is clearly politically motivated, he questioned why it could only be dismissed via teleconference if it is publicly disclosed by the complainant. Mr. Schaaf said he sees Representative Thayer's point and that a decision regarding that would be up to the legislature. Senator Thayer said he supports the recommendation but believes it should go farther and give the commission the opportunity to use teleconference to dismiss a complaint immediately if it is completely without merit and politically motivated. He suggested that recommendation #2 be filed as a stand-alone bill and that an omnibus approach not be used when the recommendations are drafted into legislation. Mr. Goetz spoke in favor of recommendation #2.

Representative Moser said another reason for maintaining confidentiality is to avoid a chilling effect on the reporting of complaints. Transparency is important, but there should be assurance that complaints will be handled in a confidential manner. Any wrongdoing will eventually be made public.

Representative Fischer asked whether some members of the legislature had been correct in their assessment that the commission lacked sufficient authority to investigate and issue recommendations last January when allegations of sexual harassment arose in the legislature. At the time, though, they were convinced of the authority that Section 39 of the Kentucky Constitution gives to each house of the General Assembly. Ms. Hendrix said there was not a provision in the ethics code that specifically defined sexual harassment as an ethical violation, but there is a provision that references seeking special advantage or special treatment as a legislator. The proposed recommendations address the need for a better definition of that type of conduct. She said other state legislatures are looking at creating a better definition. Mr. Schaaf said that the recommendations would not impact the legislature's constitutional authority. Attorneys for respondents in the aforementioned cases that were characterized as sexual harassment have argued that the commission does not have specific authority. The commission proceeded under the statute that relates to misuse of office but believes that specific authorizing language should be added to the ethics code.

When asked by Representative Bechler, Mr. Schaaf reviewed the complaint notification process. He said that the respondent against whom a complaint is filed learns about it immediately.

Referring to an earlier discussion, Representative Bechler said that he is against quota systems for any individual, race, creed, or color, and that he would object to race being used as a standard for membership on the commission.

Representative Miller thanked the speakers for attending and for their presentation. He said he looks forward to seeing the legislation that will be forthcoming.

### **19 RS BR 164 – An Act relating to the naming of state properties, highways, bridges, and programs**

Senator Stephen West discussed 19 RS BR 164, which he plans to prefile for the 2019 Regular Session. It is identical to SB 72, which filed in the 2018 Regular Session and which passed the Senate. BR 164 prohibits naming a state building or property for any living current or former statewide constitutional officer, member of the General Assembly, justice or judge of the Court of Justice, state employee, or employee of the postsecondary education system as defined in KRS 164.001. As requested by state university officials, the legislation would not prevent an institution in the postsecondary education system from enforcing or carrying out the bona fide terms of any gift, grant conveyance, devise, or bequest from any private person, corporation, foundation, estate, or other entity contributing funds or any other thing of value to the institution as permitted by KRS 164A.615.

Senator West said that similar bills were filed in the House during the last session. He has spoken to some of those sponsors and intends to work with them and other House members to improve his bill as it moves forward. He is sponsoring the legislation because it would take the politics out of naming decisions. It would prevent the unfortunate situation that could occur if the named person's future behavior causes them to no longer deserve recognition. The bill would also eliminate a moral hazard. It is natural to desire recognition, but when it relates to such things as infrastructure, buildings, or roads, it may involve moving taxpayer money into that endeavor. Personal legacy should not be a factor.

Senator Thayer said that BR 164 is a great bill, but he would like it to include a process to review structures that are already named and establish a standard for "unnaming" them in the event circumstances change. Senator West said he would be open to conversations about that.

Representative Wayne thanked Senator West for proposing the legislation. He suggested that the bill be amended to consider exceptions in situations similar to that of Kenny Rapier, who was a former state representative from Nelson County who worked hard to develop a golf course. When he became ill with cancer, the golf



course was named after him before he died.

Responding to Representative Meeks, Senator West said that he was happy to include the provision requested by university officials. It was not his intent to prevent recognition for large donations to the universities. Those donations usually come from private funds rather than taxpayer dollars.

Representative Miller thanked Senator West. There were no additional questions, and the meeting was adjourned at 3:22 p.m.

## **INTERIM JOINT COMMITTEE ON AGRICULTURE**

### **Minutes of the 2nd Meeting of the 2018 Interim**

August 23, 2018

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

The 2nd meeting of the Interim Joint Committee on Agriculture was held on Thursday, August 23, 2018, at 10:00 AM, at the Kentucky State Fair, Louisville, Kentucky. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Richard Heath, Co-Chair; Senators C.B. Embry Jr., David P. Givens, Dennis Parrett, Damon Thayer, Robin L. Webb, Stephen West, and Whitney Westerfield; Representatives Myron Dossett, Derrick Graham, David Hale, Mark Hart, James Kay, Kim King, Suzanne Miles, Sannie Overly, Phillip Pratt, Brandon Reed, Rob Rothenburger, Steven Rudy, Wilson Stone, Walker Thomas, James Tipton, and Susan Westrom.

Guests: Dr. Mark Lynn, Chairman, Kentucky State Fair Board, David Beck, President and CEO of Kentucky Venues, Mayor Greg Fisher, Louisville Metro/Jefferson County, Dr. Peter Seeberger, Founder, Artemiflow, Dr. Kerry Gilmore, Scientific Advisor, Artemiflow, Representative Jonathan Shell, Kentucky House Majority Floor Leader, Senator Robert Stivers, Kentucky Senate President, and Representative Rocky Adkins, Kentucky House Minority Floor Leader.

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

The July 20, 2018 minutes were approved, by voice vote, without objection upon motion of Senator Thayer and second by Representative Rudy.

#### **Welcome and Update on Louisville Metro/Jefferson County Programs**

Mayor Greg Fischer stated that, due to the renovation of the Kentucky International Convention Center (KICC), Kentucky will be able to compete nationally for contracts which will provide tax revenues.

Mayor Fischer said that Louisville has five economic development areas that can be the best in the world. Food and beverage, especially bourbon, is helping to promote tourism. There are 20 new hotels under construction that will meet the needs of the KICC and bourbon tourism. The Louisville Farm to Table Program is expanding. There is \$800 million of unmet demand for local food. The Louisville Farm to Table Program is working with farmers in order to meet the demand. The program started with grant funding but is now funded by Louisville Metro Government. He hopes that some farmers can expand their growing season to provide more fruits and vegetables, whether they be organic or exotic. According to a recent supply study, 70 percent of farmers agreed that there is a high demand for local food and 55 percent want to have a contract for pricing.

Mayor Fischer said that Louisville would like to expand its relationship with the universities for research and development relating to future markets of bourbon, foods, and innovations.

Mayor Fischer stated that the equine industry is another important issue to Louisville and Kentucky. Hosting the Breeders' Cup is a global spotlight. It is important to provide good purses at the tracks and promote the industry.

David Beck, President and CEO, Kentucky Venues, said that the goals of Kentucky Venues are transparency and the willingness to listen to feedback. Other goals include increasing the use of Kentucky products for foods and other things on the properties and enhanced staff training.

Mr. Beck stated that it is important to the board and Kentucky Venues to make improvements to the facilities in order to attract new trade shows and events. The newly renovated Kentucky International Convention Center has the ability to compete for almost 95 percent of the trade shows and conventions in North America. Because of funding through the state budget and the Agricultural Development Board, the fairground property can be enhanced through improvements and maintenance. There are plans to tear down Cardinal Stadium and the old transportation building.

In response to Senator Parrett, Mr. Beck explained that Kentucky had to raise over \$1 million each year to help sponsor the National FFA Convention. Availability of hotel rooms in Louisville and surrounding areas also became an issue. Now that there are more hotels, Louisville would like for the FFA Convention to return.

In response to Representative Tipton, Mr. Beck said that the changes made to public-private partnership (P3) legislation has helped. To fully utilize the fairground property projects, there will need to be P3 capability.

#### **Malaria Research Project**

Representative Jonathan Shell, Kentucky

House Majority Floor Leader, introduced Dr. Peter Seeberger, who is the founder of Artemiflow and Dr. Kerry Gilmore, Scientific Advisor, Artemiflow. Mr. Gilmore said that Artemiflow is a new company coming to Kentucky that will process a new plant called artemisinin. Artemiflow is an agricultural company that is producing malaria medication from artemisinin. Because the process of growing artemisinin is similar to that of growing tobacco, the company has been working with the Tobacco Research and Development Center at the University of Kentucky. Growing artemisinin in Kentucky has resulted in harvesting more medicine per acre than any other place in the world. Artemiflow is looking for 3,000 acres of contracted land for the year 2020 and more land would be needed every couple of years. Artemisinin derivatives have been shown to be active against breast, colorectal, prostate, cervical, and other cancers. Artemiflow will be conducting Phase I human trials with the University of Kentucky Markey Cancer Center.

Dr. Seeberger said that 30,000 acres will be required to meet the demand of malaria medication needed on the market. About 300,000 acres will be needed for cancer research.

In response to Representative Rothenberg, Dr. Gilmore said that the company wants Kentucky to know what type of companies would be coming in the future. His company has been working with the Economic Development Cabinet to address potential sites for manufacturing facilities and other issues.

Dr. Orlando Chambers, Director, Kentucky Tobacco Research Development Center, stated that research is being conducted to see how much artemisinin derivatives can be produced. He will bring some artemisinin to the September meeting.

There being no further business, the meeting was adjourned.

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

### **Minutes of the 1st Meeting of the 2018 Interim**

August 28, 2018

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

The 1st meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, August 28, 2018, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Bart Rowland, 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 Jared Carpenter, Morgan McGarvey, Dennis Parrett, Dorsey Ridley, Albert Robinson, John Schickel, and Dan "Malano" Seum;

Representatives Jim DuPlessis, Joseph M. Fischer, Jeff Greer, Adam Koenig, Stan Lee, Chad McCoy, Michael Meredith, Steve Riggs, Dean Schamore, Wilson Stone, and Addia Wuchner.

Guests: Congressman Andy Barr, Kentucky 6<sup>th</sup> District; Charles Vice, Commissioner, Department of Financial Institutions (DFI); Wendell Lyons, President and Debbie Painter, Executive Vice President, Kentucky Credit Union League; and Karen Harbin, President and Chief Executive Officers, Commonwealth Credit Union.

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

### **Economic Growth, Regulatory Relief, and Consumer Protection Act**

Congressman Andy Barr, Kentucky Sixth Congressional District, Chairman of the Monetary Policy and Trade Subcommittee of the United States House of Representatives Committee on Financial Services, stated that since the enactment of the Dodd-Frank Financial Control Law in 2010, one in five Kentucky credit unions and community banks had closed. Nationwide more than 43 percent of banks with under \$100 million in assets had closed. Dodd-Frank regulations altered the economy, especially in rural and underserved communities, by limiting access to essential financial services and products due to overwhelming bureaucratic red tape. The Congressional Budget Office estimated that, if unchanged, the Dodd-Frank Act would have reduced total economic output by \$895 billion over the next decade. The Economic Growth, Regulatory Relief, and Consumer Protection Act (S.2155), is a bipartisan measure that gives credit worthy Kentuckians access to affordable financial products by tailoring provisions of the original law to reflect the unique nature of community and regional financial institutions that have different business models and risk profiles than large bank holding companies in the U.S. Significant changes include appraisal relief for certain real estate transactions under \$400,000, relief from certain home mortgage disclosure act requirements for banks and credit unions that originate fewer than 500 mortgages and 500 open lines of credit, banks with under \$10 billion in assets that have originated 1,000 or fewer loans secured by a first lien on a personal dwelling will receive escrow relief, and well-managed community banks will have greater access to reciprocal deposits. They will be exempt from the Volcker Rule and certain banks with up to \$3 billion in assets will be eligible for an 18 month exam cycle instead of a 12 month cycle. In addition, S.2155 will provide a number of specific benefits for veterans, consumers, and homeowners including free account credit freezes, free credit monitoring for active duty military, and foreclosure relief for

military personnel under the Service Member Civil Relief Act.

Congressman Barr reviewed regulation changes for regional and custodian banks including two bills he sponsored--the Portfolio Lending and Access Act and the Preserving Access to Manufactured Housing Act. Changes to the unique regulations of purchasing manufactured housing under Dodd-Frank. These regulations prevented many families in rural areas from purchasing affordable housing.

Congressman Barr said the U.S. House of Representative's Committee on Financial Services continues to work on other reforms including the Jobs and Investors Confidence Act of 2018, capital markets reform legislation to address antiquated securities regulations governing start-ups and investors.

He discussed other issues including the National Flood Insurance Program, and reforms to the National bridge notification standard, the Bank Secrecy Act and Anti-Money Laundering, the Federal Reserve System's monetary policy, housing finance, and the Federal Insurance Office.

Responding to Chairman Rowland's questions, Congressman Barr said anecdotally it appears that community lending is increasing since the passage of S.2155. Discussions to privatize at least part of the National Flood Insurance Program continue. The U.S. House of Representatives passed legislative reforms to address solvency and sustainability issues. Congress passed an extension to continue the current program through November 30, 2018.

Representative Meredith expressed support for the recent changes to the Qualified Mortgage Rule of the Home Mortgage Disclosure Act (HMDA). Congressman Barr said the Committee would like to further the disclosure relief which did not go far enough. Extending the disclosure requirements to small business lending was a bad idea.

Representative Riggs said repetitive losses in the flood program are problematic, accounting for thirty percent of program claims. Seventy-five percent of payout recipients do nothing to mitigate future loss. Recent rate increases should be more incremental. Congressman Barr said the reform legislation that passed the U.S. House of Representatives addresses both issues. Some lower income homeowners may not be able to move from flood zones.

Responding to Representative Lee's question, Congressman Barr said consumer protection reform provides free placement and removal of security credit freezes to address the increase in data security breaches.

#### **Kentucky Financial Institutions**

Charles Vice, Commissioner, Department of Financial Institutions, said economic growth

in Kentucky has been tremendous in 2018. Corporate investments for 2017 were \$9.2 billion creating 17,200 jobs. State exports were \$30.9 billion in 2017, an increase of 5.8 percent. On a per capita basis, Kentucky ranks fifth nationally in exporting. The July 2018 unemployment rate was 4.3 percent, down from five percent for July 2017.

Commissioner Vice discussed the state and national housing market. Of note is the increase in home values since the recession. In the past two years, home prices have increased twelve percent nationwide. In Kentucky, home prices increased 7.2 percent in 2017 and the number of homes sold has increased 7.4 percent.

Commissioner Vice said the federal tax relief package has already had a significant economic impact. According to a February 22, 2018, *American Banker* article, some companies have chosen to increase bonuses and minimum wage, increase dividend payouts, increase investment in technology, expand into new markets, and expand products and services including commercial and industrial lending and consumer lending.

Commissioner Vice discussed changes reported by the Non-Depository Division of DFI. These include a 46.2 percent increase over 2015 in the number of mortgage companies, a thirteen percent increase in mortgage brokers, a 21.8 percent increase in loan originators, a 2.7 percent increase in consumer loan companies and a 26.5 percent increase in money transmitters. The number of check cashers and payday lenders decreased by 16.75 percent due to a statutory moratorium on new licenses which is set to expire July 2019. Commissioner Vice reviewed modest changes reported by the Securities Division.

Commissioner Vice noted that while there is an upswing in the number of deposit insurance applications following the financial crisis, pre-recession the FDIC received 150 applications for new banks. In 2017 there were eight. He expressed concern over consolidation and the loss of banking institutions in smaller communities. Commissioner Vice reviewed information provided by the Depository Division. The data reflects modest growth in total assets and total loans. He reviewed national and regional banking conditions as of June 30, 2018 and reported on credit union conditions.

Commissioner Vice said recent actions by the DFI include the ongoing Red Tape Initiative which has eliminated sixteen percent of outstanding regulations relating to the financial services industry. DFI advocated for many items on S.2155, particularly right-sized regulation based on business model and risk, qualified mortgage status for portfolio lending and simplified capital rules for community banks.



Commissioner Vice spoke about the October 2018 Community Bank Conference, an initiative between the Federal Reserve Board and the Conference of State Bank Supervisors whose purpose is to provide research and study regarding community bank issues.

In response to Representative Greer's question, Commissioner Vice said it would help Kentucky's banking industry be more competitive to surrounding states by lowering the bank franchise tax to a more reasonable level.

Responding to Representative Stone's question, Commissioner Vice said the lower corporate tax rate may initially result in less revenue to the federal government but the overall economic impact is positive.

#### **Credit Unions in Kentucky**

Wendell Lyons, President of the Kentucky Credit Union League announced his upcoming retirement and introduced President-elect Debbie Painter. Ms. Painter reviewed the history and structure of credit unions. While the number of credit unions has decreased significantly Kentucky's 64 credit unions are doing well. Forty-four are federally chartered and twenty are state charters. All 64 are federally insured. The majority of the state's credit unions are small, but growth and membership are increasing. Credit unions are held to a slightly higher capital standard than the banking in industry. Credit unions maintain a strong network. Delinquencies are half the national average and returns on assets are twice the national average.

Chairman Buford thanked Mr. Lyons for his service and welcomed Ms. Painter.

#### **Louisville Metro Police Credit Union Liquidation and Subsequent Acquisition by Commonwealth Credit Union**

Commissioner Charles Vice explained the purpose and process of liquidation of the Louisville Metro Police Credit Union. The credit union was placed out to bid which was won by the Commonwealth Credit Union. The decision was executed June 29, 2018, and the final outcome was positive. No credit union members lost any deposits, operations continued throughout the entire process, and members have access to more products. Karen Harbin, President and Chief Executive Officer of the Commonwealth Credit Union, said CCU is honored to serve the members of the credit union because its members serve the people every day.

In response to Representative Stone's question, Ms. Harbin said there was only a slight decline in assets.

There being no further business, the meeting adjourned at 11:35 AM.

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

### **Minutes of the 3rd Meeting of the 2018 Interim**

August 30, 2018

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

The 3rd meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 30, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Steven Rudy, Co-Chair; Senators Ralph Alvarado, Danny Carroll, David P. Givens, Stan Humphries, Morgan McGarvey, Gerald A. Neal, Dennis Parrett, Wil Schroder, Brandon Smith, Stephen West, and Max Wise; Representatives Rocky Adkins, Matt Castlen, Jim DeCesare, Myron Dossett, Ken Fleming, Kelly Flood, David Hale, Russ A. Meyer, Suzanne Miles, Jason Nemes, Ruth Ann Palumbo, Jody Richards, Sal Santoro, Arnold Simpson, James Tipton, Russell Webber, Susan Westrom, and Jill York.

Guests: Charles Snively, Secretary, Energy and Environment Cabinet (EEC); Bruce Scott, Deputy Secretary, Energy and Environment Cabinet; Lona Brewer, Office of Energy Policy (OEP); Daniel P. Bork, Commissioner, Department of Revenue; Richard Dobson, Executive Director, Office of Sales and Excise Taxes; Jennifer Hays, Committee Staff Administrator, LRC Appropriations and Revenue Committee; Amit Shanker, Legislative Committee Analyst, LRC Appropriations and Revenue Committee.

LRC Staff: Jennifer Hays, Cynthia Brown, Amit Shanker, Micah Johnson, and Chase O'Dell.

#### **Approval of Minutes**

Representative Palumbo moved that the minutes of the July 26, 2018, meeting be approved. Representative DeCesare seconded the motion, and the minutes were approved by voice vote.

#### **Volkswagen Mitigation Settlement Fund**

Charles Snively, Secretary, Energy and Environment Cabinet (EEC); Bruce Scott, Deputy Secretary, Energy and Environment Cabinet; and Lona Brewer, Office of Energy Policy (OEP), reviewed the Volkswagen Mitigation Settlement Fund.

Secretary Snively testified that between 2009 and 2016, Volkswagen (VW) cheated on emissions testing for certain VW and Audi light duty diesel engines. A court settlement with the Department of Justice (DOJ) in 2016 provided funds for mitigating the adverse effects due to the NOx emissions that came from those engines. Approximately 3,621 vehicles registered

in Kentucky were affected by the Volkswagen Settlement. Most of the affected vehicles were registered in the Louisville Metro area and Northern Kentucky area.

Secretary Snively said that Volkswagen agreed to pay over \$14 billion to settle the litigation. Most of the funds were used to buyback or modify the specific vehicles that were involved. Secretary Snively stated that \$2.7 billion was to be distributed to the states in proportion to the number of vehicles sold in those states for grants to remediate the effects of the excess NOx emissions. Kentucky's total allocation from the settlement is \$20,378,649. There is a 10 year time frame to expend the funds. The 10 year window started October 2, 2017.

Secretary Snively testified that the intended use of the fund money is for mitigating ozone – which is a product of NOx emissions – and for the replacement of existing diesel engines. The Energy and Environment Cabinet (EEC) has proposed to allocate at least 80 percent of funds to transit bus grants. The EEC has also proposed that 15 percent of funds be allocated to expanding infrastructure for light duty zero emission vehicles.

Bruce Scott explained that the Volkswagen Mitigation Settlement funds cannot be appropriated and authorized without the express authority of the General Assembly.

In response to a question from Representative Miles, Secretary Snively explained that diesel engines do not have to be replaced with a zero emission engine. In response to a follow-up question, Secretary Snively stated that school buses are eligible to apply for the same funding as other public transit.

In response to a question from Representative Tipton, Bruce Scott said that the EEC needed clarification on whether or not the trust fund plan needed to be approved by the entire general assembly. In response to a follow-up question, Lona Brewer stated that over 500 comments were received in regards to the Volkswagen Mitigation Settlement Trust Fund. In response to another follow-up question, Bruce Scott explained that the trust mandates that priority is given to areas with the highest NOx emissions.

In response to a question from Senator West, Bruce Scott stated that the Governor designated the EEC to be responsible for developing the trust fund plan.

In response to a question from Representative Rudy, Secretary Snively said that the fund money will remain for 10 years until it is approved for spending by the general assembly. In response to another question from Representative Rudy, Lona Brewer stated that there is no record on how much volume goes through every charging station in Kentucky due to many of them being privately owned. Lona



Brewer went on to say that some of the charging stations are generalized.

In response to Senator McDaniel, Secretary Snively stated that increased energy demand would lower prices.

#### **Sales Tax for Online Purchases**

Daniel P. Bork, Commissioner, Department of Revenue; and Richard Dobson, Executive Director, Office of Sales and Excise Taxes, reviewed House Bill 487, Wayfair, and sales tax for online purchases.

Commissioner Bork testified that the Supreme Court fundamentally changed the landscape for online retailers on June 21, 2018 with the Wayfair decision. He explained that House Bill 487 enacted a remote retailer economic nexus standard similar to South Dakota's. The Department of Revenue has put guidance on their website instructing retailers that meet the transaction or receipt thresholds to register for collection and remittance of Kentucky sales and use tax. Retailers have until October 1 to register for collection of sales and use tax.

Richard Dobson stated that there are seven Certified Service Providers (CSP) certified with the Streamlined sales and use tax governing board.

In response to a question from Senator McDaniel, Commissioner Bork stated that a retailer with a nexus in a non-streamlined state would have to collect sales tax on sales to someone located in a streamlined state. Commissioner Bork continued to say that a retailer with a nexus in a streamlined state would have to collect sales tax on sales to someone located in a non-streamlined state if that state had laws requiring collection of sales tax on online purchases.

In response to a question from Senator Carroll, Commissioner Bork testified that Kentucky has taken steps to identify retailers that are not registered. Richard Dobson testified that each member-state of Streamlined has access to a central database of registered retailers. In response to a follow up from Senator Carroll, Commissioner Bork stated that the punishment for non-compliance will be the same as it is with every other tax.

In response to a question from Senator McDaniel, Commissioner Bork stated that the Government Accountability Office (GAO) estimated Kentucky revenues ranging from \$93 million to \$140 million could be received from online retail sales tax. Commissioner Bork stated his belief that actual revenues would not be as high as predicted due to Kentucky already receiving revenues from some retailers voluntarily collecting and remitting sales tax through Streamlined.

In response to a question from Representative Adkins, Commissioner Bork said that any online retailer that has an obligation must register and

begin to collect sales tax by October 1.

In response to a question from Senator Givens, Richard Dobson testified that because the nexus standard was changed by the Wayfair decision, the contract with Certified Service Providers (CSPs) will be renegotiated.

#### **Legalization of Sports Betting**

Jennifer Hays, Committee Staff Administrator, LRC Appropriations and Revenue Committee; and Amit Shanker, Legislative Committee Analyst, LRC Appropriations and Revenue Committee, reviewed and discussed the possible legalization of sports betting.

Amit Shanker testified that Congress passed the Professional and Amateur Sports Protection Act (PASPA) in 1992. PASPA effectively outlawed sports betting nationwide. Murphy v. NCAA struck down PASPA in its entirety. Murphy v. NCAA did not affirmatively legalize sports betting, rather it allowed states to legalize sports betting.

Jennifer Hays testified that Nevada legalized wagers for sports bets from online websites in 2013. Wagers on all professional sporting organizations as well as the collegiate activities that are governed by the NCAA are accepted in Nevada. The Nevada Gaming Commission is charged with regulation of the entire industry.

Nevada collected approximately \$16 million in receipts from sports betting in 2017. Jennifer Hays testified that most of the \$4.8 billion wagered in Nevada in 2017 was returned in the form of payouts. Jennifer Hays said that the margin in the industry is four or five percent. Jennifer also stated that the federal excise tax on wagers is 0.25 percent.

Jennifer Hays said that the Kentucky state lottery and charitable gaming are authorized under section 226 of the Kentucky constitution.

In response to a question from Representative Fleming, Jennifer Hays stated that Nevada's gaming commission has many more employees than Kentucky's racing commission.

#### **Information from Last Meeting**

Chairman McDaniel reviewed information received from the last meeting.

#### **List of Reports Received Since July, 2018**

Chairman McDaniel reviewed reports received since the last meeting.

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

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

### **Budget Review Subcommittee on Transportation**

#### **Minutes of the 2nd Meeting of the 2018 Interim**

August 30, 2018

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

The second meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, August 30, 2018, 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; Senators Jimmy Higdon and Dennis Parrett; Representatives Ken Fleming, Chris Fugate, Chris Harris, Kenny Imes, Jim Stewart III, and Ken Upchurch.

Guests: Matt Cole, Director, Division of Driver Licensing, KYTC; Max Conyers, Director, Lexington Area Metropolitan Planning Organization (MPO); Larry Chaney, Director of Transportation, Kentuckiana Regional Planning and Development Agency (KIPDA); and, Bob Koehler, Director, Ohio-Kentucky-Indiana (OKI) Regional Council of Governments.

LRC Staff: Justin Perry and Liz Hardy.

#### **Approval of Minutes**

A motion was made by Senator Parrett to approve the minutes of the July 26, 2018 meeting, seconded by Representative Upchurch, and the minutes were approved without objection.

#### **Update on REAL ID Driver Licenses**

Matt Cole, Director of Driver Licensing, KYTC, provided an update of the REAL ID driver license program.

In response to a question from Chair Wise, Mr. Cole said the public can access information on the KYTC website or contact their office with questions.

In response to a question from Representative Fleming, Mr. Cole said the REAL ID is for domestic travel only, and a passport is still required for international travel. If you possess a passport, you do not need the REAL ID driver license. The Transportation Safety Administration (TSA) has a secondary screening process in case a traveler loses their ID while on a trip.

In response to a question from Representative Harris, Mr. Cole said the current standard driver license is \$20.00 for a four-year credential, and will be increased to \$21.50. The eight-year option goes into effect January 2019, and will be \$43.00. Kentucky is not the only state that has two-tier options.

In response to a question from Representative Santoro, Mr. Cole said if a REAL ID license holder changes their address, the change will be made in the system and the holder will receive a temporary document, with a hard credential being mailed within five to ten days. Regular driver licenses will say on them "NOT FOR REAL ID PURPOSES" to differentiate them from the REAL ID licenses.

## **Metropolitan Planning Organizations (MPOs)**

Max Conyers, Director of the Lexington Area MPO, provided an overview of the organization and their activities. There were no questions.

Larry Chaney, Director of Transportation for the Kentuckiana Regional Planning and Development Agency (KIPDA), provided an overview of the organization and their activities. There were no questions.

Bob Koehler, Deputy Executive Director, Ohio-Kentucky-Indiana (OKI) Regional Council of Governments, provided an overview of the organization and their activities. There were no questions.

### **Adjournment**

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

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

### **Minutes of the 4th Meeting of the 2018 Interim**

September 6, 2018

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

The 4th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, September 6, 2018, at 1:00 PM (EST), at the Miller-Welch Wildlife Management Area in Berea, Kentucky. 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., John Schickel, Brandon Smith, Johnny Ray Turner, and Robin L. Webb; Representatives John Blanton, McKenzie Cantrell, Matt Castlen, Tim Couch, Jeffery Donohue, Jim DuPlessis, Daniel Elliott, Kelly Flood, Chris Fugate, Rick G. Nelson, and Jim Stewart III.

**Guests:** Frank Jemley, Chief of Staff, Acting Commissioner, Kentucky Department of Fish and Wildlife Resources (KDFWR); Dr. Karen Waldrop, Deputy Commissioner, KDFWR; Colonel Eric Gibson, Law Enforcement Director, KDFWR; Steve Beam, Wildlife Director, KDFWR; Ron Brooks, Fisheries Director, KDFWR; Lisa Frye, National Archery in the Schools Program, KDFWR; and Kenny Knott, District Commission Member, KDFWR.

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

### **Kentucky Department of Fish and Wildlife Resources**

Frank Jemley stated Miller-Welch Wildlife Management Area (WMA) has over

1,800 acres for hunting, fishing, and trap shooting. WMA is owned and operated by the Department of Fish and Wildlife Resources (KDFWR). WMA hosted the 115<sup>th</sup> Kentucky state trap shoot in July, which attracted hundreds of competitors from 21 states.

The main purpose of WMA is hunting. In Kentucky over the past 10 years, the annual average number of fishing and hunting licenses purchased was 590,000 and 350,000 respectively. Kentucky is a leader in recruiting citizens to participate in outdoor activities. One of the programs used to recruit is Becoming an Outdoors Woman. The Hunter's Legacy and Angler's Legacy programs pair a novice with an experienced mentor to learn the sport.

Mr. Jemley stated expanding the customer base is key to the department's success. The department's mission is to manage and conserve the state's fish and wildlife resources for all Kentuckians. There are over 100 conservation officers responsible for enforcing hunting, fishing, and boating laws.

Colonel Eric Gibson stated there are currently 99 KDFWR law enforcement officers and 11 recruits. There will be improvements to recruit a more diverse workforce. A five percent raise was implemented this year for all law enforcement officers.

In response to a question from Representative Flood, Colonel Gibson stated the starting salary is now \$35,000 for new hires, which will help to recruit military veterans and college graduates. Colonel Gibson stated there is only one woman employed as an officer, and there is an ongoing effort to recruit more women.

In response to a question from Senator Schickel, Mr. Jemley stated they prefer to promote from within the department. There have been several retirements in 2018, which will create upward mobility for employees, and there will be a separate career track for those who do not want to be in management.

In response to a question from Representative Castlen, Colonel Gibson stated 99 officers is not enough to adequately perform enforcement duties in 120 counties. He stated there should be at least one officer per county.

Dr. Karen Waldrop stated wild pigs in Kentucky contribute to agricultural damage, outcompete native wildlife, cause stream erosion and sedimentation, and consume and damage native plants. Wild pigs are known carriers of at least 45 parasites and diseases. The United States Department of Agriculture has confirmed wild pigs in Kentucky are carriers of pseudorabies and swine brucellosis. Both are major agriculture diseases within the cattle industry.

Dr. Waldrop stated rabies is the number one zoonotic disease. Kentucky currently has

bat-variant rabies and skunk-variant rabies. Raccoon-variant rabies is prevalent in the eastern United States. Oral baits are being dispensed to prevent the westward movement of the disease since two raccoons with rabies were found within seven miles of the Kentucky border. There is a need for regulation changes to reduce the risk associated with the introduction of raccoon-variant rabies into Kentucky.

An enhanced rabies surveillance area was created in eastern Kentucky with regulatory changes effective in 25 counties. Some of the changes include on-site euthanasia of infected species. Wildlife rehabbers cannot accept, obtain, or possess infected species. Finally, movement of infected species in or out of the surveillance area is prohibited.

Tick-borne disease is a pernicious problem in Kentucky due in part to warmer temperatures. Tularemia is a bacterium transmitted by touch, bites, or other exposures. Dr. Waldrop stated a rabbit in Butler County tested positive for tularemia. Tularemia has been transmitted through rabbits, ticks, and even mowing. It is a bacterial disease, and certain varieties result in 30 percent mortality if untreated.

Dr. Waldrop stated Chronic Wasting Disease (CWD) is similar to mad cow disease. It is a fatal disease of deer, elk, and moose. It is not in Kentucky, but it is in the surrounding regions. In 2000 CWD was found in five states, and now it is in 25 states. It is spread by the transport of animals and harvesting infected species. There have been recent changes to administrative regulations due to the proximity of the disease to Kentucky.

Dr. Waldrop stated Epizootic Hemorrhagic Disease (Blue Tongue) is common in deer during late summer and early fall. It is caused by biting midge flies. There is currently no treatment to control or prevent the disease. In 2017, there were approximately 5,000 cases reported.

In response to a question from Representative Cantrell, Dr. Waldrop stated the KDFWR is not responsible for spraying mosquitos. The Department of Agriculture and health department are working on the issue.

Steve Beam stated in 1927 the estimated deer population in Kentucky was less than 1,000. From 1945 to 1999, there was an active restoration and restocking program that grew the deer population to 1 million. There are currently 13,322 jobs related to deer hunting. There have been changes to the 2018-19 deer season, including modifying the deer permits from two to four deer, expanding the season in zone three and four, reducing antlerless deer hunting in zones three and four, and moving 32 counties to a less restrictive zone.



Mr. Beam stated black bears are primarily found in eastern Kentucky, but isolated sightings are possible in the remainder of the state. There are strong emotions regarding whether black bears should be hunted. The department utilizes science-based models to manage the black bear population.

In response to a question from Senator Webb, Mr. Beam stated the position of KDFWR is black bears should be hunted, and the season should be extended. Black bears are a renewable resource. The best way to gather information about black bears is to increase the harvest. There is a regional effort with a Bear Aware campaign to educate the public.

In response to a question from Senator Schickel, Mr. Beam stated the KDFWR does not want too many zone one counties because it means we have too many deer. The change to the bag limit from two to four deer is creating opportunities for hunters to harvest more deer and reducing overpopulation.

Ron Brooks stated Asian Carp were introduced in the 1970s to assist with fish farming and to reduce nutrients throughout the Mississippi River Basin. Prior to the 1970s, the use of chemicals was prevalent to reduce the amount of harmful nutrients. Asian Carp escaped shortly after being stocked in the Mississippi River Basin. Asian Carp are now found in Kentucky.

Since 2010, KDFWR has been trying to get commercial fisheries to process the Asian Carp species for Asian and European markets. The commercial harvest is 2.8 million pounds annually. The minimum harvest required to control the species is 5 million pounds.

Dr. Waldrop stated Kentucky Wild is a new program with a membership fee of \$25. The funds will be used to protect species that are not hunted.

Lisa Frye stated in 2002 KDFWR launched Kentucky Archery in the Schools Program in collaboration with the Department of Education. The program has expanded and is now called National Archery in the Schools Program.

Kenny Knott provided a brief overview of trap shooting.

The next meeting will be October 4, 2018. Documents distributed during the meeting are available in the LRC Library and at [www.lrc.ky.gov](http://www.lrc.ky.gov).

There being no further business, the meeting was adjourned.

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

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

### **Retirement Minutes of the 2nd Meeting of the 2018 Interim**

August 30, 2018

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

The second 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, August 30, 2018, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Suzanne Miles, Co-Chair; Representatives Tim Couch, Jim Gooch Jr., Richard Heath, Kim King, Adam Koenig, Russ A. Meyer, Phil Moffett, and Rick G. Nelson.

Guests: David Eager, Executive Director, Kentucky Retirement Systems, and Beau Barnes, Deputy Executive Secretary and General Counsel, Kentucky Teachers' Retirement System.

LRC Staff: Jonathan Eakin, Liz Columbia, Tammy Branham, and Spring Emerson.

#### **Kentucky Retirement Systems (KRS)**

David Eager, Executive Director of the Kentucky Retirement Systems, provided a brief overview of retirement trends and potential budget impacts of the five systems under the KRS umbrella.

In response to a question from Chair Carroll, Mr. Eager said that three kinds of investments are being used: 20 percent is managed internally with Index Funds; 60 percent is with external managers; and, the remaining 20 percent with limited partnerships. If County Employee Retirement System (CERS) were to separate from the other systems, it would impact the Kentucky Employees Retirement System (KERS) by about \$8 million to \$10 million per year.

In response to questions from Representative Koenig, Mr. Eager said the employer contribution rate in KERS non-hazardous for a salary of \$50,000 was approximately \$25,000 and will be \$40,000 in the future. In the CERS plan, it was about \$10,000 and will be approximately \$15,000. The percentage is currently 20, and is moving toward 30 percent. In the Kentucky State Police Retirement Plan, the employer contribution for a \$50,000 salary would be approximately \$75,000, with the contribution rate being about 142 percent. One of the health insurance plans has excess funding, and the other four are in the red but are improving. They are better than any pension fund, at around 65 percent. The \$43 billion unfunded liability in the pension systems includes the health insurance plans.

In response to a question from Representative Koenig regarding city and county debts being the responsibility of the state upon the separation of

the CERS, Mr. Eager said he would provide that information at a later date.

In response to a question from Representative Moffitt, Mr. Eager said there is a group of approximately 125,000 that are vested but no longer active. A task force is looking at how aspects of HB362 can be replaced, and the report is due by December 2018.

In response to a question from Chair Carroll regarding liability issues with the separation of the CERS and impact to KRS overall, Mr. Eager said liability is a gray area. Approximately \$1 million of the \$8 million to \$10 million impact to the investments could be attributed to the CERS. It could take eight to ten years to unwind the limited partnerships, and is a very complicated process.

In response to a question from Representative Meyer, Mr. Eager said his telephone number is an open line for questions.

Chair Carroll stated there are no easy solutions. He thanked Mr. Eager for his presence before the subcommittee and the information he provided.

#### **Kentucky Teachers' Retirement System (KTRS)**

Beau Barnes, Deputy Executive Secretary and General Counsel of the KTRS, provided an overview of retirement trends and potential budget impacts of the agency.

In response to questions from Chair Carroll, Mr. Barnes said there are about 75,000 part-time working teachers, about 60,000 full-time working teachers, and about 55,000 retired teachers in the KTRS. The gap between the groups has lessened through the years, and that is expected in any pension plan, and at some point that ratio will level out.

In response to a question from Representative Miles, Mr. Barnes said he would be glad to attend public forums to educate and update members of KTRS on their pension status, as he has done in the past.

In response to a question from Representative Moffitt, Mr. Barnes said the negative cash flow had reached \$650 million before any funding was received. There was a negative cash flow of \$300 million last fiscal year, but that is a manageable amount. The negative cash flow as a percentage of assets was at 5.5 percent previously, and now it is down to about three percent.

In response to questions from Representative Koenig, Mr. Barnes said the percentage of salary paid by employers is approximately 30 percent, and is evaluated actuarially every year. The Commonwealth makes the payments on behalf of the school districts, which contribute three percent of teacher payroll to the health insurance fund. The health insurance fund went from being 3.5 percent funded in 2009 to 26.7 percent funded in 2017, and continues to grow.



In response to questions from Chair Carroll, Mr. Barnes said the return rate varies and market volatility can be expected. Return rates will average out over a 30-year period. The KTRS has never been 100 percent funded, but if it were, smaller adjustments could be made and the risk issue could be addressed. KTRS staff is ready to implement Senate Bill 151, should the Supreme Court overrule the Circuit Court ruling.

In response to a question from Representative Moffitt, Mr. Barnes said the benefit enhancements encourage teachers to work longer, therefore helping with asset preservation.

#### **Approval of Minutes**

A motion was made by Representative Koenig to approve the minutes of the June 28, 2018 meeting, seconded by Representative Meyer, and the minutes were approved without objection.

#### **Adjournment**

There being no further business, the meeting was adjourned at 11:23 AM.

## **LEGISLATIVE RESEARCH COMMISSION**

### **Minutes of the 560th Meeting**

September 5, 2018

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

The 560th meeting of the Legislative Research Commission was held on Wednesday, September 5, 2018, at 1:30 PM, in Room 125 of the Capitol Annex. Representative David Osborne, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Senators Jimmy Higdon, Ray S. Jones II, Dennis Parrett, Dorsey Ridley, Dan “Malano” Seum, Damon Thayer, and Mike Wilson; Representatives Rocky Adkins, Kevin D. Bratcher, Kenny Imes, Dennis Keene, David Meade, David Osborne, Jonathan Shell, and Wilson Stone.

LRC Staff: David Byerman and Christy Glass.

Representative Adkins gave an update on Representative Chris Harris’s son, Corbin, and conveyed Representative Harris’s gratitude to everyone across the state for texts, phone calls, and prayers. Representative Adkins asked for a moment of silence for the Harris family.

Representative Osborne called for a motion to approve the minutes of the June 13, 2018 meeting; accept and refer as indicated items A. through L. under Staff and Committee Reports; refer prefiled bills as indicated and approve items A. through M. under New Business; and, accept and refer as indicated items 1. through 18. under Communications.

A motion was made by Senator Thayer and seconded by Senator Stivers. Representative

Osborne asked if there was any discussion.

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

The minutes of the June 13, 2018, meeting were approved.

#### **STAFF AND COMMITTEE REPORTS**

Information requests since June 1, 2018.

Committee Activity Reports since June 1, 2018.

Report of the Administrative Regulation Review Subcommittee meetings on June 12, July 11, and August 14, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on Natural Resources and Energy during its meetings on June 7, July 5, and August 6, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on Health and Welfare and Family Services during its meetings on June 20 and July 18, 2018.

Committee review of the administrative regulations by the Education Assessment and Accountability Review Subcommittee during its meeting on June 19, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on Agriculture during its meeting on July 20, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on Veterans, Military Affairs, and Public Protection during its meeting on August 13, 2018.

Committee review of the administrative regulations by the Interim Joint Committee on Local Government during its meeting on August 22, 2018.

Committee review of FFY 2019-2021 Child Care and Development Fund Block Grant Application by the Interim Joint Committee on Health and Welfare and Family Services during its meeting on June 20, 2018.

Committee review of FY 2019 Low Income Home Energy Assistance Program Block Grant Application by the Interim Joint Committee on Natural Resources and Energy during its meeting on July 5, 2018.

Committee review of Reorganization Order 2018-325 by the Interim Joint Committee on Health and Welfare and Family Services during its meeting on June 20, 2018.

#### **NEW BUSINESS**

Referral of prefiled bills to the following committees: **BR 138** (An act relating to homestead food operators and homestead food products) to **Agriculture**; **BR 7** (An act relating to property taxes for veteran service organizations), **BR 37** (An act relating to legislative procedures for state fiscal measures), **BR 64** (An act relating to an exemption of feminine hygiene products from sales and use taxation), **BR 65** (An act relating to

the exemption certain baby products from sales and use taxation) and **BR 76** (An act relating to nonprofit exemptions in taxation and declaring an emergency) to **Appropriations and Revenue**; **BR 51** (An act relating to pregnancy-related discrimination) to **Economic Development and Workforce Investment**; **BR 22** (An act relating to public charter schools), **BR 31** (An act relating to public charter schools) and **BR 159** (An act relating to the display of the national motto in public schools) to **Education**; **BR 45** (An act establishing the Kentucky Rare Disease Advisory Council and making an appropriation therefor) and **BR 103** (An act relating to minimum staffing requirements for long-term care facilities) to **Health and Welfare and Family Services**; **BR 3** (An act relating to racial and ethnic community criminal justice and public safety impact statements), **BR 4** (An act relating to prosecutions under criminal gang statutes), **BR 32** (An act relating to the investigation of a shooting or deadly incident by a law enforcement officer), **BR 48** (An act relating to firearm storage), **BR 120** (An act relating to the safety of canines and felines) and **BR 121** (An act relating to an animal abuse registry) to **Judiciary**; **BR 29** (An act relating to sports wagering and making an appropriation therefor) to **Licensing, Occupations, and Administrative Regulations**; **BR 98** (An act relating to an emergency contact information registry) to **Transportation**; **BR 36** (An act proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly) and **BR 107** (An act proposing to amend Sections 99, 124, and 144 of the Constitution of Kentucky relating to a Judge of the County Court) to **State Government**.

Referral of administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): **012 KAR 003:007**, (Definitions for 12 KAR Chapter 3), **012 KAR 003:012** (Labeling format and labeling), **012 KAR 003:017** (Brand and product names), **012 KAR 003:022** (Expression of Guarantees), **012 KAR 003:027** (Ingredients), **12 KAR 003:028** (Descriptive terms), **012 KAR 003:032** (Feeding directions), **012 KAR 003:037** (Drugs and pet food additives), **012 KAR 003:039** (Nutritional adequacy), **012 KAR 003:042** (Statements of calorie content), (Structural Pest Control) and **302 KAR 029:020** (General provisions for structural pest control) to **Agriculture**; **806 KAR 009:360** (Pharmacy benefit manager license) to **Banking and Insurance**; **011 KAR 005:145** (CAP grant award determination procedure), **011 KAR 015:010** (Definitions for 11 KAR Chapter 15) and **011 KAR 015:110** (Scholarships for Registered Apprenticeship programs) to **Education**; **201 KAR 002:015** (Continuing education), **910 KAR 001:090** (Personal care

attendant program and assistance services), **910 KAR 002:030** (Accounting provisions for adult guardianship), **910 KAR 002:052** (Repeal of 910 KAR 2:050), **921 KAR 001:380** (Child Support Enforcement Program application and intergovernmental process) and **921 KAR 003:030** (Application process) to **Health and Welfare**; **503 KAR 005:090** (Participation: requirements; application; withdrawal), **505 KAR 001:120** (Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services), **505 KAR 001:140** (Department of Juvenile Justice Policies and Procedures Manual: detention services) to **Judiciary**; **301 KAR 001:115** (Propagation of aquatic organisms), **405 KAR 001:011** (Repeal of 405 KAR Chapter 1) and **405 KAR 003:011** (Repeal of 405 KAR Chapter 3) to **Natural Resources and Energy**; **031 KAR 003:010 & E** (Current address of Kentucky registered voters and distribution of voter registration lists), **101 KAR 002:020** (Job classification plan), **101 KAR 002:034** (Classified compensation administrative regulations), **101 KAR 002:076** (Vacancies, detail to special duty and temporary overlap), **101 KAR 002:095** (Classified service general requirements), **101 KAR 003:045** (Compensation plan and pay incentives for unclassified service), **101 KAR 003:050**, (Unclassified service; promotion, transfer, and disciplinary actions) to **State Government**; **301 KAR 002:172** (Deer hunting seasons, zones, and requirements) and **301 KAR 002:176** (Deer control tags, deer destruction permits, and landowner designees) to **Tourism, Small Business, and Information Technology**, and **830 KAR 001:010**. (Application, certification of registration, and fees) to **Veterans, Military Affairs, and Public Protection**.

From Senator Alice Forgy Kerr and Representative Phillip Pratt, Co-chairs of the Interim Joint Committee on Economic Development and Workforce Investment: Memorandum requesting approval to meet September 21, rather than the regularly scheduled meeting date of September 20. There are no apparent conflicts.

From Senator Max Wise and Representative John Carney, Co-chairs of the School Safety Working Group: Memorandum requesting approval for expense reimbursement under LRC guidelines to unpaid consultants.

From Senator Alice Forgy Kerr and Representatives Tommy Turner and Diane St. Onge, Co-chairs of the Interim Joint Committee on Tourism, Small Business, and Information Technology: Memorandum requesting to meet on October 19, rather than the regularly scheduled meeting date of October 18, in eastern Kentucky. There are no apparent conflicts.

From Senator Ernie Harris and Representative Ken Upchurch, Co-chairs of the

Interim Joint Committee on Transportation: Memorandum requesting to meet on September 12, rather than the regularly scheduled meeting date of September 4, in Monticello. There are no apparent conflicts.

From Senator Paul Hornback and Representative Richard Heath, Co-chairs of the Interim Joint Committee on Agriculture: Memorandum requesting reauthorization of the Rural Issues Subcommittee and the Equine Issues Subcommittee.

From Senate President Robert Stivers and Speaker Pro Tempore David Osborne: Memorandum authorizing and approving membership of the 2018 Diabetes Medical Emergency Response Task Force.

From Senator Joe Bowen and Representative Jerry Miller, Co-chairs of the Public Pension Oversight Board: Memorandum requesting approval and authorization of membership of the Kentucky Retirement System Administrative Subcommittee.

From Senate President Robert Stivers and Speaker Pro Tempore David Osborne: Memorandum appointing members to the Local Superintendent Advisory Council.

From Senate President Robert Stivers and Speaker Pro Tempore David Osborne: Memorandum appointing members to the National Conference of Commissioners on Uniform State Laws.

From Director David Byerman: Memorandum requesting approval of Prefiling Deadlines for the 2019 Regular Session.

From Director David Byerman: Memorandum requesting approval of the 2019 Regular Session Calendar

#### COMMUNICATIONS

From Senator Danny Carroll and Representative Lynn Bechler, Co-chairs of the Program Review and Investigations Committee: Memorandum regarding the opportunity to appoint ex officio members for particular studies.

From the Office of the Attorney General: Constitutional Challenge Report for the months of May and June 2018. Pursuant to KRS 418.075(3).

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of May, June, and July 2018. Pursuant to KRS 42.410.

From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Periods 11 and 12 and year-to-date activity for the periods of July 1, 2017, through June 30, 2018, and for Accounting Period 1, and year-to-date activity for the period of July 1, 2018, through July 31, 2018. Pursuant to KRS 42.190.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarter ending June 2018. Pursuant to KRS 154.20-150.

From the Kentucky Commission on the Deaf and Hard of Hearing: FY 18 Telecommunications Access Program (TAP) Annual Report. Pursuant to KRS 163.527.

From the Energy and Environment Cabinet, Department for Environmental Protection: FY 18 Hazardous Waste Management Fund. Pursuant to KRS 224.46-580(13)(c).

From the Auditor of Public Accounts: FYS 14-17 Report of the Audit of the Kentucky 911 Services Board (formerly known as the Commercial Mobile Radio Service Board).

From the Cabinet for Health and Family Services, Department for Community Based Services: FY 18 Citizen Review Panels Annual Work Report.

From the Cabinet for Health and Family Services, Department for Community Based Services: SWIFT Adoption Teams Report for the first quarter of 2018. Pursuant to KRS 199.565.

From the Kentucky Judicial Form Retirement System: Operating Statements of the Judicial Retirement Fund and the Legislators Retirement Fund for FY 18; list of investments held by the Fund as of June 30, 2018; and Portfolio Valuations of the Fund as of June 30, 2018. Pursuant to KRS 42.615.

From the Kentucky Personnel Cabinet: June 2018, Quarterly Report, which lists all employees holding more than one state position. Pursuant to KRS 224.50-872.

From the Kentucky Personnel Cabinet: Report as of June 30, 2018, which lists the number of all full-time classified and unclassified employees. Pursuant to 101 KAR 2:095(4).

From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center, Quarterly Report for the period April through June 2018.

From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending June 30, 2018.

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, 2018. Pursuant to KRS 342.821.

From the Kentucky Legislative Ethics Commission: Recommended changes to the Legislative Code of Ethics 2018. Pursuant to KRS 6.666.

From the Department of Military Affairs, Adjutant General Stephen R. Hogan: Military Assistance Trust Fund State FY18 Annual Report. Pursuant to KRS 36.476.

Senator Jones asked to be recognized for



discussion regarding the decision not to renew David Byerman's contract. He expressed his desire that the public know that the decision not to renew Mr. Byerman's contract was not made with any discussion with the Senate Democratic Caucus, and he does not think, with the House Democratic Caucus. Senator Jones stated that he believed all LRC members should be involved in the discussions of hiring and firing of an LRC director, and not just the members of the majority party. He said given the historically non-partisan nature of the LRC staff who try their best to serve both Republicans, Democrats, and Independents, that it would be important that the employees at LRC know that partisan politics will not creep into the LRC. Senator Jones requested that all members of the LRC of both the majority and minority parties in the House and the Senate be included in any decisions to change the leadership of the LRC, and that when the new LRC director is selected, it will be open for people across the country to apply, and that it will be a decision made in unison with the Democratic members of the LRC. Senator Jones said the members need to have bipartisan discussion as they move forward with the selection of a new LRC director.

In response to Senator Jones' concerns, Representative Adkins stated that he also hoped there would be a national search done when looking for a new director, and that the interview process, as was done before, would include both the majority and minority parties. Representative Adkins said that in his time here, he has been impressed with the LRC, as everybody at the table has been, on the non-partisanship stature. Representative Adkins said that to be able to maintain--what is looked at across America as one of the finest Commissions that has been established, not only because of the expertise, but because also of the non-partisanship of the research and the information and the help that staff gives to citizen legislators. He asked as they move forward with the process, that it is kept open, the majority and minority parties are a part of it, and they maintain what he believes is the signature of the LRC, and that is the non-partisanship of that expertise to be able to help all members.

There being no further business, the meeting was adjourned.

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

### **Budget Review Subcommittee on Education**

#### **Minutes of the 3rd Meeting of the 2018 Interim**

August 30, 2018

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

The third meeting of the Budget Review Subcommittee on Education of the Interim Joint

Committee on Appropriations and Revenue was held on Thursday, August 30, 2018, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representatives James Tipton, Co-Chair, and Regina Huff, Co-Chair; Senators C.B. Embry Jr. and Mike Wilson; Representatives George Brown Jr., John Carney, Matt Castlen, Kelly Flood, Melinda Gibbons Prunty, Jody Richards, and Steve Riley.

Guests: Robert L. King, President, Council on Postsecondary Education; Dr. Aaron Thompson, Executive Vice-President, Council on Postsecondary Education; Dr. Bill Payne, Vice President of Finance and Administration, Council on Postsecondary Education; Dr. Eli Capilouto, President, University of Kentucky; Dr. Joseph A. Morgan, President, Morehead State University; Dr. Jay Box, President, Kentucky Community and Technical College System; and Senator David P. Givens.

LRC Staff: Joe Lancaster, Jennifer Krieger, and Amie Elam

#### **Approval of Minutes**

Representative Richards made a motion, seconded by Senator Wilson, to approve the minutes of the July 26, 2018, meeting. The motion carried by voice vote.

#### **Postsecondary Education Performance Fund Distributions**

Robert L. King, President, Council on Postsecondary Education (CPE) testified about the postsecondary education performance funding model. He detailed the previous distribution method, the development process, and the components of the current model. Dr. Thompson said that students needs drive education costs. The model reflects an increase in funding is needed to build an equitable foundation, but could not provide the exact dollar amount necessary to achieve equilibrium.

In response to a question from Representative Flood, President King said that the funding model is not designed to incentivize the General Assembly.

In response to a question from Chair West, President King said that part of the funding model includes closing historical distortions in funding. Dr. Payne said that the six institutions that have reached equilibrium should start to share funding on a more even playing field. Morehead State University and Kentucky State University have not reached equilibrium. Dr. Thompson stated that the current funding model is a behavioral change model. He said the model shows exhibits the need for refocused resources at some campuses for them to fully benefit. Dr. Payne said CPE considers the best way to reach

equilibrium would additional General Fund appropriations in the next biennium.

In response to a question from Senator Givens, President King said that the premiums for underserved population degree production are stackable.

In response to a question from Representative Huff, President King said that admissions requirements are not regulated within the model, but within the latest CPE admissions regulations.

#### **Research Institutions**

Dr. Eli Capilouto, President, University of Kentucky (UK) testified about the impact of the current postsecondary education performance funding model on the research institutions.

#### **Comprehensive Universities and Community and Technical College System**

Dr. Joseph A. Morgan, President, Morehead State University and Dr. Jay Box, President, Kentucky Community and Technical College System (KCTCS), testified on the impact that the performance funding model has had on the comprehensive universities and the community and technical college system.

In response to a question from Senator Givens, Dr. Morgan said that the model had no bearing on the 6.25 percent General Fund reduction to Morehead State. The intention was to show the reduction in funding over the last two biennia.

In response to a question from Representative Prunty, Dr. Morgan said it is impossible for universities to advance within the model without creating new, or converting existing, square footage. Morehead State has seen several implementation issues with the funding model. Dr. Capilouto said that the College of Business and the Academic Science building at UK are almost 100 percent funded by philanthropy. The investment in new buildings brings great value to the university because the students are better served.

There being no further business, the meeting was adjourned at 12:19 p.m.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

### **Minutes**

#### **2018 Interim**

August 9, 2018

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

The Program Review and Investigations Committee met on Thursday, August 9, 2018, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, led the audience in prayer and the Pledge of Allegiance, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Lynn Bechler, Co-Chair;

Senators Perry B. Clark, Wil Schroder, and Reginald Thomas; Representatives Chris Fugate, Adam Koenig, Ruth Ann Palumbo, Steve Riley, Rob Rothenburger, Arnold Simpson, and Walker Thomas.

Guests: Bill Buchanan, Office of Teaching and Learning, Division of Program Standards, Kentucky Department of Education; Judge Roger Crittenden, Chair, Joel Griffith, panel member, Steve Shannon, panel member, Elisha Mahoney, Executive Staff Advisor and Acting Director, Child Fatality and Near Fatality External Review Panel; and Brad Holajter, Executive Director, Justice and Public Safety Cabinet.

LRC Staff: Greg Hager, Committee Staff Administrator; Chris Hall; Colleen Kennedy; Van Knowles; Dr. Bart Liguori; Jean Ann Myatt; Sabrina Olds; William Spears; Shane Stevens; Joel Thomas; Richard Schufelt, Graduate Fellow; and Kate Talley, Committee Assistant.

#### **Minutes for July 7, 2018**

Upon motion by Representative Simpson and second by Representative Rothenburger, the minutes for the July 7, 2018, meeting were approved by voice vote without objection.

#### **Selection of Senate Study Topics**

Senator Carroll said that the Senate majority proposes that the committee study the contracting procedures, current outside contracts, and protections in place to avoid undue influence in awarding of contracts in the Office of the Attorney General. Senator Schroder moved to adopt the study topic, Representative Rothenburger seconded, and the topic was adopted by roll call vote.

Senator Thomas said that the Senate minority is satisfied with today's presentation on preschool and full-day kindergarten as its study topic.

#### **Presentation of LRC report *Preschool Program Review And Full-Day Kindergarten* by Office of Education Accountability (OEA) Staff**

Ms. Olds said that the report has 15 recommendations and 22 major conclusions. The major takeaways from the study related to preschool are:

- Opportunity has increased, but enrollment has not

- Full utilization has different interpretations

- Districts think they are serving more students than they are

- Districts spend over two times the amount they receive from the state preschool grant

- Funding fluctuations make it difficult for districts to plan ahead

- The preschool program in Kentucky is effective

- The major takeaways from the study related to preschool are:

- Most districts provide full-day kindergarten

The additional cost to the district of providing full-day kindergarten varies

Full-day kindergarten is associated with higher 3<sup>rd</sup> grade KPREP [Kentucky Performance Rating for Educational Progress] proficiency rates

Ms. Olds gave the history of state appropriations and changes in eligibility criteria for the preschool program, which increased over time from 130 percent of the federal poverty level to 160 percent. Despite increases in eligibility, the 19,182 preschool students served in 2017 was lower than the number served in 2006.

In 2002, districts received \$2,505 from the state per at risk student. In FY 2016, districts received \$4,682, which was the highest annual amount and \$500 more than in FY 2017. According to the OEA survey, districts' per-pupil preschool cost for FY 2016 was \$9,302: approximately \$6,200 for regular preschool education, \$2,000 dollars for special education services, and \$1,000 for transportation.

Recommendation 2.3 is that the Kentucky Department of Education (KDE) should recommend that the Kentucky Board of Education (KBE) allocate a portion of preschool funds to districts that transport preschool students.

After passage of the Kentucky Education Reform Act in 1990, the General Assembly added provisions in subsequent budgets that districts must first "fully utilize" Head Start funds before enrolling students in the state-funded preschool program. "Full utilization" is not defined in statute or regulation.

Preschool must provide a minimum of 2.5 hours a day for 4 days a week, provide breakfast or lunch, and have a 10 to 1 student to staff ratio. Sixty-eight districts provide a full-day preschool schedule 4 or 5 days per week.

Recommendation 3.2 is that KDE should provide to the General Assembly, before the 2018-2019 school year, a district-level analysis of the potential cost of increasing preschool enrollment of 4-year-old students.

Three-year olds qualify for state-funded preschool if they have an identified special educational need and do not qualify for preschool based on income. In 2016, 5,519 3-year-olds were enrolled. Of the 14,232 4 year-olds enrolled, 82 percent qualified for free or reduced price lunch, 29 percent qualified for special education services, and 8 percent were limited English proficient (LEP).

Recommendation 3.3 is that school districts, with support and guidance from KDE, should complete a needs assessment analysis in order to determine whether the educational needs of preschool-aged limited English proficiency students are being met and to explore possible resources that may assist to better meet the needs

of these students.

Dr. Liguori said that the P2R evaluation is KDE's process for monitoring regulatory compliance by districts. A finding on the P2R indicates that a district is not in compliance with a regulation. Of the 142 districts that have received a P2R evaluation, 71 districts received at least one finding related to a district's responsibility to conduct an annual self-evaluation of their preschool program. The most common finding was related to the district's obligation to monitor the success of participating children as they progress through the primary school program.

Recommendation 4.1 is that KDE should ensure that all districts complete an annual preschool evaluation that meets and fulfills the requirements outlined in 704 KAR 3:410, sec. 9.

The OEA survey of district superintendents asked what percentage of eligible children they thought their districts were serving. In 98 districts, the respondent said that more than 75 percent of students eligible for preschool were being served. In practice, three-quarters of districts served less than half of eligible students through preschool alone. Statewide, 60 percent of preschool-eligible children were served by either preschool or Head Start in school years 2014 to 2016. The percentage of students served in each county ranged from 38 percent to 100 percent.

Recommendation 4.3 is that school districts, with support and guidance from KDE, regional training centers, and the Governor's Office of Early Childhood, should review, and where necessary revise, their recruitment strategies to increase the enrollment of children eligible for state-funded preschool in order to more fully comply with 704 KAR 3:410, sec. 5.

Kindergarten readiness is measured by the Brigance Screens III. In school year 2017, 50.1 percent of students entering kindergarten tested ready. In districts that offered close to the minimum number of hours, 42 percent of students tested ready for kindergarten. In districts that offered 16 or more hours of scheduled preschool time each week, 55 percent of students tested ready.

The Brigance Kindergarten Screens III was standardized based on a sample of children representative of the United States. The sample is not representative of Kentucky children.

Recommendation 4.4 is that if KDE continues to use the Brigance Screen III, it should recalibrate the criterion/standard for readiness based on data gathered in the initial years of its use as the common screener in Kentucky.

Recommendation 4.6 is that KDE should engage in a longitudinal assessment of the relationships between kindergarten readiness, KPREP, and other indicators of academic success.

Taken as a whole, the results of OEA's



evaluation of the state-funded preschool program leads to Recommendation 4.7, which is that KDE should conduct a full and complete evaluation of the state-funded preschool program at least every 5 years beginning in 2020. The evaluation should be provided to KBE and to the General Assembly.

Ms. Olds said that the two basic questions for the kindergarten part of the study are the number of districts providing full-day kindergarten and the additional cost districts bear to provide the additional half-day. As of the 2017 school year, six districts offered half-day kindergarten, four districts offered full and half day, and 163 districts provided full day. Based on the results of the OEA survey, districts spent more than \$194 million on kindergarten in FY 2016: nearly \$161 million on salaries, nearly \$17 million on benefits, and nearly \$17 million on special education. There were 49,110 kindergarten students, so the expenditure per pupil was nearly \$4,000.

A logistic regression model indicates that students who attended full-day kindergarten were 1.08 times more likely to score proficient or better on the 3<sup>rd</sup> Grade KPREP reading assessment and 1.12 times more likely to score proficient or better on the math assessment than students who attended half-day kindergarten.

The OEA report has seven recommendations that were not discussed in detail in the presentation.

In response to questions by Senator Carroll, Ms. Olds said the numbers regarding preschool do not include private centers. The report distinguishes between private and public preschool programs.

Senator Carroll said most school districts do not have funding or facilities to offer full-day preschool. Even if they did, it would close private businesses. There is disconnect between moving to full-day public preschools and state efforts to improve private preschool facilities. Speaking as someone who runs a private care facility, he said quality is very important.

Mr. Buchanan said early childhood education is a mixed delivery system; both private and public programs are needed. Full-day preschool is associated with higher Brigance scores, which suggests full-day quality matters. KDE is using some state funding to invest in public/private partnerships, which is promising.

Senator Carroll agreed that this is promising. He said his center serves 130 children. He is concerned that the OEA report focuses too much on children being in a public school environment.

Senator Thomas said that this is a critical issue for the state. In response to his questions, Ms. Olds said that she will provide information

regarding state funding for FY 2018 and FY 2019. She will ask the co-chairs of the Education Assessment and Accountability Review Subcommittee whether they will allow allocation of staff time to determine the optimal cost to provide full-day preschool for 4-year olds. She said that in the past KDE may have done projections of costs. Mr. Buchanan said that he thought the appropriation was \$84.5 million for each upcoming fiscal year.

In response to questions by Representative Bechler, Ms. Olds said responses to a question on the OEA survey addressed the question of why enrollment has not increased. Respondents mentioned parents not wanting to send their children to school before kindergarten (126 districts); children who were eligible were enrolling in Head Start (118); children were attending private preschools, YMCA programs, and nonpublic schools (101); some children were enrolled in child care assistance programs (68); full-day preschool was not being offered in the district (64); and transportation (26). She said that districts spending twice as much as the state funding they receive is not related to the perception that districts are serving more students than they actually are. Districts mostly did a great job completing surveys. Financial reports were not used because many districts were miscoding data. Special education is an area for which funds were likely understated. Dr. Liguori said there was follow-up between OEA and districts to clarify questionable survey responses. Ms. Olds clarified that breakfast or (not “and”) lunch is to be provided. She will confirm that there should be no cost for the two districts that contract out with the Head Start program if no students enroll. She said LEP students are children whose first language is not English, not just immigrants. Many districts have not completed the annual preschool evaluations required by law. P2R reports were used when districts did not provide an annual report. Mr. Buchanan said the evaluations are done over 5 years and require surveys of parents and staff, participation rates, and tracking the success of preschool students as they progress through the primary program. Ms. Olds will provide a list of districts that have not complied with statute and completed the annual preschool evaluation.

In response to questions from Senator Thomas, Dr. Liguori said the report focused on the kindergarten readiness screener, not the rate of increase for kindergarten readiness. Ms. Olds said the report focused on children who went to preschool exclusively and compared those with other cohorts for kindergarten readiness. KPREP was not taken into account. The report has information on kindergarten readiness broken down by group. She will provide copies of the extra slides prepared for the presentation.

In response to a question from Senator Carroll, Dr. Liguori agreed that private child care facilities have higher kindergarten readiness scores. Ms. Olds added that the majority of children in private child care facilities come from relatively higher income families and preschool is meant for children who qualify for free or reduced priced lunch.

In response to a question from Representative Koenig, Ms. Olds said KDE has been more aggressive in enforcing districts to comply with requirements. Mr. Buchanan said the state participates in Kentucky All STARS, a rating and improvement program that is supported with federal funds. This creates an incentive for districts to improve reporting to participate in the system and achieve higher STAR levels. Mr. Buchanan said that he is unaware of negative consequences for not meeting reporting requirements. Representative Koenig said that there should be consequences.

Senator Carroll said the major takeaway from this presentation is the need for KDE officials to appear at a future committee meeting to explain why data are not being properly collected and statutes are not being properly enforced. Many good things are happening in early childhood education, which is the key to success.

Representative Rothenburger said the cost of public preschool seems high. In response to his question about the cost of private preschool, Ms. Olds said private facilities charge different amounts per child; she estimated the average cost as \$100 per child per week. Senator Carroll said infants are charged higher rates, but average rates are \$25 to \$30 per child per day. Ms. Olds said daycares are not required to have certified teachers. Senator Carroll said there is a push to get child development associates in private preschools and that there are ways to get quality results without having certified teachers.

Representative Bechler said recalibrating the Brigance Screen artificially raises Kentucky's results. If the screener is not correct, Kentucky should not be using it. He said that he is disappointed that KDE has not been following up regarding the statutory reporting requirements that are not being met. Senator Carroll said that the new education commissioner is adamant about improving all levels of education in the state.

#### **Presentation of staff report 2017 Update On The Child Fatality And Near Fatality External Review Panel**

Ms. Kennedy said that statute requires that the committee annually report on the operations, procedures, and recommendations of the Child Fatality and Near Fatality External Review Panel. The panel conducts comprehensive reviews of child fatalities and near fatalities suspected to be a result of abuse or neglect. By statute, the

panel is attached to the Justice and Public Safety Cabinet for staff and administrative purposes. A 2014 memorandum of understanding between the cabinet and the panel affirms the panel's independence.

In 2017, the panel reviewed 150 cases from FY 2016, nearly all referred to the panel by the Department for Community Based Services (DCBS).

For 2017, the panel was in compliance with all but two statutory requirements. First, the annual report was published on December 8 rather than December 1. Second, the term of the addiction specialist panel member ended June 2017. The statutory appointment procedure is that a practicing addiction counselor be selected by the attorney general from a list of three names provided by the Kentucky Association of Addiction Professionals. Attempts to contact the association for nominations were unsuccessful, so this panel position remains vacant. The Program Review report recommends that the General Assembly may wish to specify a procedure for filling the vacancy of a voting member when it cannot be filled in the same manner as the original appointment.

The panel met the other five statutory provisions. It met more frequently than required in statute. Panel members met attendance requirements. The panel posted updates after each meeting to the Justice and Public Safety Cabinet's website. The panel met its requirement to report a summary of its discussions to two interim joint committees. The panel met the requirement for destruction of records; its 5-year retention schedule mirrors the practice of other Kentucky agencies that track similar data.

In FY 2017, staff were one full-time staff attorney and one part-time executive advisor, both paid from the panel's budget, and an intern during the spring semester. Beginning FY 2018, staff were one full-time executive staff advisor, paid from the panel's budget. The responsibilities of a part-time assistant are being revised before the position is filled.

The panel also uses part-time case analysts who review all case records and prepare summaries. Three are forensic medical case analysts provided through a contract with the University of Louisville. Two are social work case analysts with whom the panel contracts directly as personal service contractors. All contracts are paid through the cabinet's baseline funding.

The panel receives its funding through the Justice and Public Safety Cabinet's general fund baseline budget. The panel requested \$420,000 for FY 2017 and expended \$274,536. Of this, nearly 80 percent was for compensation for panel staff and the case analysts. The second largest expenditure, nearly \$41,000, was to the Commonwealth Office of Technology for the

development of a data tool.

A web-based, confidential data tool on a SharePoint platform allows panel members to access case records and other information and facilitates data analysis over a period of years. In 2016, and 2017, the panel instituted an expedited case review process. This enabled them to enter complete data for FY 2016.

The panel's 2016 annual report contained nine recommendations, three of which were implemented, including one through action of the General Assembly. KRS 199.466 now allows a parent or legal guardian to obtain a background check of a potential caregiver using the child abuse and neglect registry maintained by the Cabinet for Health and Family Services.

Judge Crittenden said the panel was created by executive order in 2012 and mandated by statute in 2013. The annual report was 8 days late, but the panel wanted to get it done right. Since the panel does not have a member from the Kentucky Association of Addiction Counselors. Mr. Shannon will provide names of addiction counselors who, consistent with statute, can be designated as an expert to aid the panel.

The panel reviewed 150 cases. Of these, 59 resulted in fatalities, of which 53 percent were child victims under the age of 1. Sixty-five percent of head trauma cases had a caregiver with a prior criminal history. Forty-one percent of cases had a substitute caregiver at the time. The panel has seen an increase in neglect due to unsafe access to deadly means, primarily ingestion cases related to the opioid crises and unsafe weapons. Eighty-five percent of the cases reviewed had a prior history with DCBS. The panel contracts with universities and social workers to avoid creating a bureaucracy. Panel members are full-time experts in their fields.

In response to questions from Senator Carroll, Judge Crittenden said the General Assembly has started to address some of the pressing needs for addressing child fatalities and near fatalities. Increasing the number of social workers and their pay is always a need. A return to payments for Kinship Care is needed as a result of the opioid crisis and the number of children going into foster care. To aid in prevention, every death of a child should be treated by law enforcement as a death investigation.

Senator Carroll said early on in his career he had an infant death case and supports the recommendation regarding infant death cases. Judge Crittenden said the panel is involved with law enforcement training related to this at Eastern Kentucky University.

In response to a question from Representative Bechler, Judge Crittenden said there is no staff attorney for the panel for FY 2018. The panel has access to the attorneys in the Justice and Public Safety Cabinet to advise on open records and

open meetings requirements.

Upon motion by Representative Simpson and second by Representative Rothenburger, the report was adopted by roll call vote.

Senator Carroll said the goal is to expand the role of this committee to bring transparency to whatever agency or part of government that is being reviewed. This committee has an investigative function and is important in the process of checks and balances within state government.

The meeting adjourned at 11:51 PM.

## **GOVERNMENT CONTRACT REVIEW COMMITTEE**

### **Committee Minutes**

August 14, 2018

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

The Government Contract Review Committee met on Tuesday, August 14, 2018, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Stan Lee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; Senators Julie Raque Adams and Paul Hornback; Representatives Chris Fugate, Al Gentry, and Mark Hart.

Guests: Stephanie Craycraft, Jennifer Moore, Mark Guilfoil, Shawn Chapman, Mary Scollay, Melissa Weitzel, Jeremy Slinker, Jimmy Young, Edna Shack, Jane Fitzpatrick, Beth Ward, Jordan Smith, LeAnn Straley, Mike Sunseri, David Brinkley, Jennifer Smith, Tom Stratton, and Lona Brewer.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

#### **DEFERRED ITEM:**

#### **KENTUCKY TEACHERS RETIREMENT SYSTEM**

Williams and Jenson, PLLC, 0007. A motion was made by Representative Fugate to defer the contract to the September 2018 meeting. Senator Meredith seconded the motion, which passed.

#### **JULY DEFERRED ITEMS:**

#### **DEPARTMENT OF JUVENILE JUSTICE**

American Correctional Association, 1900001495. A motion was made by Senator Raque Adams to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.



KENTUCKY COMMUNITY &  
TECHNICAL COLLEGE SYSTEM

Drone Airspace Management, 765. A motion was made by Senator Raque Adams to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

KENTUCKY EMPLOYERS MUTUAL  
INSURANCE

Pinehurst Strategic Solutions, LLC, 19-PSA-001. A motion was made by Senator Raque Adams to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

A motion was made by Representative Fugate to approve Minutes of the July 2018, meeting of the committee. Senator Meredith seconded the motion, which passed without objection.

A motion was made by Senator Raque Adams to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator Meredith seconded the motion, which passed without objection.

A motion was made by Senator Raque Adams to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator Meredith seconded the motion, which passed without objection.

A motion was made by Senator Raque Adams to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Senator Meredith seconded the motion, which passed without objection.

A motion was made by Senator Raque Adams to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator Meredith seconded the motion, which passed without objection.

A motion was made by Senator Raque Adams to consider as reviewed the Film Tax Incentive List, with exception of those items selected for further review by members of the committee. Senator Meredith seconded the motion, which passed without objection.

A motion was made by Senator Raque Adams to consider as reviewed the Correction List. Senator Meredith seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL  
SERVICE CONTRACTS WERE REVIEWED  
WITHOUT OBJECTION:

AUDITOR OF PUBLIC ACCOUNTS  
MCM CPA's & Advisors, LLP, 1900001828.

BOARD OF EXAMINERS OF  
PSYCHOLOGISTS  
Multi, 1900000893.

DEPARTMENT FOR INCOME SUPPORT  
First Data Government Solutions, LP, 1900001877; Jose T. Lorenzo, 1900002004; Lea J. Perritt PhD, 1900002064.

DEPARTMENT FOR PUBLIC  
ADVOCACY  
Erwin Wayne Lewis, 1900001242; Robert Walker, 1900001980.

DEPARTMENT FOR PUBLIC HEALTH  
Stephen Gobel DDS of Bionsights Consulting, 1900000406.

DEPARTMENT FOR WORKFORCE  
INVESTMENT  
Chua Corazon, 1800002206.

DEPARTMENT OF MILITARY AFFAIRS  
Dr. Abdul Kader Dahhan, MD PSC, 1900002172; Otis Edward Bailey, 1900002295.

DEPARTMENT OF VETERANS AFFAIRS  
Symphony Diagnostics Services No1, LLC, 1900001805; Dietary Consultants, Inc., 1900001818; Astra Behavioral Health, LLC, 1900001833; 360care, LLC, 1900001852; Norton Medical Industries, 1900002165; Multi, 1900002167; Multi, 1900002168.

EDUCATION PROFESSIONAL  
STANDARDS BOARD  
Eve Proffitt, 1900000294; Cathy A Jackson, 1900000296; Constance M. Evans, 1900000332.

FACILITIES & SUPPORT SERVICES  
Brown and Kubican, PSC, 1900002293.

FINANCE - OFFICE OF THE SECRETARY  
Vanantwerp Attorneys, LLP, 1900002257.

JUDICIAL FORM RETIREMENT SYSTEM  
MCM CPAS & Advisors, LLP, 1900002276; Findley, Inc., 1900002348; Findley, Inc., 1900002350.

JUVENILE JUSTICE, DEPARTMENT OF  
Deborah Lynn Thompson, 1900001577.

KENTUCKY EMPLOYERS MUTUAL  
INSURANCE  
Gallagher Benefit Services, 19-GBS-001; Overland Solutions, Inc., 19-OSI-001; Paradigm Management Services, LLC, 19-PMS-001.

KENTUCKY HIGHER EDUCATION  
STUDENT LOAN CORPORATION  
BLX Group, LLC, 19-006.

KENTUCKY RETIREMENT SYSTEMS  
Reinhart Boerner Vandeuren SS, 1900000998; Donald Merz, 1900001736; Seiller Waterman, LLC, 1900001908; Phillips Parker Orberon & Arnett, 1900001911; Zielke Law Firm, PLLC, 1900001914; Dressman Benzinger Lavelle, PSC, 1900001916.

KENTUCKY STATE POLICE  
Powerphone, Inc., 1900002163; Michael Hatler, 1900002236.

KY COMMUNITY TECHNICAL  
COLLEGE SYSTEM  
R&R Consulting CNC, LLC, 764.

KY TEACHERS RETIREMENT SYSTEM  
Blue and Company, LLC, 0004; Ice Miller, LLP, 0005; Reed Weitkamp Schell and Vice, PLLC, 0006.

MOREHEAD STATE UNIVERSITY  
MML&K Government Solutions, 19-018.

MURRAY STATE UNIVERSITY  
Collegiate Enterprise Solutions, LLC d/b/a The Registry for College and University Presidents, 012-19.

NORTHERN KENTUCKY UNIVERSITY  
Stantec Consulting, 2019-116; Cammack Retirement Group, Inc., 2019-120; BKD, LLP, 2019-121.

OFFICE OF HOMELAND SECURITY  
Black & Veatch Corporation, 1900001823.

PERSONNEL BOARD  
Colleen B. Beach, 1800002333; The Law Office of Kim Hunt Price, PLLC, 1800002334; E. Patrick Moores, 1800002335; Hanson Williams, 1800002336; Stephen T. McMurtry, 1800002337; John C. Ryan, Jr., 1800002338; Geoffrey B. Greenawalt, 1800002339; Merkel PSC, Roland P., 1800002340; Allen Law Office, 1800002341; Darren L. Embry, 1800002342.

POST SECONDARY EDUCATION,  
COUNCIL ON  
Dianne M. Bazell, 1900001756.

STATE POLICE, DEPARTMENT OF  
Kelley Farris, 1900001676; James Goble, 1900001678; Roy Pace, Jr., 1900001689; Donald L. Perry, 1900001690; Harry J. Sowders, 1900001696; Anthony Gatson, 1900001706; Ronnie R. Reynolds, 1900001712; Martin Wesley, 1900001714; David R. James, 1900002080; Chris Collins, 1900002081; Jim T. Whitaker III, 1900002082.

TRANSPORTATION - OFFICE OF THE SECRETARY

Agile Assets, Inc., 1900001889.

TRANSPORTATION CABINET

DLZ Kentucky, Inc., 1900002085; HDR Engineering, Inc., 1900002088; S&Me, Inc., 1900002090; Horn and Associates, Inc., 1900002123; Stantec Consulting Services, Inc., 1900002126; Geotechnology, Inc., 1900002129; HDR Engineering, Inc., 1900002132; Palmer Engineering Company, 1900002137; J.M. Crawford & Associates, Inc., 1900002142; Haworth Meyer Boleyn, Inc., 1900002147; Lee Engineering, LLC, 1900002149; Linebach Funkhouser, Inc., 1900002151.

UNIVERSITY OF KENTUCKY

Champlin Architecture, A191070; JRA Architects, A191080; Benson Law Offices, K19-196; The Sanchez Law Firm, PC, K19-197; CorVel Enterprise Comp, Inc., K19-198; Whitecap Health Advisors, LLC, K19-199; Academic Leadership Associates, LLC, K19-200; Rood & Riddle Equine Hospital, K19-201; Commonwealth Anesthesia, PSC, K19-202; Davis Moore Capital, LLC, K19-203.

UNIVERSITY OF LOUISVILLE

Wyatt Tarrant & Combs, 19-037.

WESTERN KENTUCKY UNIVERSITY

The Scorer's Table, 181907; Contemporary Services Corporation, 181910; Management One, LTD, 181914; Houchens Insurance Group, Inc., 182021.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR LOCAL GOVERNMENT

The Appalachian Wildlife Foundation, Inc., 180000167.

DEPARTMENT OF HIGHWAYS

GRW Engineers, Inc., 0600002125; QK4, 1000000927; GRW Engineers, Inc., 1200002609; J. M. Crawford & Associates, Inc., 1300001011; Burgess & Niple, Inc., 1300002497; Palmer Engineering County, 1400000343; HDR Engineering, Inc., 1400000344; ICA Engineering, Inc. f/k/a Florence & Hutcheson, Inc., 1400001576; Municipal Engineering Company, 1400002217; Strand Associates, Inc., 1500000240; Integrated Engineering, 1600000436; Corradino Group, 1600003836; Stantec Consulting Services, Inc., 1700000621; Allgeier Company, 1700001158; Harold Brantley, 1700001161; Rick O. Baumgardner, 1700001162;

Matt Chapman, 1700001164; Integra Realty Resources Kentucky-Southern Indiana, 1700001165; Charles Joseph Bird, 1700001166; J. Michael Jones, 1700001168; Matt Chapman, 1700001170; Bluegrass Valuation Group, LLC, 1700001171; Edward L. Beck, 1700001172; Rick O. Baumgardner, 1700001173; J. Michael Jones, 1700001174; The Raleigh Company, 1700001175; Appco Appraisal Service, Inc., 1700001176; John Daniel Lyons, 1700001177; Bluegrass Valuation Group, LLC, 1700001182; Charles Joseph Bird, 1700001183; Appco Appraisal Service, Inc., 1700001184; Tammy L. Barnes, 1700001185; Keaton Real Estate Services, LLC, 1700001186; Thoroughbred Real Estate Services, LLC, 1700001187; Kentucky Field Service Realty, 1700001189; John Daniel Lyons, 1700001191; Aecom Technical Services, Inc., 1700001318; Michael Baker International, Inc., 1700001321; Bacon Farmer Workman Engineering & Testing, Inc., 1800000283; DLZ Kentucky, Inc., 1800000312; Michael Baker International, Inc., 1800001479; Stantec Consulting Services, Inc., 1800001566.

FACILITIES & SUPPORT SERVICES

URS Corporation, 1100000073; Omni Architects, 1400000794; Clotfelter Samokar, PSC, 1500000669; Staggs and Fisher Consulting Engineers, Inc., 1700002742; GRW Engineers, Inc., 1800000445; Omni Architects, 1800000919.

UNIVERSITY OF KENTUCKY

Stengel Hill Architecture, A151110; CMTA, Inc., A181110.

WESTERN KENTUCKY UNIVERSITY

Multi, 182014.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

BOARD OF ALCOHOL AND DRUG ABUSE COUNSELORS

Department for Professional Licensing, 1900002124.

BOARD OF CERTIFICATION FOR MARRIAGE AND FAMILY THERAPISTS

Department for Professional Licensing, 1900002135.

BOARD OF EXAMINERS OF PSYCHOLOGISTS

Department for Professional Licensing, 1900002120.

BOARD OF LICENSED DIABETES EDUCATORS

Department for Professional Licensing,

1900002069.

BOARD OF LICENSURE FOR NURSING HOME ADMINISTRATORS

Department for Professional Licensing, 1900002133.

BOARD OF OCCUPATIONAL THERAPY  
Department for Professional Licensing, 1900002138.

BOARD OF PROSTHETICS, ORTHOTICS AND PEDORTHICS

Department for Professional Licensing, 1900002150.

BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY

Department for Professional Licensing, 1900002127.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 1900000410.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Department of Workforce Investment, 1800001633; Big Sandy Area Development District, 1900002232.

DEPARTMENT FOR ENERGY DEVELOPMENT AND INDEPENDENCE

University of Kentucky Research Foundation, 1900001786.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

University of Kentucky Research Foundation, 1900001744.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Jefferson County Board of Education, 1900001735; Multi, 1900002169; Unlawful Narcotics Investigations Treatment and Education, 1900002206; Ohio Valley Educational Cooperative, 1900002225; Kentucky Coalition Against Domestic Violence, Inc., 1900002226.

DEPARTMENT FOR LOCAL GOVERNMENT

City of Irvington, 1900001748; City of Silver Grove, 1900001772; City of Campbellsville, 1900002194; City of Newport, 1900002262; University of Kentucky Research Foundation, 1900002297; Ohio County Fiscal Court, 1900002298; Webster County Fiscal Court, 1900002308; Webster County Fiscal Court, 1900002317.

DEPARTMENT FOR NATURAL RESOURCES

University of Kentucky Research



Foundation, 1900000765; Kentucky KYTC Capital City Airport, 1900001053; Southeast Kentucky Community and Technical College, 1900001997; Hazard Community and Technical College, 1900002005.

DEPARTMENT FOR WORKFORCE INVESTMENT

Jefferson County Board of Education, 1900000717; Multi, 1900001383; Multi, 1900001452; Multi, 1900001522.

DEPARTMENT OF CORRECTIONS

Breckinridge County, 1900000379; Hardin County, 1900000413; Hardin County, 1900000419; Henderson County, 1900000424; Lexington Fayette Urban County Government, 1900000511; Lifeskills, Inc., 1900000625; Northern Kentucky Regional Mental Health Mental Retardation Board, 1900000635; Green River Regional MH & MR Board, Inc., 1900000642; Lake Cumberland Mental Health Mental Retardation Board, 1900000644; Chrysalis House, Inc., 1900001106.

DEPARTMENT OF EDUCATION

LottsCreekCommunitySchool, 1900000605; Kentucky Community and Technical College System, 1900000742; Bullitt County Board of Education, 1900000783; Save the Children Federation, Inc., 1900000833; Boone County Board of Education, 1900000879; Garrard County Board of Education, 1900001112; Warren County Board of Education, 1900001204; University of Wisconsin, 1900001363; Scott County Board of Education, 1900001427; Jefferson County Board of Education, 1900001441; Anderson County Board of Education, 1900001470; Floyd County Board of Education, 1900001473; Harlan County Board of Education, 1900001475; Owensboro Independent School District, 1900001487; Jefferson County Board of Education, 1900001488; Owensboro Independent School District, 1900001492; Kenton County Board of Education, 1900001500; University of Kentucky Research Foundation, 1900001506; Bullitt County Board of Education, 1900001517; Jefferson County Board of Education, 1900001554; Johnson County Board of Education, 1900001560; Heuser Hearing & Language Academy, Inc., 1900001584; Lexington Hearing and Speech Center, 1900001598; Visually Impaired Preschool Services, Inc., 1900001601; Powell County Board of Education, 1900001608; Simpson County Board of Education, 1900001610; Advance Education, Inc., 1900001739; University of Kentucky Research Foundation, 1900001741; Russell Independent School District, 1900001850; The National Center for the Improvement of Education Assessment, Inc., 1900001887; The Center for Education Leadership,

1900001943; Eastern Kentucky University, 1900001956; Ashland Board of Education, 1900001975; Calloway County Board of Education, 1900001977; University of Kentucky, 1900001995; University of Kentucky Research Foundation, 1900002026; Eastern Kentucky University, 1900002027; Indiana University, 1900002028; Kentucky Chamber Foundation, Inc., 1900002176; Fayette County Board of Education, 1900002184; Western Kentucky University Research Foundation, 1900002190; Eminence Independent Board of Education, 1900002204; Jessamine County Board of Education, 1900002209; Letcher County Board of Education, 1900002210; Newport Independent School District, 1900002211; Pike County Board of Education, 1900002212; Webster County Board of Education, 1900002213; Whitley County Board of Education, 1900002214; YMCA of Greater Cincinnati, 1900002215; Lyon County Board of Education, 1900002238; Burgin Board of Education, 1900002250; Crittenden County Board of Education, 1900002261; Fayette County Board of Education, 1900002280; Kentucky Educational Development Corporation, 1900002313; Ashland Board of Education, 1900002338.

DEPARTMENT OF JUVENILE JUSTICE

Clark County Board of Education, 1900001083; Hopkins County Board of Education, 1900001086; Pike County Board of Education, 1900001093.

EDUCATION, DEPARTMENT OF

Bullitt County Board of Education, 1900001730; Kentucky School Boards Association, 1900001878; Murray State University, 1900001882; Newport Independent School District, 1900001891; Jefferson County Board of Education, 1900001893; Jefferson County Board of Education, 1900001894.

JUSTICE - OFFICE OF THE SECRETARY  
Access To Justice Found, 1900001723.

KY BOARD OF LICENSURE FOR PRIVATE INVESTIGATORS

Department for Professional Licensing, 1900002131.

KY BRD OF LICENSURE FOR MASSAGE THERAPY

Department for Professional Licensing, 1900002125.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS

Louisville Jefferson Metro Government,

1800002156.

DEPARTMENT OF AGRICULTURE  
Multi, 1700001659; Multi, 1700001857.

DEPARTMENT OF EDUCATION

Anderson County Board of Education, 1900000710; Lincoln County Board of Education, 1900000826; Oldham County Board of Education, 1900001022; Clay County Board of Education, 1900001131; Spencer County Board of Education, 1900001133; Green County Board of Education, 1900001262; Northern Kentucky University, 1900001520; Wayne County Board of Education, 1900001729.

KY INFRASTRUCTURE AUTHORITY

Clay County Fiscal Court, 1600000243; Knox County Utility District, 1600000246; City of Providence, 1600001250; City of Campton, 1700001554; City of White Plains, 1800000970.

THE FOLLOWING FILM TAX INCENTIVES WERE REVIEWED WITHOUT OBJECTION:

TOURISM DEVELOPMENT CABINET  
Gunfighter Productions, LLC, 1900002179.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

M.S.M. Solutions, LLC, 1900002181. Stephanie Craycraft and Jennifer Moore discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

DEPARTMENT FOR MEDICAID SERVICES

Myers and Stauffer, LLC, 1900002320. A motion was made by Senator Meredith to defer the contract to the September 2018 meeting. Representative Fugate seconded the motion, which passed.

EASTERN KENTUCKY UNIVERSITY

PWM Insurance, A Division of J. Smith Lanier & Co., 20-110. A motion was made by Senator Meredith to defer the contract to the September 2018 meeting. Senator Raque Adams seconded the motion, which passed.

HORSE RACING COMMISSION

The Industrial Laboratories Company, Inc.,

1800002280. Mark Guilfoil, Shawn Chapman, and Mary Scollay discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Raque Adams seconded the motion, which passed with Senator Meredith voting no.

#### KENTUCKY STATE POLICE

Right Brother Aviation, LLC, 1900001868. Melissa Weitzel, Jeremy Slinker, and Jimmy Young discussed the contract with the committee. A motion was made by Representative Fugate to consider the contract as reviewed. Representative Hart seconded the motion, which passed with Senator Hornback voting no.

#### MOREHEAD STATE UNIVERSITY

Metis Associates, Inc., 19-015. Edna Shack and Jane Fitzpatrick discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

#### MURRAY STATE UNIVERSITY

Ruffalo Noel Levitz, LLC, 011-19. Beth Ward and Jordan Smith discussed the contract with the committee. A motion was made by Senator Meredith to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

#### OFFICE OF HOMELAND SECURITY

Goldberg Simpson, LLC, 1900002156. Mike Sunseri and LeAnn Straley discussed the contract with the committee. A motion was made by Representative Gentry to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

#### WESTERN KENTUCKY UNIVERSITY

Stokes Production Services, Inc., 181912; Kerrick Backert Law Firm, 181917. David Brinkley and Jennifer Smith discussed the contract with the committee. A motion was made by Senator Raque Adams to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

#### THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

##### CHFS - OFFICE OF THE SECRETARY

Office of Procurement Services, 1900002195. Tom Stratton discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

#### DEPARTMENT FOR ENERGY DEVELOPMENT AND INDEPENDENCE

Cedar West, Inc., 1900002290; Cedar, Inc., 1900002296; National Energy Education Development Project, 1900002304. Lona Brewer discussed the contracts with the committee. A motion was made by Representative Fugate to consider the contracts as reviewed. Representative Lee seconded the motion, which passed with Senator Raque Adams, Senator Hornback, Representative Gentry, and Senator Meredith voting no. A motion was made by Senator Meredith to disapprove the contracts. Senator Hornback seconded the motion which failed, with Representative Fugate, Representative Lee, and Representative Hart voting no.

#### 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 Hart to grant the request to September 30, 2021. Senator Meredith seconded the motion, which passed.

There being no further business, the meeting adjourned at 11:51 AM.

### **CAPITAL PLANNING ADVISORY BOARD**

#### **Minutes of the 1st Meeting of the 2018 Calendar**

August 21, 2018

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

The 1st meeting of the Capital Planning Advisory Board was held on Tuesday, August 21, 2018, at 10:00 AM, in Room 169 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; Charles Byers, Carole Henderson, John Hodgson, William M. Landrum, and Katie Shepherd.

Guests: Phillip K. Brown, Executive Director, and Steve Murphy, Chief Financial Officer, Kentucky Communications Network Authority.

LRC Staff: Shawn Bowen, Julia Wang, and Jennifer Luttrell.

##### **Approval of Minutes**

A motion to approve the minutes of the October 17, 2017 meeting was made by Mr. Landrum, seconded by Senator Humphries, and

approved by voice vote.

#### **Introduction of New Member**

Representative Elliott introduced Mr. John Hodgson from Fisherville. Mr. Hodgson was appointed by Governor Bevin on August 8, 2018, as a member at large. He is replacing Jane Driskell.

#### **Information Items**

Ms. Bowen updated the members on the two information items included in the members' packets. The first item was an update on the executive and judicial branch budgets, and the Transportation Cabinet budget.

The executive budget authorized a \$6 million bond-funded maintenance pool for the Kentucky State Fair Board and included 23 capital projects selected by members during the last planning period as high priority for funding. The executive budget also authorized two of the largest capital projects submitted last year – the Department of Revenue Integrated Tax System project, and the Kentucky State Police 2-Way Radio System Replacement project.

The second information item included legislation enacted during this last session related to the board. Senate Bill 86, sponsored by Senator Humphries, increased the threshold for capital construction and IT projects from \$600,000 to \$1 million for executive branch agencies. The new thresholds now match the current ones for postsecondary institutions.

#### **KentuckyWired Presentation**

Representative Elliott asked Phillip Brown, Executive Director, Kentucky Communications Network Authority (KCNA), to update members on the progress of the KentuckyWired project. KentuckyWired is an open-access broadband network that will, upon completion, consist of more than 3,000 miles of fiber infrastructure referred to as the "middle mile." Construction started in 2015 in Eastern Kentucky, and work in this part of the state should be complete by fall 2018; concurrent construction will begin in other parts of the state with full completion of the network by 2020. To date, approximately 800 miles of fiber infrastructure has been laid, and \$240 million has been spent.

Mr. Brown said the KentuckyWired project was designed in a manner that includes an excessive amount of risk to the state. The project has an aggressive schedule for completion, and problems are due to the project contract that was executed in fall 2015. Six third-party infrastructure partners will help build the network - Cincinnati Bell, Bluegrass Network, Eastern Kentucky Network, Brandenburg Telecom, Owensboro Municipal Utilities and MuniNet. By utilizing companies that already have infrastructure in place, the state will save money, avoid overbuilding existing broadband infrastructure and, in most cases, meet the



original project schedule.

The total project financing is \$365,202,000, of which \$30,000,000 is state funding (general fund bonds), \$23,500,000 is federal, and \$311,702,000 is private. Federal funds will be available when a certain amount of the project is finished. The \$311,702,000 private funds are conduit bonds issued through a series of three bonds issues. Mr. Brown said in an effort to reduce construction costs, more than 1,000 K-12 education system sites were dropped from the network's original scope of work. The state must confront the challenge of reincorporating these sites into the network, or else accept a project revenue deficit for the foreseeable future that will require supplemental funding for KentuckyWired to make its availability payments required by contract.

Mr. Brown explained that availability payments are a performance-based mechanism commonly used in public-private partnership (P3) financing structures. These payments represent the sum of a project's expense components, adjusted for annual escalation, and subject to upward or downward adjustments for changes, and in the case of the KentuckyWired project, outages. Availability payments that support the KentuckyWired project are subject to annual appropriation by the Kentucky General Assembly. Availability payments are intended to cover all construction project costs, as well as service provider costs, bond repayment costs and financing costs. Over the 30-year period, these payments will cover over \$1.1 billion of the project costs.

Mr. Brown explained that supervening events are unforeseen delays that cause project complications and impact project schedules. Kentucky assumed most of the project risk in the agreement, and to date, there have been 228 supervening events claimed. In 2015, KCNA negotiated a settlement with companies that would resolve 207 supervening events that occurred through January 1, 2018. The settlement will provide the builder with the scheduled relief they are due under their contract, remove the risk of litigation and project collapse, and implement contract changes to minimize the risk of future supervening events. The total amount of the settlement is \$88 million. [Senate Bill 200, passed by the 2018 General Assembly, authorizes KCNA to incur debt up to \$110 million. KCNA will borrow \$88 million to fund the cost of 207 supervening events, and the remaining \$22 million will serve as project contingency.]

Several counties have entered into third-party agreements to assist with construction of the project. In response to a question from Representative Elliott, Mr. Brown said in counties where KCNA does not have a third-party agreement with a provider, either the

existing broadband provider in the area was not interested, or the construction cost estimates submitted by providers were too high.

In response to a question from Representative Elliott, Mr. Brown said fiber optic ring 2 encompasses counties in Eastern Kentucky and should be complete no later than July 2020. For purposes of this project, the state is divided into six sections known as fiber optic rings.

In response to a question from Representative Johnson, Mr. Brown said the project will pay for itself in two ways. The money Kentucky currently pays broadband providers for service will be used to make the availability payments required to cover the cost of the bonds. The anticipated revenues from the system, initially estimated to be \$28.5 million from all state agencies, will be applied towards the availability payments. Additionally, the state will have an extra 50 percent capacity to lease to the private sector. Mr. Brown noted that the \$28.5 million assumption included K-12 education would be part of the network, but because K-12 is not envisioned to be part of the system, there is a challenge in that the system revenue that was relied on when the project was put together does not exist today.

In response to additional questions from Representative Johnson, Mr. Brown said they have planned for and projected inflation in terms of the availability payments schedule. At the start of the project, \$28.5 million annually for 30 years was projected, however, they knew internally the cost of inflation would cause those payments to rise annually.

Representative Johnson asked if there are other sources of funding available besides state funds. Mr. Brown responded that there are no other potential sources of funding available for the project. The state has given KCNA bonding authority during this last legislative session in Senate Bill 200 for up to \$110 million; \$88 million will cover the cost of the supervening events settlement, and the remaining \$22 million will provide for a contingency fund.

In response to additional questions from Representative Johnson, Mr. Brown said there is private sector interest in the project and demand for service from "last mile" providers. Over the last two years, there have been significant inquiries from providers about the network and when it will be operational. He said the cable being utilized is durable, and they are not concerned about capacity and obsolescence.

In response to a question from Representative Johnson, Mr. Brown said the \$365 million project cost includes construction costs and financial costs. The total cost of availability payments over the life of the 30-year project is \$1.1 billion. Included in the cost of the availability payments is the cost for a service provider to ensure the network can be fixed if

it breaks down. The service provider is Leducor Group, and the contract cost is \$250 million. The Leducor contract has a term of ten years, with two ten-year renewal options. Also included within the \$1.1 billion figure are bond payments, and the ongoing cost of capital, labor, and materials.

In response to another question from Representative Johnson, Mr. Brown said it is impossible to project additional future costs or to say there may not be any additional supervening events.

Representative Johnson asked how the bonds will be repaid. Steve Murphy, Chief Financial Officer, said the bonds will be paid in two stages. The initial bond issue funded a portion of the bond payments, this is known as capitalized interest, wherein part of the \$365 million paid the interest on the bonds during the construction period. Once availability payments start, those payments will cover the debt that is secured by the project fund. The project fund has three sources of revenue: the initial bond proceeds, the interest earned on balances and future availability payments. The availability payments began in 2016 as sites came on.

In response to questions from Senator Westerfield, Mr. Brown said KCNA executed a project agreement with the KentuckyWired Infrastructure Company (KWIC). KWIC is the non-profit established by the state to serve as the conduit issuer for the bonds. The company has an ex-officio board of directors and technically has the responsibility to build the network, however, KWIC passed its responsibilities to the KentuckyWired Operations Company via a project implementation agreement. The KentuckyWired Operations Company, comprised of private partners, is responsible for project obligations, project management, and project financing. The partners include Macquarie Capital, Leducor Group, and First Solutions. Macquarie Capital will serve as the lead developer.

Senator Westerfield commented that the project was originally designed to provide service in underserved areas such as Eastern and Western Kentucky. Rather than focusing on the urban areas, he said the project should focus on those underserved areas first.

In reference to a chart provided to members, Senator Westerfield noted that the KentuckyWired Operations Company has spent about \$6.5 million. He asked for further clarification of the amount spent. Mr. Brown said this figure represents the total amount KentuckyWired Operations Company has spent since its inception. The company has a budget of approximately \$1.1 million annually, which represents costs for expenses such as salaries and insurance, among other things.

Representative Elliott asked if the state will

have to provide additional funding to complete the project. Mr. Brown said the project has a fixed price contract and the subcontractor must build the network at the price they bid. He said they cannot project the future cost of direct loss claims, and the most important thing they can do to avoid the need for future funding is to complete the project.

#### **Other Business**

Representative Elliott announced that the next meeting is tentatively scheduled for September 18 at 10 a.m.

#### **Adjournment**

There being no further business, the meeting was adjourned at 10:58 a.m.

## **MEDICAID OVERSIGHT AND ADVISORY COMMITTEE**

### **Minutes**

August 15, 2018

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

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, August 15, 2018, at 1:30 PM, in Auditorium B at the Sullivan University College of Pharmacy and Health Sciences, Louisville, Kentucky. Representative Kimberly Poore Moser, Chair, called the meeting to order at 1:32 PM 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. and Joni L. Jenkins.

Guests: Adam Meier, Secretary, Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services; Jill Hunter, Commissioner, Stephanie Bates, Deputy Commissioner, John Inman, Chief of Staff, Pam Smith, RN, Lori Gresham, Clinical Program Manager Senior, Department for Medicaid Services, Cabinet for Health and Family Services; Cindy Stowe, Dean, College of Pharmacy and Health Sciences, Sullivan University; Erin Klarer, Vice President of Government Relations, Kentucky Higher Education Assistance Authority; Debra McAfee, Volunteer Advocate, National Multiple Sclerosis Society; Miriam Fordham, Legislative Fiscal Analyst, Legislative Research Commission; Terri Thomas, Harbor House of Louisville; Alice Blackwell, Assistant Director, Department for Behavioral Health, Developmental and Intellectual Disabilities; Emily Coons, Outpatient Social Worker, Case manager, Frazier Rehab Institute of Jewish Hospital & St. Mary's HealthCare; Dan Fisher, Partner, Health Care Practice Chair, Bingham Greenebaum Doll; Rebecca Barker, West Branch Manager, Division of Reentry Services, Kentucky Department of Corrections; Shawna Dellecave, Director,

Council on Developmental Disabilities; and Kelly Knoop, Kentucky Protection & Advocacy.

LRC Staff: DeeAnn Wenk, CSA, Dana Simmons, Gina Rigsby, and Becky Lancaster.

#### **Approval of Minutes**

A motion to approve the minutes from the July 18, 2018 meeting was made by Senator Alvarado, seconded by Senator Meredith, and approved by voice vote.

#### **Welcome to Sullivan University, College of Pharmacy and Health Sciences**

Cindy Stowe, Dean, College of Pharmacy and Health Sciences, Sullivan University, welcomed the committee members to the college. There are three educational programs at the college: pharmacy technician, PharmD, and physician assistant. Most students are from Kentucky. The college has a mission to help improve the health and wellbeing of Kentuckians and to be community leaders. The college works toward making sure that when students enter into a practice, they are productive members of the community and not just their chosen profession.

#### **Overview of Kentucky Medicaid**

#### **Presentation on Kentucky Medicaid Copayments**

Jill Hunter, Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS), stated that copayments have been a part of the Department's Managed Medicaid Program for several years. Copayment requirements have not changed for recipients enrolled in fee-for-service (FFS). Prior to July 2, 2018, the Medicaid contracted Managed Care Organizations (MCOs) were given discretion to determine their policy on copayment administration, resulting in some copayments being waived. MCOs were no longer permitted to waive copayments beginning July 2, 2018, in accordance with the administrative regulation that took effect that date. Due to Kentucky HEALTH being remanded to the United States Department for Health and Human Services (HHS), there was some confusion on copayment implementation by the MCOs.

Adam Meier, Secretary, Cabinet for Health and Family Services, stated that because there were a lot of internet technology (IT) system changes and the mandatory collection of copayments was going into effect at the same time, a lot of the IT changes were built in to the same release. Different MCOs chose to operationalize their IT releases differently and this had an impact when those MCOs had to delete certain items from the IT system. If Kentucky HEALTH had gone into effect, participants would not have been changed from the premium plan to the copayment plan for several months if they had not chosen the premium plan. Since the judgment in the lawsuit stopped Kentucky HEALTH from going into

effect, it expedited, by a couple of months, the number of people put into a copayment plan.

Commissioner Hunter stated that DMS has reinstated to MCOs the same discretion on copayment administration that they had prior to July 2, 2018. Prior to July, most MCOs waived some copayments. The same exemptions apply for copayments, and certain populations are still exempt from copayments. Prior to July, some MCOs administered a copayment for pharmacy benefits. Secretary Meier stated that the intent with the Medicaid expansion population was to apply the same administrative regulation that has been in effect for the fee-for-service population so it would be consistent. There should be in change on how an MCO collects copayments.

Commissioner Hunter stated that cost-sharing is a big part of health insurance, and this is an opportunity for recipients to have involvement in their health care. Copayments for generic drugs are cheaper than for non-preferred brand drugs.

In response to questions by Senator Meredith, Commissioner Hunter stated that copayments have always been a part of the Medicaid rate capitation. The Centers for Medicaid and Medicaid Services (CMS) requires that the cabinet have copayment consideration in the capitation payments that are given to the MCOs, so copayments are not necessarily a fiscal positive or a negative for Medicaid. Secretary Meier stated that the point of cost-sharing is to drive more responsible utilization whether it is copayments or premiums. The cabinet felt that the premium plan for Kentucky HEALTH would be easier to administer but it also would drive better utilization of preventive care, primary care, and specialty care. The MCOs contract with providers, so the reimbursement rates would be negotiated with providers. A provider would be reimbursed the negotiated amount less the copayment. Incentives in Kentucky HEALTH were built around better utilization. It would not cost more to administer Kentucky HEALTH than the current program.

In response to questions by Representative Jenkins, Deputy Commissioner Stephanie Bates, Department for Medicaid Services, Cabinet for Health and Family Services, stated that the goal is no copayments for children, but under the Kentucky Children's Health Insurance Program 3 (KCHIP) a child could possibly have to pay a copayment because the household income is higher. Secretary Meier stated that if a child participates in a program like Bridgehaven which provides wrap around services, there would only be one copayment per day even if the child receives more than one service from the same provider.

In response to questions by Senator Alvarado, Secretary Meier stated that it is currently



up to the MCOs to implement copayments. Deputy Commissioner Hunter stated that she would provide the names of the MCOs that will or will not implement copayments. Once Kentucky HEALTH is implemented, there may be premiums and copayments depending on the specific plan the recipient is enrolled in. Secretary Meier stated that Kentucky does not have accounts that a recipient contributes to but an adjustable account that is funded by the state. Copayments would be paid out-of-pocket by the Medicaid recipients just like they are in FFS. If a recipient is in a premium plan, there would not be any copayments. Deputy Commissioner Bates stated that a provider can operationalize their normal collection process. A recipient who is under 100 percent of the federal poverty level (FPL), or in an emergency, cannot be refused treatment.

Representative Moser stated that it is important for to have consistency and predictability when Kentucky HEALTH is implemented.

#### **Status of the 1115 Kentucky Health Waiver**

Adam Meier, Secretary, Cabinet for Health and Family Services, stated that the cabinet has started a 30-day comment period that closes August 18, 2018. CMS reopened Kentucky's 1115 waiver for comment and review of the initial application, the updated modifications to the initial application, and the previously approved standard special terms and conditions that went along with the Kentucky HEALTH approval prior to it being vacated. The cabinet is still in discussions with CMS about how to proceed. The cabinet is looking at logistically possible scenarios for reimplementing of different components of Kentucky HEALTH.

Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services, was available for questions.

In response to questions by Senator Meredith, Secretary Meier stated that as of now there is no change to the current schedule for procurement contracts with the MCOs. The contracts would be awarded in July 2018 and then would take effect January 2019. The MCOs were given an extension of current contracts in July. The contracts have been filed with the Finance and Administration Cabinet. Secretary Meier stated that the extension for MCO contracts would include the responsibilities for the 1115 waiver. The MCOs are using the previous capitation rates until the cabinet can develop certified capitation rates that would be in place until Kentucky HEALTH is approved.

#### **Update on Medicaid Waiver Programs and Personal Liability for Home and Community-Based Waivers**

Jill Hunter, Commissioner, Department for Medicaid Services, Cabinet for Health and

Family Services, stated that letters were sent to participants rescinding patient liability changes scheduled to take effect on August 1, 2018. DMS conducted five years of historical research on the 2,425 waiver participants with a patient liability as of June 2018. DMS examined the process for refresher training for staff and educating participants on patient liability. DMS conducted system tests and quality checks on DCBS staff to ensure neither technical nor human error caused mistakes in patient liability calculations.

Pam Smith, Senior Nurse, 1915(c) waiver, stated that the next steps for DMS will be to conduct expanded research on past patient liabilities, including all participants who have paid in the last five years but may not have been included in the 2,425 group from June 2018. Teams are working to revise letters that are sent to participants regarding patient liability. DMS teams are creating educational materials for both participants and staff. DMS will work with Navigant Consulting to research patient liability best practices and determine options for changing Kentucky's processes and policies. DMS will be examining the fiscal impact to both the state and to participants about any potential patient liability changes including an adjustment of the needs allowance, up to 300 percent, before moving forward.

In response to a question by Representative Moser, Ms. Smith stated that DMS is using multiple approaches to help recipients and/or their legal representatives understand what is being undertaken by the cabinet. Commissioner Hunter stated that the letters that go to the recipients in the 1915(c) waiver are being personally signed by her to let them know that their concerns are important and will be addressed.

In response to a question by Senator Carroll, Commissioner Hunter stated that the cabinet wants to be sure of the fiscal impact to DMS and the recipients of any change in patient liability.

In response to a question by Representative Jenkins, Commissioner Hunter stated that the department does not have a set date for resolution of the problem because it does not want to miss looking at all of the recipient cases. She will update the committee on its progress.

In response to a question by Senator Alvarado, Ms. Smith stated that the department is sharing data with the federal government about how Kentucky is out of compliance and the plans to get back in compliance.

In response to a question by Senator McGarvey, Ms. Smith said that there will not be any changes retroactively to collect underpayments from a recipient, but if the department made an error in calculations resulting in an overpayment, the recipient would

be refunded the amount of the overpayment.

In response to a question by Senator Carroll, Ms. Smith stated that there have always been budget limitations within the Michele P. waiver. Recipients can write their plans to flex units as long as they do not go over the limits set by administrative regulation. DMS has been working with providers on patient's plan of care.

Lori Gresham, Senior Nurse who works with the 1915(c) waiver, stated that there has been increased interagency collaboration. The Division of Community Alternatives in DMS has increased its knowledge about national trends and best practices within home and community-based and to improve knowledge and understanding of federal requirements for the 1915(c) waivers. Throughout the process, DMS has been adamant about including stakeholders. Kentucky continues to be one of a few states that has received final approval on its transition plan on statewide compliance for federal final rules. After consideration of public comments, Navigant will submit a final report to the cabinet that will include their assessment of Kentucky, the national trends and best practices, and final recommendations for the 1915(c) waivers. Public comment input, specific to Navigant's recommendations, was completed on June 15, 2018. Navigant will submit a final report to the cabinet of their assessment of Kentucky's 1915(c) waivers and their recommendations for redesign. The cabinet, in consultation with the Governor's office, will identify which recommendations to implement, utilizing stakeholder input to help aid decisions. The cabinet will release implementation strategies and draft waivers with periods for public comment.

In response to questions by Senator Carroll, Commissioner Hunter stated that Navigant will conduct a rate study to look at reimbursement. Surveys will be sent in the fall to get input from providers. The challenge is that the cabinet has to remain budget neutral. She said that she would provide the committee with information on the process to fill slots in the waiver.

There being no further business, the meeting was adjourned at 2:26 p.m.

## **SCHOOL SAFETY WORKING GROUP**

### **Minutes of the 4th Meeting of the 2018 Interim**

August 13, 2018

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

The 4th meeting of the School Safety Working Group (SSWG) was held on Monday, August 13, 2018, at 2:45 PM, in Room 154 of the Capitol Annex. Senator Max Wise, Co-chair, called the meeting to order, and the secretary called the roll.

Present were:

Legislative Members: Senator Max Wise, Co-Chair; Senators Alice Forgy Kerr, and Johnny Ray Turner; Representatives John Blanton, George Brown Jr, and Brandon Reed.

Ex-Officio Members and Consultants: Dr. Joe Bargione, Ms. Nasim Mohammadzadeh, Commissioner Alex Payne, Dr. Jon Akers, and Major General Jerry Humble.

Guests: Christina Weeter, KDE; Cathy Hobart, Mom's Demand Action; and Stacey Russell and Linda Tyree, KSCA.

LRC Staff: Yvette Perry, Christal White, and Lauren Busch.

### **Approval of Minutes**

On a motion from Representative Reed and a second from Senator Turner, the minutes of the July 9, 2018 meeting were approved by voice vote.

Senator Wise announced the SSWG will hear from a panel of students, teachers, and counselors from various schools throughout Kentucky.

### **Testimony from Students, Teachers, and School Counselors**

#### **STUDENTS**

Student representatives were Cameron Wyatt, Corbin Independent High School; Haven Wolfe, Pendleton County High School; Josh Griffin, Russell High School; Zoe Carby and Nathaniel Morgan, Fairdale High School; Craig Hensley, Whitley County High School; and Nasim Mohammadzadeh, Paul Laurence Dunbar High School and a member of the SSWG.

Ms. Wolfe expressed gratitude for the opportunity to be a part of the work group. She said schools have been preparing students, staff, and teachers for decades on what to do in the event of a natural disaster, continually fine tuning the plan. With random gun violence becoming unpredictable and devastating in schools across Kentucky, it is vitally important for work groups such as the SSWG to continue to look for meaningful solutions, keep an open dialogue, and exchange ideas to help Kentucky in protecting our students, our future.

Mr. Griffith said Russell High School's administration talks frequently with the local police department to assess weak spots in the school. Specifically, Russell High School has ground level windows and has implemented measures to prevent visibility from the outside into classrooms. The school has also changed the manner in which they conduct fire and lockdown drills in order to better handle those situations. He questioned the impact of banning one type of weapon as an appropriate measure since another type of weapon could then be used.

Ms. Carby, a senior at Fairdale High School, said the presence of police officers who build trusting relationships with students will ensure important communication when dangerous

situations are present.

Ms. Mohammadzadeh, a junior at Dunbar, said it is not only important to have secure and defensive measures, but also important to implement measures that target the softer side of schools. She said more legislation is needed to keep guns out of the wrong hands and at the same time to get to the core of the issue. Ms. Mohammadzadeh said while having metal detectors is a short-term solution, a bigger issue relates to mental health and a shortage of school counselors. Students must have an outlet with a trusted adult within the school.

Mr. Morgan is enrolled in the law enforcement program at Fairdale High School, and provides training in school shootings and mass casualties. Fairdale profiles students to determine if there is an issue. The program has a School Resource Officer (SRO) with whom the students build trust, a crucial element in school safety. He said guns are becoming a huge issue and a strategic evacuation plan should be implemented to keep staff and students safe.

Cameron Wyatt, a senior, said for the past two years Corbin High School had random bag checks as students arrived, which greatly improved the school safety atmosphere. This year they did away with backpacks entirely in an effort to increase school safety. The school also waits five seconds after the fire alarm has sounded to confirm it is legitimate and not someone attempting to cause disaster. In response to a question from Senator Wise, Cameron said that because students arrive during a 45-minute span, the inspections of backpacks did not create a delay of starting classes except for a couple of times, but never more than a few minutes.

Craig Hensley said Whitley County High School (WCHS) has a student population of over 1,100 and metal detectors and bag checks can become problematic in creating efficient ways to secure the facility. Because the school was originally built to accommodate 600-700 students, WCHS found it was a difficult task to organize students. Mr. Hensley said a selected pathway for students to exit in an organized and efficient manner is extremely important. WCHS increased supervision with teachers throughout the school after receiving a threat last year. In response to a question by Senator Wise, Mr. Hensley said he and other students observe student character traits and report to staff if anything seems amiss. They also meet with student government leaders and student representatives were responsible for keeping their peers apprised.

In response to Dr. Bargione's question regarding the sources of strength program, Mr. Hensley said WCHS has no students on the school safety committee but agreed representation is needed. Ms. Wolfe said she has contributed

suggestions to the school safety committee, but is not part of the actual board.

Dr. Bargione suggested having a student safety work group to identify issues in rural vs. urban climates. In response to his question, Ms. Mohammadzadeh said administrators and parents should know that student's opinions are as equal as theirs.

In response to a question by Senator Kerr, the students agreed that if an unsecured gun owned by an adult was used in a school shooting, the adult should bear some liability and be held accountable, but the penalties should not be criminal. Students agreed that the ultimate fault should be on the person who committed the offense and focus should be placed on how shootings can be prevented. The group of students agreed guns should be kept in safe places and believe everyone should realize the danger of having loaded weapons accessible to underage students, students with mental health issues, or those who have not had fire-arm training. In response to Senator Kerr's question, the students said local news outlets or town magazines are the best way to communicate safe gun storage.

In response to a question by Representative Reed, the students acknowledged that none of their schools participate in a sources of strength program. Representative Reed suggested lobbying school administrators to add this powerful program, which has made a positive difference in Trigg County.

Responding to a question by Dr. Akers, Ms. Mohammadzadeh said it is important that every student has at least one teacher to whom they can talk, whether about issues at home, mental health, or a threat by another student. Ms. Wolfe said Pendleton County uses a tip hotline. In response to Dr. Akers' question, Ms. Mohammadzadeh said Paul Dunbar High School has an on-line tip hotline on their webpage that is very efficient and completely anonymous. Another avenue is a tip drop box.

Responding to a question by Representative Brown, Mr. Griffin said he is unaware of the cost of adding new windows which allow students to see outside but prevent outsiders from seeing in. Representative Brown said with budget cuts the cost needs to be considered but it is critical that our most valuable resources, our children, are protected.

In response to a question by Representative Blanton, Mr. Morgan said teachers should be allowed to carry firearms to neutralize a threat by providing quick reaction and keeping students safe. Mr. Griffith said only teachers with a conceal-carry permit should be armed and any firearms on the premises must be tracked. Ms. Mohammadzadeh said teachers should not be forced to carry a firearm, but should be allowed if they are willing. Mr. Hensley said arming teachers



would have to be implemented with careful thought and planning and agrees if teachers are willing, they should be allowed to be armed but only after extensive training. Mr. Wyatt said there should be a large focus on informing the public that teachers in the local schools are armed. Representative Blanton expressed concern with arming teachers due to safety, giving students and staff a false sense of security, and accidental discharges. He is concerned about how teachers would respond and react in dangerous situations without extensive training.

In response to a question by Dr. Bargione, all students know at least one other student attending their school that has had issues with mental health or has had suicidal thoughts. Ms. Mohammadzadeh said resources are available but are not always utilized. Mr. Hensley said the loss of a student just two days prior shows the importance of students being comfortable with counselors and teachers.

In closing, Mr. Morgan said an SRO provides a high level of security. All panelists said they have at least one SRO in their schools. Ms. Mohammadzadeh said to attain a safe society in which students can learn, the climate must be welcoming and students must feel safe.

#### **TEACHERS**

Representing teachers were Jennifer Stone and Heather Evans, Bardstown Independent; Mike Farley, Corbin Independent High School; and Steve Sears of Whitley County High School.

Ms. Evans, a special education teacher certified in learning and behavioral disabilities, has seen a major increase in severe behaviors. Research shows that social development instruction increases academics and decreases behaviors. She said universal screeners could be used to conduct a small survey that will enable teachers to identify students who internalize their feelings and need counseling. She said parents need to be held accountable for student behaviors, as many teachers are teaching manners in school that are not being taught at home. Ms. Evans believes arming teachers is very dangerous.

Ms. Stone said holding children accountable is crucial and when parents deny their child has issues, they don't seek the help necessary. It is a teacher's responsibility to address safety concerns both inside and outside of the school through monitoring, counseling, and follow-up. Whether a child is experiencing trauma from being in a single parent home, being abused, or not being fed, teachers must pay attention and be proactive rather than reactive.

Mr. Sears, ROTC instructor and an Army retiree, said discipline incidents in Whitley County decreased from 1,250 students in 2014 to just under 400 in 2017. He attributes the decrease to teacher presence, supervision,

and passive interrogation. The principals and teachers maintain positive student interaction and climate and are cognizant of possible indicators that may cause concern. He said staff and principal communication is an important component when an indicator is noticed.

Mr. Farley, ROTC instructor, said Corbin Independent conducts random backpack checks at a random time. With the help of local business owners, they secured funds to add protective coverings on all outside windows. He said student and teacher relationships and discipline is essential. Phone use is banned at Corbin High School which encourages students to engage with each other personally. Mr. Farley said all students do not have a good home life.

Ms. Stone said there is a great need for mental hospitals for young children so they can be treated at an early age, as many five, six, and seven-year old children have already been diagnosed with mental issues.

Senator Kerr said 80 percent of the nation's school shootings involved an unsecured gun owned by an adult in the family. In response to a question by Senator Kerr, Ms. Stone said adults should be held legally responsible when unsecured guns are used in a school shooting. She said all guns should be protected and locked away. Ms. Evans asked if a student stole a family vehicle and ran into a crowd and killed people if the parents would be held responsible. Mr. Sears said he is not only a responsible gun owner but is also responsible for prescription medication, a riding lawn mower, and vehicles. He believes it comes down to gun safety education in school. Mr. Farley said he is a hunter and gun owner but ensures his weapons are secure. He feels if a child steals a weapon the parents should not be held liable, but agrees it is a tough call.

Responding to Senator Wise's question, Mr. Farley said he would have to think very seriously about wanting to carry a firearm in school, even with his extensive training, due to concerns about accidental discharges. He has proposed the city increase the presence of SROs from 7 a.m. to 9 a.m., since most school shootings happen during that time. Mr. Sears said not everyone with a conceal carry permit needs to have a gun. He agrees that more highly trained SROs are needed. Ms. Stone said Bardstown Independent grades K through 2 do not have an SRO. She is opposed to carrying a firearm.

In response to a question by Senator Wise, Ms. Stone said an officer who was conducting law enforcement training stated he did not agree with teachers carrying weapons. Whitley and Corbin have also received training. Mr. Farley said students must have the foresight to fight back or they become sitting targets.

Representative Brown said even the best trained marksmen are successful only 12 percent

of the time in an active shooting engagement, which means an 88 percent chance that an innocent child could be shot. Responding to a question by Representative Brown, Mr. Farley said many parents in Eastern Kentucky are not being raised by biological parents that care for, love, support, and provide for them. He said a majority of students are being influenced by cell phones without face to face interaction, bullying, and inappropriate pictures. Emergencies were a parental concern if active phones were not allowed. Whitley County requires the students to power all cell phones off upon arrival but in the case of an emergency they would have if needed. A student caught with their phone powered on faces consequences which include visits to the school by guardian, staying after school, or expulsion.

In response to a question by Ms. Mohammadzadeh, Mr. Sears said Whitley County has a group of students that have a normal, solid family while a mix of other students have absent parents. He said he and Mr. Farley take on the role of a father figure when teaching life lessons. Mr. Farley agreed that some parents do not want children to be held accountable, even when video camera proof clearly details the wrongdoing. Mr. Sears said many children are being raised by a grandparent and they may not have the energy to deal with such issues. Mr. Farley added that phone or computer technology is sometimes over the grandparents' heads.

Responding to a question by Dr. Bargione, Mr. Farley said struggling families are offered Advise, Instruct, and Mentor (AIM), a 15-minute daily program relating to grades and relationships. Mentors work on establishing relationships based on family backgrounds. Students are mentored through these relationships that last the entire four years of high school. Mr. Sears added that relationships can be built by participating in a sports program, drama, band, ROTC or other extra-curricular activities. Ms. Evans said she started a behavior program three years ago that required students to check in with their mentor when they arrive at school and also check out with their mentor at the end of the day. This system along with a universal screening system helped identify target behavior in students who may otherwise not be a point of focus.

Mr. Farley said kids are mentally broken without parental relationships and are not being taught work ethic. He said every child needs love, discipline, and to know their worth.

Representative Brown said we are five generations out in terms of discipline, values, and morals with children. His hope is for society to begin having discussions and start planting these characteristics in children again.

#### **COUNSELORS**

The panel of counselors was comprised

of Linda Tyree, Butler County; Nancy Wyatt, Corbin Independent High School; Al Ysidro, Whitley County High School; and Stacey Russell, Camp Ernst Middle School, Boone County.

Ms. Tyree is an elementary school counselor with 30 years of education experience and current President of the Kentucky School Council Association (KSCA).

Ms. Russell, a middle school counselor, has 12 years of education experience and is currently serving as past president of the KSCA and the Director of Advocacy.

Mr. Ysidro, an assistant principal, has had 24 years in education and has been an assistant principal for 13 years.

Ms. Tyree said now is the time to look at how mental health can be supported in schools and the vital role school counselors could provide.

Education uses a multi-tiered system of supports. In Tier 1, the universal component, KSCA measures if student needs are being met. In Tier 2 and Tier 3, if students are not showing improvement, KSCA must determine how those needs can be met. School counselors would like to see social and emotional learning as their primary responsibility; however, they realize they may also be required to do scheduling, test administration, ARC meetings, and various other roles.

While counselors provide social and emotional learning, mental health support, and soft skills, building relationships with students is vital for success. The universal component is preventative and proactive.

KSCA recommends school counselors use a comprehensive school counseling model, such as the American School Counseling Association (ASCA) model used by Butler County. Although Kentucky's student-counselor ratio is one counselor for every 452 students, the ideal ratio is one counselor for every 250 students. KSCA would like to see a lower ratio but realize it is a higher priority to see someone in every building whose primary responsibility is mental health.

As a counselor, Ms. Tyree performs informal screenings to determine which students need to be in a small group, areas that need to be pinpointed, or services needed.

School counselors use a comprehensive school counseling model, mental health screeners, positive behavior intervention systems (PBIS), youth mental health first aid, and sources of strength. PBIS provides an avenue to pinpoint a student's strengths.

While students are required to provide schools with proof of vision, dental, hearing, and health screenings, the counselors said the need for mental health screening is crucial. Many schools are reluctant to perform mental health screenings because once problem areas are pinpointed, the school must show what is being

done to address them. Ms. Tyree said counselors need support in finding screeners to be used on an on-going basis. She said the Adverse Childhood Experiences (ACES) report is helpful for counselors to gain insight into potential issues.

In the 2018 Regular Session of the General Assembly, Senator Coursey introduced a trauma-informed bill which KSCA backed. They wanted a bill mandating that every school have trauma training, especially after reviewing ten areas and having found students with several ACES. Ms. Tyree said when looking at the cumulative effect, the child is seen through a totally different lens. One concern with the bill was that while it mentioned Tiers 2 and 3 meeting the mental health needs for students who had been identified, it did not mention the universal component of how they are identified.

Ms. Tyree presents gun control to all elementary students as part of the universal component education that every student receives. Once the universal component is presented to 100 percent of the students, assessments take place to determine in which areas the students need more support. Tier 2, secondary supports, identifies at-risk students who will be granted small group counseling, check-in/check-out system, and mentoring. This group is around ten percent of a school's population.

Tier 3 includes about five percent of the school population and helps identify students who need more help even after Tier 2 interventions. Ms. Tyree said partnering with school psychologists and outside agency therapists is crucial for mental health professionals to review the targeted group. When focus is placed on school safety and mental health, students with mental health issues must be identified. Tier 3 students are ones that have already been identified.

Ms. Tyree said she uses Solution Focused Brief Counseling in school settings since she does not have the resources, time, or training to provide mental health services beyond this. She said a mental health professionals can then step in as contractors through the school system or as outside providers, those referrals must be accompanied by data to support the request.

Ms. Wyatt said the entire school staff should make connections with students to create a positive school climate. Every student needs the influence of a positive adult relationship and feel comfortable to express concerns about school or personal safety.

Corbin High School has implemented an Advise, Instruct, and Mentor (AIM) program, which is a homeroom lasting all four years of high school. This allows the teachers to see the student on a daily basis from year to year and become aware of any changes, including mental health, home life changes, academics, and

attendance.

The Youth Mental Health First Aid Program provides help for distressed students until a school counselor or a mental health counselor can become involved. All staff are trained to provide this care and should be alert to signs of distressed students.

Ms. Wyatt suggested creating a safe, supportive, and encouraging school climate where students feel loved, cared about, and feel like they can do their best. Programs such as Sources of Strength help look at school climate and how the mental health needs of the students are being met.

Ms. Russell said school counselors can contribute to school safety if they are utilized in a manner conducive to their training. Research shows schools can expect to see a decrease in discipline and suspension rates, fewer students being bullied or teased, and an increase in coping skills if schools are using a comprehensive school counseling program, reviewing the data, and designing interventions to support those deficiencies. If students are better prepared to handle the emotional stressors of life and can deal with negative emotions in a positive and healthy way, students will feel safer at school.

Ms. Russell said her previous job had a ratio of one counselor to 550 students, creating a difficult task to make meaningful connections with students while also doing additional tasks required.

For several years, the Colorado Department of Education partnered with their General Assembly to create a full counseling core by awarding school grants which would increase the number of school counselors in all buildings from elementary to high school. This program helped prevent 1,000 students from dropping out and saved the tax payers an estimated \$319 million in lost taxes, incarceration, welfare, and health care, equating to \$20 in savings of taxpayer money for every \$1 spent on a school counselor.

Ms. Russell said the heart of school safety is creating relationships and a safe environment for students, and now a way needs to be figured out to allow them to work more toward this goal.

Responding to a question by Senator Kerr, Mr. Sears said although there may be liability issues, he does not agree with holding a parent criminally negligent if their child steals their unsecured weapon.

In response to a question from Senator Kerr, Ms. Tyree said training must be preventive and proactive. The American School Counselors Association (ASCA) recommends 80 percent of a counselor's day should be with students and 20 percent performing administrative duties. She said those numbers have been reversed for the last few years in her position and counselors often stay late to complete paperwork so they



have more time with students during the day. Ms. Tyree said she would feel responsible if she did not teach the skills students need to be successful, including gun safety.

Senator Wise referred to Ms. Tyree's comment about a House Bill that did not make it through last session which lacked the universal component. Ms. Tyree said Representative Carney will be looking at a comprehensive school safety bill, which will hopefully include a mental health component and school counselors.

In response to a question from Mr. Payne, Ms. Tyree said counselors are most likely spending about 75 percent of their time on administrative duties which prevents them from being with students, especially at the middle and high school levels. Ms. Tyree said if a day is 100 percent spent with students, it is most likely a reactive day. Counselors never know what is in store on a given day, such as what happened the night before or what happened before school that could affect their day. Ms. Russell said some schools are reassigning administrative duties to allow counselors more time with students. Ms. Tyree reiterated research shows providing social and emotional learning interventions create academic and behavioral gains.

Senator Wise announced the next meeting of the SSWG will be held in Glasgow at Barren County Area Technology Center on Monday, September 10, 2018.

There being no further business, the meeting adjourned at 5:00 p.m.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

### **Minutes of the August Meeting**

August 14, 2018

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

The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 14, 2018, at 1:00 PM, in Room 149 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative David Hale, Co-Chair; Senators Julie Raque Adams, Perry B. Clark, and Alice Forgry Kerr; Representatives Mary Lou Marzian, Jason Petrie, and Tommy Turner.

Guests: Miles Justice, Kate Ware, Kentucky Higher Education Assistance Authority; Kristen Green, Alan Harrison, Darrell Johnson; University of Kentucky; Jenni Scutchfield, State Board of Elections; Mary Elizabeth Bailey, Leslie Bilby, Rosemary Holbrook, Personnel Cabinet; Cheryl Lalonde, Board of Pharmacy; Jimmy Bevins, Kevin Bond, Harry Carloss, Eric Gibson, Frank Jemley, Regina Stivers, Karen Waldrop, Department of Fish and Wildlife Resources; Steve

Sims, David Wayne, Department of Agriculture; Michael Mullins, George Seay, Department of Natural Resources; Deidra Douglas, Department of Criminal Justice Training; William Codell, Kris Mann, Wael Ghanim, Department of Juvenile Justice; Patrick O'Connor, Department of Insurance; David Trimble, Department of Professional Licensing; Jennifer Dudinskie, Janet Hall, Jennifer Rosenberg, Phyllis Sosa, Department for Aging and Independent Living; Mary Sparrow, Department of Income Support; Krista Quarles, Maribeth Schneber-Rhemrev; Department for Community Based Services. Pete Blandford, Tony Brown, Chet Hayes, Roger LaPointe, Ed Morris, Mile Ohlmann, Michael Roberts, Ivan Schell, Jim Strader, Rich Zimmer.

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 Tuesday, August 14, 2018, and submits this report:

Co-Chair Hale called a recess, after which the meeting reconvened.

Administrative Regulations Reviewed by the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE SERVICES: Division of Student and Administrative Services: KHEAA Grant Programs

11 KAR 5:145. CAP grant award determination procedure. Miles Justice, senior associate counsel, and Kate Ware, student aid branch manager, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 4 and 6 to comply with the drafting requirements of KRS Chapter 13A and make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Educational Excellence Scholarship Program

11 KAR 15:010. Definitions for 11 KAR Chapter 15.

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

11 KAR 15:110. Scholarships for Registered Apprenticeship programs.

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

objection, and with agreement of the agency, the amendments were approved.

AGRICULTURAL EXPERIMENT  
STATION: Pet Food

12 KAR 3:007. Definitions for 12 KAR Chapter 3. Kristen Green, regulatory specialist; Alan Harrison, feed director; and Darrel Johnson, executive director, represented the experiment station.

In response to a question by Co-Chair Harris, Mr. Johnson stated that there were no Kentucky-specific requirements in this package of administrative regulations. These administrative regulations were last amended in 1998. These updates were made commensurate with revisions to the model established by the American Association of Feed Control Officials.

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

12 KAR 3:012. Labeling format and labeling.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 7, 9, 10, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 3:017. Brand and product names.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 3:022. Expression of guarantees.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Sections 1, 3 through 6, and 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 3:027. Ingredients.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 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.

12 KAR 3:028. Descriptive terms.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 3:032. Feeding directions.

A motion was made and seconded to

approve the following amendments: to amend Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 3:037. Drugs and pet food additives.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 3:039. Nutritional adequacy.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3, 5, 6, and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

12 KAR 3:042. Statements of calorie content.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

STATE BOARD OF ELECTIONS: Statewide Voter Registration

31 KAR 3:010 & E. Current address of Kentucky registered voters and distribution of voter registration lists. Erica Galyon, assistant secretary of state; Jennifer Scutchfield, assistant director; and Lindsay Thurston, senior advisor, represented the board.

In response to questions by Representative Petrie, Ms. Scutchfield stated that the board had revised the fee structure, which had not been updated for approximately ten (10) years, to cover staff and material costs related to providing the data. Kentucky's fees were much lower than most other states. Representative Petrie requested that the board provide subcommittee members and subject matter committee members with a cost-based analysis of staff time and materials to justify the fee increases.

In response to a question by Co-Chair Hale, Ms. Scutchfield stated that these requirements were already effective because there was an emergency administrative regulation in place.

A motion was made and seconded to approve the following amendment: to amend Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

PERSONNEL CABINET: Classified

101 KAR 2:020. Job classification plan. Mary Elizabeth Bailey, commissioner, Department of Human Resources Administration; Leslie Bilby, deputy secretary; and Rosemary Holbrook, executive director, Office of Legal Services,

represented the cabinet.

101 KAR 2:034. Classified compensation administrative regulations.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, 5, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

101 KAR 2:076. Vacancies, detail to special duty and temporary overlap.

101 KAR 2:095. Classified service general requirements.

A motion was made and seconded to approve the following amendments: to amend 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.

Unclassified

101 KAR 3:045. Compensation plan and pay incentives for unclassified service.

A motion was made and seconded to approve the following amendments: to amend Sections 3 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.

101 KAR 3:050. Unclassified service; promotion, transfer, and disciplinary actions.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:015. Continuing education. Cheryl LaLonde, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 5, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Fish

301 KAR 1:115. Propagation of aquatic organisms. Frank Jemley, acting commissioner; Regina Stivers, deputy secretary; and Karen Waldrop, deputy commissioner, represented the department. Jimmy Bevins, chair, Kentucky Fish and Wildlife Commission; Pete Blandford, president, Quality Deer Management Association, Kentucky Advisory Council; Dr. Harry Carlross, MD, First District, commissioner, Kentucky Fish and Wildlife Commission; Chet Hayes, president, Kentucky League of Sportsmen; Mike Ohlmann, Safari Club International, Kentuckiana Chapter; and Rich Zimmer, Kentucky League of Sportsmen, Fifth District Federation, appeared in opposition

to subcommittee amendments proposed for 301 KAR 2:172. Ed Morris, former president, Kentucky League of Sportsmen; Michael Roberts, United Bowhunters of Kentucky; and Jim Strader, sportsmen podcaster and radio host, appeared in support of subcommittee amendments proposed for 301 KAR 2:172.

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

Game

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

Representative Turner proposed a subcommittee amendment to: (1)(a) reinsert the definition for "additional deer permit;" (b) delete the definition for "deer management permit;" and (c) modify the definition for "special deer hunt;" (2) delete references to deer management permits; (3) delete the additional two (2) Zone 1 modern gun hunt days in September; and (4) clarify that the special deer hunt shall only be overseen and sponsored by the department. Representative Turner stated that, after meeting with many stakeholders, these amendments were intended to establish fairness. These amendments reinstated provisions for additional deer permits in lieu of deer management permits. Recently, the department raised sportsmen fees for seniors and the disabled; therefore, it seemed incongruous to now reduce deer hunting fees. There was some confusion regarding special hunts (or mentor hunts). These amendments clarified that a special deer hunt shall only be overseen and sponsored by the department. Outside groups could volunteer for a special deer hunt with the approval of the department. These amendments also sought to curb nonresident special deer hunts by establishing that these hunts are for Kentucky residents, military members and their families stationed in Kentucky, and those enrolled in Kentucky educational institutions. These amendments also delete the additional two (2) Zone 1 modern gun hunt days in September. Issues related to deer hunting with crossbows were not part of these requirements, but were in another administrative regulation. Nuisance deer were a problem, but farmers were able to mitigate the damage pursuant to deer depredation provisions.

In response to a question by Representative Turner, Ms. Waldrop stated that Zone 1 had the most liberal hunting provisions pertaining to deer because the population was highest in that zone. Zone 4, on the other hand, usually had only five (5) to ten (10) deer per square mile; therefore,



requirements were more restrictive in that zone. Last year, Eastern Kentucky experienced an outbreak of Epizootic Hemorrhagic Disease (blue-tongue disease), which greatly diminished the population. The deer bag limit in Zone 4 was being reduced from four (4) to two (2), and only one (1) doe may be harvested. That doe may only be harvested using archery equipment, during youth hunts, or during the last three (3) days of the muzzleloader season. A hunter could take up to four (4) deer in Zone 3; however, a firearm could only be used to take up to one (1) doe.

Dr. Carloss stated that there was a significant overpopulation problem with nuisance deer in Zone 1, resulting in damage to agricultural crops and vehicle collisions, which resulted in monetary expense and sometimes loss of life. The spread of chronic wasting disease was directly proportional to deer overpopulation. Most hunters preferred to hunt bucks rather than does. The September deer hunt was limited to only does. Dr. Carloss stated that he was also opposed to the loss of fees, but studies demonstrated that the biggest deterrent to harvesting does was the inconvenience of having to go through the process of purchasing additional licenses. It was common practice for deer destroyed because of crop depredation to be left to decompose, as required by law. If more deer were harvested, that meat could be used for projects like Hunters for the Hungry.

Mr. Bevins stated that the objectives of the September deer season were to encourage the harvesting of does as a population management tool and to provide hunting opportunities for sportsmen. There was consensus among the nine (9) member Kentucky Fish and Wildlife Commission to retain the September deer season as originally proposed by the department. The process for farmers to get permits related to deer depredation was tedious for both the department and the farmers. This administrative regulation could always be amended in the future if the provisions proved to be problematic.

Mr. Hayes stated that the League of Kentucky Sportsmen requested that this administrative regulation become effective as submitted, without the subcommittee amendments. Concerned stakeholders who were now commenting did not comment during the earlier stages of the development of these requirements. The development of these requirements was diverse, open, and transparent.

Co-Chair Hale thanked the commissioners for their service to the Commonwealth.

Mr. Ohlmann stated that Safari Club International, Kentuckiana Chapter, was opposed to the subcommittee amendments. The costs of damage from deer overpopulation were greater than the fees lost pursuant to the original proposal. A September deer hunt was a potential

recruiting tool. Nuisance tags did allow farmers to address deer depredation; however, most tags went to waste because farmers did not have the time to have the meat processed and processors were not usually open except during deer season. An organized nuisance hunt in September would allow processors to open.

Mr. Zimmer, representing the Fifth District Federation of the Kentucky League of Sportsmen, stated that his district was the most active in the league, representing thirteen (13) counties of sportsmen. The Fifth District Federation supported this administrative regulation without the subcommittee amendments, to which it was opposed. Human encroachment on deer habitat, along with overpopulation, was causing damage to property and health.

Mr. Blanford stated that the Zone 1 September hunt should remain because it was a time-tested deer management technique to remove does, which ate more and thus did more property damage. Current control measures had failed.

In response to a question by Senator Raque Adams, Mr. Ohlmann stated that there was an administrative regulation for farmers to address deer depredation; however, any harvest that resulted from killing the deer was wasted.

Mr. Roberts stated that these drastic changes to deer hunting requirements were developed with little public input and with vague data. Deer populations could be depleted quickly, but might take years to recover. Mr. Roberts requested that the subcommittee amendments be approved.

Mr. Strader thanked Co-Chair Hale, Representative Turner, and the agency for their work for sportsmen. It was unclear if the Kentucky League of Sportsmen voted in opposition to the subcommittee amendments. Farmers had remedies for deer depredation. The September deer season, by harvesting does early, might cut short the time fawns had with their mother to learn to survive. Mr. Strader stated that he supported the subcommittee amendments and believed that most of his followers would do the same. A doe season was necessary, but September was a bad time of year for that season.

Mr. Morris stated that he supported the subcommittee amendments. The September deer hunt was too drastic of a change and threatened herd management. Most sportsmen were unaware of these proposed changes. Additional deer tags could be purchased online via smart phone within approximately two (2) minutes.

In response to a question by Co-Chair Hale, Ms. Stivers stated that the cabinet accepted the subcommittee amendments. Mr. Jemley stated that the department agreed to the subcommittee amendments. Ms. Waldrop stated that it was the consensus of the cabinet and the department to agree to the subcommittee amendments.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 9 to comply with the drafting requirements of KRS Chapter 13A; (2) to amend Section 1 to: (a) reinsert the definition for "additional deer permit;" (b) delete the definition for "deer management permit;" and (c) modify the definition for "special deer hunt;" (3) to amend Sections 2 and 7 to delete references to deer management permits; (4) to amend Section 5 to delete the additional two (2) Zone 1 modern gun hunt days in September; and (5) to amend Section 12 to clarify that the special deer hunt shall only be overseen and sponsored by the department. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:176. Deer control tags, deer destruction permits, and landowner designees.

DEPARTMENT OF AGRICULTURE:  
Structural Pest Control

302 KAR 29:020. General provisions for structural pest control. Steve Sims, structural branch manager, and David Wayne, division director, represented the department.

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 and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT:  
Department of Natural Resources: Division of Mine Permits: Strip Mining of Coal

405 KAR 1:011. Repeal of 405 KAR Chapter 1. Michael Mullins, regulation coordinator, and George Seay, Jr., deputy commissioner, represented the division.

Surface Effects of Underground Coal Mining

405 KAR 3:011. Repeal of 405 KAR Chapter 3.

JUSTICE AND PUBLIC SAFETY  
CABINET: Department of Criminal Justice Training: Law Enforcement Foundation Program Fund

503 KAR 5:090. Participation: requirements; application; withdrawal. Deirdra Douglas, assistant general counsel, represented the department.

In response to questions by Senator Clark, Ms. Douglas stated that training changes applied to new recruits going through basic training. Training changes were tracking revisions made by the Kentucky Law Enforcement Council. Training was reduced by approximately six (6) weeks, but the curriculum retained all of the necessary components.

Department of Juvenile Justice: Child Welfare

505 KAR 1:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services. William Codell, attorney; Dr. Wael Ghanim, MD, medical director; and Kris Mann, deputy commissioner, represented the department.

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 requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

505 KAR 1:140. Department of Juvenile Justice Policies and Procedures Manual: detention services.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjusters

806 KAR 9:360. Pharmacy benefit manager license. Patrick O'Connor, deputy commissioner, 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 Sections 2 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Occupations and Professions: Secondary Metals Recyclers

830 KAR 1:010. Application, certification of registration, and fees. David Trimble, general counsel, represented the office.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Aging and Independent Living: Aging Services

910 KAR 1:090. Personal care attendant program and assistance services. Jennifer Dudinskie, assistant director; Janet Hall, director, Division of Operations and Support; Jennifer Rosenberg, branch manager; and Phyllis Sosa, staff assistant, represented the department.

In response to a question by Senator Clark, Ms. Dudinskie stated that natural supports were not paid.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3, 6, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Guardianship

910 KAR 2:030. Accounting provisions for adult guardianship.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 12, and 13 to comply with the drafting

requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

910 KAR 2:052. Repeal of 910 KAR 2:050.

Department for Community Based Services: Department for Income Support: Child Support Enforcement: Family Support

921 KAR 1:380. Child Support Enforcement Program application and intergovernmental process. Mary Sparrow, internal policy analyst, represented the department.

Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 3:030. Application process. Krista Quarles, branch manager, and Maribeth Schneber – Rhemrev, director, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 6, and 7 to make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or removed from the August 14, 2018, subcommittee agenda:

BOARDS AND COMMISSIONS: Board of Cosmetology

201 KAR 12:251. Repeal of 201 KAR 12:085, 201 KAR 12:088, 201 KAR 12:120, 201 KAR 12:180, and 201 KAR 12:250.

201 KAR 12:280. Esthetic practices restrictions.

Board of Podiatry

201 KAR 25:090. Prescribing and dispensing controlled substances.

ENERGY AND ENVIRONMENT: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:002. Definitions for 401 KAR Chapter 5.

401 KAR 5:005. Permits to construct, modify, or operate a facility.

401 KAR 5:006. Wastewater planning requirements for regional planning agencies.

401 KAR 5:015. Releases to be reported to the division.

401 KAR 5:037. Groundwater protection plans.

401 KAR 5:039. Repeal of 401 KAR 5:035, 5:057, 5:070, and 5:300.

401 KAR 5:045. Treatment requirements; compliance; biochemically degradable wastes.

401 KAR 5:050. General provisions of KPDES permitting program.

401 KAR 5:052. Requirements applicable to cooling water intake structures of facilities regulated by Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b).

401 KAR 5:055. Scope of applicability of the KPDES program and pretreatment requirements.

401 KAR 5:060. KPDES application

requirements.

401 KAR 5:065. KPDES permit conditions.

401 KAR 5:075. Cabinet review procedures for KPDES permits and permit timetables for 401 KAR Chapter 5.

401 KAR 5:080. Criteria and standards for the Kentucky Pollutant Discharge Elimination System.

401 KAR 5:320. Wastewater Laboratory Certification Program.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Administration

601 KAR 2:030 & E. Ignition interlock.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Instruction

704 KAR 3:015. Kentucky All STARS for Preschool Programs.

Office of Instruction

704 KAR 3:306. Kentucky Academic Standards for Historical and Cultural Influences of the Bible Elective Social Studies Course.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:089 & E. Workers' Compensation Medical Fee Schedule for Physicians.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Conduct of Business; Employees

804 KAR 5:080. Vintage distilled spirits.

Department of Insurance: Health Insurance Contracts

806 KAR 17:570. Minimum standards for Medicare supplement insurance policies and certificates.

Department of Charitable Gaming

820 KAR 1:001. Definitions.

820 KAR 1:005. Charitable gaming licenses and exemptions.

820 KAR 1:011. Repeal of 820 KAR 1:010, 1:015, 1:016, 1:017, 1:026, 1:027, 1:028, 1:029, 1:033, 1:034, 1:036, 1:044, 1:056, 1:058, 1:100, 1:110, 1:120.

820 KAR 1:025. Reports.

820 KAR 1:032. Pulltabs.

820 KAR 1:042. Bingo.

820 KAR 1:050. Raffles.

820 KAR 1:055. Charity fundraising event standards.

820 KAR 1:057. Recordkeeping.

820 KAR 1:060. Prohibited conduct.

820 KAR 1:125. Gaming inspections.

820 KAR 1:130. Administrative actions.

820 KAR 1:135. Disposal of gaming supplies.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General

906 KAR 1:190. Kentucky National Background Check Program (NBCP).

Division of Family Support: Supplemental



Nutrition Assistance Program

921 KAR 3:025. Technical requirements.

921 KAR 3:035. Certification process.

The subcommittee adjourned at 2:50 p.m. The next meeting of the subcommittee is tentatively scheduled for September 11, 2018, at 1 p.m.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

### **Minutes**

August 21, 2018

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

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, August 21, 2018, 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 Larry Brown, Co-Chair; Senators Julian M. Carroll and Christian McDaniel; Representatives Dennis Horlander, Steven Rudy, and Diane St. Onge.

Guests: Ms. Janice Tomes, Deputy State Budget Director, Office of State Budget Director; Ms. Donna McNeil, Executive Director, Kentucky Infrastructure Authority; and Mr. Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Katherine Halloran, Committee Staff Administrator; Julia Wang, Legislative Analyst; and Jenny Wells Lathrem, Committee Assistant.

#### **Approval of Minutes (July 18, 2018)**

A motion was made by Senator Carroll to approve the minutes of the July 18, 2018 meeting. The motion was seconded by Representative Brown and approved by voice vote.

#### **Information Items**

Ms. Halloran reported two information items. The first was six medical equipment purchases totaling \$6.7 million in restricted funds; all for University of Kentucky HealthCare (UKHC) A.B. Chandler Hospital, except the replacement MRI scanner for UKHC's primary outpatient clinic next to the hospital.

The second item reported was two school districts bond issues for new district-wide projects, for which no tax increases were necessary to finance.

#### **Project Report from the Finance and Administrative Cabinet**

Ms. Tomes submitted a \$2 million restricted funds project requested by the Kentucky Community and Technical College System (KCTCS) and approved by the Secretary of the Finance and Administration Cabinet. The KCTCS Technical Campus Building B Roof Replacement at Jefferson Community and Technical College

was the first project submitted under KRS 164A.575(15). The provision, effective April 26, 2018, suspends KRS 45.760 and allows higher education institutions to authorize non-general funded capital projects.

A motion was made by Senator Carroll to approve the project, seconded by Senator McDaniel, and approved by unanimous roll call vote.

Ms. Tomes reported three pool projects approved by the Secretary of the Finance and Administration Cabinet, each with an authorization variance. The first, Capitol Campus Parking Garage, Phase IV, was from a \$1,276,800 million allocation authorized in HB 200, Part II(4), using bond funded 2016-2018 Facilities and Support Services Maintenance Pool proceeds. The project included the final phase of various repairs to the garage including concrete repairs, sealant, waterproofing, painting, drain repairs, pavement markings, and barriers. After the allocation for this project, the balance of the maintenance pool will be \$489,294.49. No action was required.

The second project, Renovate and Expand Advanced Manufacturing Center at the Danville Bluegrass Community and Technical College, was from a consolidation of authorizations, a \$2,736,000 allocation authorized in HB 303, Part II(4) from the bond-funded Workforce Development Construction Pool and a \$5 million restricted fund line-item project authorized in HB 200. The \$7,736,000 will finance the addition of 16,000 square feet to the existing facility. This project was approved in the first round of funding from the Workforce Development Construction Pool in January 2017 and the project agreement was finalized in August 2017. No action was required.

The third project, Demolish Cardinal Stadium located at the Kentucky Exposition Center, was from a \$5 million allocation authorized in HB 200, Part II(4) as amended by HB 265 and also in Part I A. 5. (3) and Part X C. 1. (3). No action was required.

#### **Report from the Office of Financial Management**

Ms. McNeil submitted three Kentucky Infrastructure Authority (KIA) loan requests.

The Regional Water Resource Agency requested a \$4,585,262 Fund A (Clean Water State Revolving Fund Loan Program) loan [Ravines Sewer Upgrade project], which includes the previously approved 2016 \$415,000 Planning and Design loan. This project will reconstruct and upgrade a combined sewer interceptor in north central Owensboro to separate storm water and wastewater into separate pipelines. The current rate for 4,000 gallons of water is \$37.29. The term is 20 years with a 1.75 percent interest rate.

A motion was made by Representative

Horlander to approve the Fund A loan, seconded by Senator Carroll, and approved by unanimous roll call vote.

The City of Mayfield requested a \$849,000 Fund B (Infrastructure Revolving Loan Program) loan [Screw Pump Replacement and New Water Well project], for both drinking and wastewater projects. Two new drinking water wells were constructed at the Mayfield water treatment plant as its current well capacity has reached its daily capacity limits. Two screw pumps were also replaced at the wastewater treatment plant. Drinking water rates inside the city as of January 2018 are \$16.35 for 4,000 gallons and \$23.69 outside the city. Those rates are being increased six percent annually through 2021. Sewer rates inside the city are \$22.02 for 4,000 gallons and \$25.60 outside the city. The city sewer rates will increase two percent through 2021 and outside the city, rates will increase 10 percent through 2020. The term is 20 years with a .25 percent interest rate.

In response to several questions from Senator McDaniel regarding the submittal of the loan to the committee after the assistance agreement was executed, Ms. McNeil stated that this was the first time she was aware of where this has occurred and that a major priority for her is to modernize internal processes, eliminate redundant data entry, and maximize internal controls. KIA has one spreadsheet that tracks all loans internally. She has set up a meeting with Commonwealth Office of Technology staff to discuss options and submitted a restricted funds expansion request for IT consulting in KIA's prior budget request. It is imperative that KIA follow requirements. KIA wants to ensure safeguarding of its \$1.1 billion in assets.

Representative St. Onge commented that a higher education institution requested retroactive approval before another committee, which was denied due to concerns of setting a precedent, and that she also appreciated KIA's honesty.

In response to several questions from Senator Carroll, Ms. McNeil said KIA has a sign-off method among staff, with plans to automate so that one cannot move forward to the next step of the loan process until the prior step is completed and verified.

Senator Humphries expressed his appreciation to Ms. McNeil for her efforts, and stated that the committee's job is to oversee. While retroactivity is not generally supported, the committee does not want to inconvenience the City of Mayfield.

A motion was made by Senator Carroll to approve the Fund B loan, seconded by Representative Horlander, and approved by a roll call vote of 6 yeas, 1 nay.

The City of Bowling Green, Bowling Green

Municipal Utilities in Warren County requested a \$740,000 Fund C (Governmental Agencies Program) loan increase for the engineering fees portion of the Water Treatment Plant Expansion project. The original loan was approved in September 2017 and the revised loan amount is \$4,540,000. The construction portion, to be funded with bond proceeds; includes the addition of a filter building, two flash mix units, four flocculation and sedimentation basins, and expansion of an existing raw water pump station. The plant's current capacity of 30 million gallons per day will be expanded by either 7.5 million gallons or up to 15 million gallons. The inside city rate, effective in July 2018, is \$22.57 and the outside city rate is \$31.56 for the first 4,000 gallons. The expansion will meet the anticipated growth and redundancy needs in the city, which has over 22,000 customers, and the Warren County Water District, which has 25,000 customers and will carry approximately 85 percent of the debt. The term is 20 years with a 3 percent interest rate.

A motion was made by Representative Rudy to approve the Fund C loan increase, seconded by Representative Horlander, and approved by unanimous roll call vote.

#### **Follow-up for Previously Approved Bond Issue**

Mr. Barrow reported the previously approved Kentucky Higher Education Student Loan Corporation (KHESLC) Student Loan Revenue Bonds, Series 2018-1. The \$85 million funded KHESLC's Advantage Loan Programs; student, parent, and refinancing. The negotiated transaction with Bank of America closed in July and the true interest cost was around 4.5 percent.

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

Mr. Barrow submitted three school district bond issues with School Facilities Construction Commission (SFCC) debt service participation [for projects in Carlisle County, Corbin Independent (Whitley County), and Pike County]. The total estimated issuance amount is \$8.65 million, with SFCC debt service participation of just over 15 percent. No tax increases were necessary to fund any of these projects.

A motion was made by Representative Rudy to approve the school district bond issues, seconded by Representative St. Onge, and approved by unanimous roll call vote.

With there being no further business the meeting adjourned at 1:28 p.m.

## **PUBLIC PENSION OVERSIGHT BOARD**

### **Kentucky Retirement Systems Administrative Subcommittee**

#### **Minutes of the 1st Meeting of the 2018 Interim**

August 27, 2018

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

The 1st meeting of the Kentucky Retirement Systems Administrative Subcommittee of the Public Pension Oversight Board was held on Monday, August 27, 2018, at 3:00 PM, in Room 154 of the Capitol Annex. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Russell Webber, Co-Chair; Senator Dennis Parrett; Representatives DJ Johnson and Arnold Simpson; and John Chilton.

Guests: Brad Gross and Bo Cracraft.

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes.

#### **Past and Present City/County Retirement Plans in Kentucky – LRC Staff**

Mr. Gross provided a general overview of the current structure of the Kentucky Retirement Systems (KRS), highlighting three separate state-administered retirement systems, including the Kentucky Employees Retirement System (KERS), State Police Retirement System (SPRS), and the County Employee Retirement System (CERS). KERS has 354 agencies, with approximately 75 percent of its membership consisting of general state employees. The CERS plan has 1,138 agencies and a bit more variety of employers, but just over half of the employees in CERS are classified school board employees.

Mr. Gross discussed the history of the local government pension plans within the state. In 1935, before any pension plans had been created in Kentucky, the federal government enacted Social Security, however public employees were not eligible to participate. Mr. Gross noted that from this point, until 1950 when Congress allowed states to opt into Social Security, pension plans were being created. In 1938, the Teachers' Retirement System (TRS) was created, thus it was created as Social Security replacement plan. In addition, in 1942, the General Assembly first authorized the establishment of locally-administered city plans. A lot of the local plans were created as Social Security replacement plans, like TRS, and a 1978 study reported that of the 52 local plans in the state, 41 plans had been established pursuant to statute. In 1950, Congress allowed states to enter into voluntary agreements to provide Social Security coverage to state and local government employees who were not in a retirement system. Kentucky entered into agreement in 1951. KERS was

created in 1956 and in 1958 SPRS was created from the membership of KERS. In 1958, the General Assembly created CERS, and at that time it had a completely separate structure from KERS and was an optional plan in which counties could participate. In 1960, CERS was merged under the umbrella that is known as the Kentucky Retirement Systems today. In 1988, the General Assembly decided to close all open local government plans to new members and required participation in CERS. The only exception was the Lexington Policemen's and Firefighters' Pension Fund (Urban County Government).

Mr. Gross provided a review of the board structures for the Kentucky Retirement Systems and how it has changed over time. When created, both KERS and CERS were governed by five board members, all of whom were appointed. In 1960, when the plans were merged, the board increased to a total of nine members, which included five appointed members and two ex-officio members. In 1962, the board size remained at nine members, but consisted of four elected members, three appointed, and two ex-officio. In 1974, an additional CERS elected member was added, while the attorney general (ex-officio) was removed from the board. In 2010, an additional requirement of investment expertise was required for appointed members. In 2013, the board increased in size from 9 to 13, which included an additional CERS elected member and three additional appointees of the governor selected from lists provided by the Kentucky League of Cities, the Kentucky School Board Association, and the Kentucky Association of Counties. Lastly, in 2017, the board was expanded to 17, adding additional appointees who all were required to have investment expertise.

In response to questions from Mr. Chilton regarding the state of Kentucky opting into Social Security, Mr. Gross explained why teachers were not included. In 1950, the federal government decided that state public employees could be in Social Security, unless those employees already participated in a public retirement system. In 1954, the federal government changed this exception and provided a process for public employees participating in an existing retirement system to opt-in to Social Security by referendum. However, a Kentucky statute prohibits a referendum from occurring for TRS membership.

In response to a question from Representative Simpson, Mr. Gross stated local governments and cities generally govern whether firefighters and other local government entities participate in Social Security.

Mr. Gross discussed the underlying membership of KRS and noted a change in membership dynamic over time. In the beginning, KERS was the predominant portion



of the membership, with 85 percent in 1960. However, over the course of time, CERS has grown in membership and, as of 2018, represents the predominant share of the KRS membership.

Mr. Gross highlighted several historical studies and past legislation over time. Mr. Gross stated there were several studies, the largest being in 1977. The 1976 General Assembly passed a resolution “motivated by a growing awareness that many city pension funds were in serious financial condition and that the financial status of others was undetermined because the cities failed to procure periodic actuarial services.” In 1978, there was a LRC study on pooled pension investments for city pension systems, evaluating a way to invest the smaller plans to get better rates and lower fees. In 1982, another study was done, and there was some discussion on transitioning certain police and fire pension funds to CERS. In 1988, HB 398 closed the remaining locally-administered pension funds and required participation in CERS with exception of Urban County Government police and fire plans. In 2008, HB 600 SCS would have established a new retirement system with a separate board under KRS umbrella known as the Local Government Employees Retirement System (LGERS) for non-school board employees. The bill did not pass. In 2017, SB 226 would have separated CERS from KRS, with a separate board and separate statutory structure. Lastly, Mr. Gross mentioned that the 2017 PFM report did include a recommendation to consolidate the investment functions of all state systems, while retaining retirement boards for benefit administration. Also, PFM noted that consideration should be given to a centralized committee to set actuarial assumptions.

#### **Review of Industry Administration, Governance, and Board Structures**

Mr. Cracraft discussed the structures across the industry and stated there are three primary structures of administration and governance. The consolidated model is the most common and similar to what Kentucky is currently using. Under this model there is a single entity, such as KRS, that is responsible for administration of multiple plans, like CERS and KERS. Mr. Cracraft highlighted a few states, including Tennessee and Kansas, utilizing the model and noted that in many states, local non-hazardous employees are included in the same plan as general state employees, while other states have separated police and fire members in a separate plan.

Mr. Cracraft discussed a consolidated administration but separate governance model. This model is similar to a fully consolidated model, like KRS, where a single entity is responsible for administration, but a few states have separate boards that are responsible for governance of multiple systems. This structure is very similar to HB 600, which was introduced

in 2008. Mr. Cracraft highlighted a couple states utilizing the model, including Vermont and North Carolina.

In response to a question from Representative Simpson with regards to who would be responsible for setting assumptions and plan details, Mr. Cracraft stated that the party addressing assumptions would be established by statute. Mr. Gross added that in most cases each individual board would be responsible, but one consistent actuarial consultant would likely be used.

Mr. Cracraft continued with a separated administration and governance model, which is similar to the model that would have been created by SB 226. A handful of states have standalone local government plans that are administered and governed by a separate entity and board. He reviewed a couple of states that are utilizing this model, specifically Georgia and Missouri. Mr. Cracraft noted that while local employees are not handled this way in Kentucky, TRS and the Judicial Form Retirement System do operate in this manner.

Mr. Cracraft also discussed a few other states that utilize unique models where the plans are administered under a consolidated entity, such as KRS, but an advisory committee or subordinate board has been created to assist in governance or make recommendations regarding a specific plan.

In response to questions from Senator Schroder, Mr. Cracraft stated that SB 226 would have created a completely separated administration and governance model. In response to a follow up question regarding the investment of plans under a separate governance, Mr. Cracraft states he believed plans could handle situations where underlying boards choose different investment strategies. Mr. Gross added that generally the bigger the level of assets, the lower fees will be, but investments return may be more or less based upon various factors like asset allocation.

Mr. Chilton commented that he believes that it was the recommendation of PFM that each fund might make the same investment under an investment board, but there would be no mixing of money.

In response to a question from Representative Simpson, Mr. Gross stated that there was no data that indicated that the state would be liable if a locally administered city plan (not in CERS) faltered.

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Monday, September 24, 2018.

## **TASK FORCE ON TAX EXPENDITURES**

### **Minutes of the 3rd Meeting of the 2018 Interim**

August 30, 2018

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

The 3rd meeting of the Task Force on Tax Expenditures was held on Thursday, August 30, 2018, at 3:00 PM, in Room 154 of the Capitol Annex. Representative Ken Fleming, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Ken Fleming, Co-Chair; Senators David P. Givens, Morgan McGarvey, Dennis Parrett, and Wil Schroder; Representatives Jason Petrie, Steven Rudy, Diane St. Onge, James Tipton, and Susan Westrom.

Guests: Mark Haney, President, Kentucky Farm Bureau Federation; Eddie Melton, 1<sup>st</sup> Vice President, Kentucky Farm Bureau Federation; Jeff Harper, Director of Public Affairs Division, Kentucky Farm Bureau Federation; Alyson Roby, Medica Pharmacy, Bardstown KY; Shannon Stiglitz, Kentucky Retail Federation; Lee Lingo, Executive Director, Kentucky Association of Manufacturers; and Mike Helton, Director of Advocacy, Kentucky Association of Manufacturers.

LRC Staff: Jennifer Hays, Cynthia Brown, Amit Shanker, Micah Johnson, and Chase O'Dell.

#### **Sales and Use Tax Exemptions for the Agricultural Industry**

Mark Haney, President, Kentucky Farm Bureau Federation; Eddie Melton, 1<sup>st</sup> Vice President, Kentucky Farm Bureau Federation; and Jeff Harper, Director of Public Affairs Division, Kentucky Farm Bureau Federation, reviewed and discussed sales and use tax exemptions for the agricultural industry.

Mark Haney testified that tax exemptions for sales tax on production agriculture is important because every state surrounding Kentucky has some form of a program with a sales tax exemption for agriculture. He stated that removing the sales and use tax exemption would cause a disruption for the supply industry for agriculture in Kentucky, and that farm communities would take the biggest hit from the elimination.

In response to questions from Representative Fleming, Mr. Haney said that the tax exemption is important for a young farmer starting in agriculture production. Kentucky Farm Bureau does not believe that farmers abuse the sales and use tax exemptions. Kentucky Farm Bureau believes there is room to modernize the verification process for farmers and tax exempt purchases.

In response to a statement from Senator Higdon, Mr. Haney testified that the Kentucky

Farm Bureau has looked at how other states administer sales tax on agricultural products.

In response to a question from Representative St. Onge, Representative Rudy stated that the percent of inventory that is tax exempt in a farm supply store depends on the nature of the business and the end user.

In response to a question from Representative Tipton, Mr. Haney stated that there is probably some form of a plan similar to Georgia's that would be appropriate for Kentucky.

In response to questions from Representative Petrie, Mr. Haney said that the current system for verification is working, but that Kentucky Farm Bureau would be open to modernizing it. Kentucky Farm Bureau has not made any recommendations or proposals to change the current verification system.

In response to a question from Representative St. Onge, Mr. Haney testified that true farm supply stores handle mostly tax exempt farm products.

In response to a question from Representative Fleming, Mr. Haney testified that Kentucky Farm Bureau would identify farming as production agriculture.

#### **Approval of Minutes**

Representative Rudy moved that the minutes of the July 26, 2018, meeting be approved. Representative Petrie seconded the motion, and the minutes were approved by voice vote.

#### **Sales and Use Tax Exemptions for the Medical Industry**

Alyson Roby, Medica Pharmacy, Bardstown, and Shannon Stiglitz, Kentucky Retail Federation, reviewed and discussed sales and use tax exemptions for the medical industry. Ms. Roby said that Illinois is the only state that applies sales tax to prescription drugs. The administrative burden and cost of collecting and remitting the sales tax would have significant negative effects on all pharmacies.

Ms. Roby said that increased prescription costs would be harmful to the health and economic well-being of those patients that already struggle to pay for basic needs. The federal government would not pay sales tax on prescription drugs for any patients participating in programs where they pay all or part of the costs. In 2017, 55 percent of all prescriptions dispensed were paid for with federal funds.

Ms. Stiglitz testified that Kentucky currently exempts all prescription drugs from sales tax and that 22 states exempt medical equipment and supplies from the sales tax. Illinois is the only state contiguous state that taxes medical equipment and supplies.

#### **Incentives for the Manufacturing Industry**

Lee Lingo, Executive Director, Kentucky Association of Manufacturers; and Mike Helton, Director of Advocacy, Kentucky Association

of Manufacturers, reviewed and discussed incentives for the manufacturing industry.

Mr. Lingo testified that there are 2,500 manufacturing facilities in Kentucky that employ almost 256,000 people. The Kentucky Association of Manufacturers (KAM) supports a tax code that is competitive and consistent with surrounding competitor states. KAM also supports Kentucky moving towards a more consumption-based system and away from an income-based system. He provided a list of the tax expenditures, credits, and incentives that KAM would like to retain.

In response to a question from Representative Petrie, Mr. Helton stated his belief that the energy tax credit should be looked at for possible change. The way repair, replacement, and spare parts are taxed should be looked at for possible change.

In response to a question from Representative Fleming, Mr. Helton testified that the effect of the income tax rate going to five percent has been positive for the manufacturing industry. The single sales factor change has been positive for the manufacturing industry.

#### **Information from DOR and OSBD**

Chairman Fleming reviewed information received from the Department of Revenue and the Office of State Budget Director since the last meeting.

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

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

### **Minutes of the 5th Meeting of the 2018 Interim**

September 5, 2018

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

The 5th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, September 5, 2018, at 10:00 AM (EST), in Room 129 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator C.B. Embry Jr., Co-Chair; Representative Myron Dossett, Co-Chair; Senators Paul Hornback, 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 (GOAP); Bill McCloskey, Deputy Executive Director, GOAP; Van Ingram, Executive Director, Kentucky Office of Drug Control Policy (KODCP); Heather Wainscott, Branch Manager,

KODCP; and Amy Andrews, Program Manager, Kentucky Agency for Substance Abuse Policy.

**LRC Staff:** Nathan Smith, Kelly Ludwig, Tanya Monsanto, and Rachel Hartley.

#### **Governor's Office of Agricultural Policy Report**

Warren Beeler discussed his schedule for August through October.

In response to a question from Representative Schamore, Mr. Beeler stated the water bonds will be paid off by 2024.

In response to a question from Senator Meredith, Mr. Beeler stated there are grants to buy solar panels through the United States Department of Agriculture (USDA) and solar usage by farmers will increase.

Representative Dossett stated the USDA purchased \$50 million of milk from dairy farmers. Kentucky should receive 2.3 million gallons of milk for the food banks.

Bill McCloskey described the Agricultural Development Board's projects for August. He highlighted programs including the County Agricultural Investment Program (CAIP), On-Farm Energy Program, and the Youth Agricultural Incentives Program.

Requested program amendments discussed included:

Owen County Farm Bureau, Inc., requested an additional \$25,000 in Owen County funds for CAIP. The board recommended approval, which would bring the program total to \$270,000.

McCracken County Soil Conservation District requested an additional \$30,000 in McCracken County funds for CAIP. The board recommended approval, which would bring the program total to \$145,000.

Projects discussed included:

The Wingfield Volunteer Fire Department, Inc., was approved for \$890 in Edmonson County funds to purchase two Turtle Tube grain bin rescue devices.

The University of Kentucky Research Foundation was approved for \$390,189 in state funds over a two-year period to support the State Viticulture and Enology Extension Program. The funding will be divided into \$200,097 for the first year and \$190,092 for the second year.

In response to a question from Representative Reed, Mr. Beeler stated wine makes farmers money, and if it helps farmers make money, then it is a priority.

#### **Kentucky Office of Drug Control Policy**

Van Ingram stated six weeks ago the Kentucky Office of Drug Control Policy (KODCP) released its annual overdose report and there were 1,565 preventable deaths. Illicit fentanyl



produced in China is the reason for the high number of deaths. Fentanyl is being produced by rogue pharmaceutical manufacturers in China because they do not have regulations over the chemicals. Fentanyl is 10 times more potent than heroin. The Drug Enforcement Agency estimates a \$6,000 investment in fentanyl production will net an income of \$6,000,000 when sold.

Mr. Ingram stated a website was developed with a Centers for Disease Control and Prevention grant that is a treatment locator for heroin addiction. A statewide help center was also launched with trained professionals answering phone calls.

Heather Wainscott stated grassroots efforts are the heart of the community response. Local boards can address what the main issues are in their communities. There are 118 local boards in 120 counties. The local boards are made up of mostly volunteers. The Kentucky Agency for Substance Abuse Policy (KY-ASAP) has a state board that advises the local boards.

There are now 198 permanent prescription drug disposal boxes at local law enforcement offices. KY-ASAP participates in drug take-back programs.

Ms. Wainscott stated there is now a website to help prevent overdoses that has the locations of pharmacies that will dispense Naloxone. KY-ASAP also has a social media presence and a partnership with the Kentucky Broadcasters Association.

Amy Andrews stated in Fiscal Year 2018 each county was awarded \$16,000. In 2020 the award will be \$20,000. The local boards have been focusing on treatment, transport, and childcare.

In response to a question from Representative Reed, Mr. Ingram stated he supports the concept of 2018 HB 428, which would have provided for an opioid assessment detention after an overdose, but does not know how to address the constitutional issues raised.

In response to a question from Representative Schamore, Mr. Ingram stated he recognizes transportation is a crucial issue for individuals needing treatment.

In response to a question from Representative Dossett, Mr. Ingram stated synthetic marijuana is still a problem, and it is shipped from Asia.

The next meeting of the Tobacco Settlement Agreement Fund Oversight Committee will be October 3, 2018. Documents distributed during the meeting are available in the LRC Library and at [www.lrc.ky.gov](http://www.lrc.ky.gov).

There being no further business, the meeting was adjourned.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

### Minutes of the September Meeting

September 11, 2018

#### Call to Order and Roll Call

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 11, 2018, 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 David Hale, Co-Chair; Senators Perry B. Clark, and Alice Forgy Kerr; Representatives Mary Lou Marzian, Jason Petrie, and Tommy Turner.

Guests: Kathryn Gabhart, Michael Board, Executive Branch Ethics Commission; Kristen Green, Alan Harrison, Darrell Johnson, UK Division of Regulatory Services; Travis Powell, Council on Postsecondary Education; Kevin Winstead, Attorney General's Office of Consumer Protection; David Trimble, Department of Professional Licensing; Julie Campbell, Board of Cosmetology; Beth Gamble, Pamela Hagan, Megan LaFollette, Board of Nursing; Louis Kelly, Board of Physical Therapy; Amber Arnett, Ron Brooks, Department for Fish and Wildlife; Lesly Davis, Michael Mullins, Bruce Scott, Energy and Environment Cabinet; Pete Goodman, Tony Hatton, Division of Water; Todd Allen, Amanda Ellis, Wayne Lewis, Department of Education; Steve Humphress, Marc Manley, Alcoholic Beverage Control; Patrick O'Connor, Department of Insurance; Erica Brakefield, Julie Brooks, Department of Public Health; Stephanie Brammer Barnes, Steve Davis, Office Inspector General; Jennifer Burt, Pam Hendren, Anita Travis, Division of Public Health Protection and Safety.

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 Tuesday, September 11, 2018, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION  
CABINET: Executive Branch Ethics Commission

009 KAR 001:015 & E. Pre-administrative proceedings. Michael Board, general counsel, and Katie Gabhart, executive director, represented the commission.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A.

Without objection, and with agreement of the agency, the amendments were approved.

009 KAR 001:030 & E. Administrative hearings.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 4, 6, 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.

AGRICULTURAL EXPERIMENT  
STATION: Commercial Feeds

012 KAR 002:006. Definitions for 12 KAR Chapter 2. Kristen Green, registration specialist, University of Kentucky; Alan Harrison, feed director; and Darrell Johnson, executive director, represented the experiment station.

012 KAR 002:011. Label format.

012 KAR 002:016. Brand and product names.

In response to a question by Co-Chair Harris, Mr. Harrison stated that 12 KAR 2:016 and 2:031 were amended to clarify that raw milk may be used as an ingredient in pet food.

A motion was made and seconded to approve the following amendment: to amend Section 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

012 KAR 002:017. Product purpose statement.

012 KAR 002:018. Guaranteed analysis.

A motion was made and seconded to approve the following amendments: to amend Sections 12 and 13 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

012 KAR 002:021. Expression of guarantees.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

012 KAR 002:026. Ingredients.

In response to a question by Co-Chair Harris, Mr. Harrison stated that mineral percentages were based on national standards.

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.

012 KAR 002:031. Directions for use and precautionary statements.

A motion was made and seconded to approve

the following amendment: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

012 KAR 002:036. Non-protein.

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.

012 KAR 002:041. Drug and feed additives.

012 KAR 002:046. Poisonous or deleterious substances.

012 KAR 002:051. Manufacturing conditions.

012 KAR 002:056. List of manufacturers.

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.

012 KAR 002:061. Registration.

012 KAR 002:066. Suitability.

A motion was made and seconded to approve the following amendments: to amend Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

COUNCIL ON POSTSECONDARY EDUCATION: Public Educational Institutions

013 KAR 002:020. Guidelines for admission to the state-supported postsecondary education institutions. Travis Powell, general counsel and associate vice president, represented the council.

In response to questions by Senator Kerr, Mr. Powell stated that, prior to these amendments, achievement requirements, with some exceptions, consisted of the minimum graduation requirements and a passing score on the examination. This administrative regulation established a minimum GPA requirement to increase student success rates. As GPA increased, the rate of retention increased distinctly and substantially. Students who entered college with less than a 2.0 GPA had only a thirty-three (33) percent retention rate. Students who entered college with a GPA of 2.0 to 2.49 had a forty-four and seven tenths (44.7) percent retention rate. Students who entered college with a GPA of 2.5 to 2.9 had a fifty-five (55) percent retention rate, and students who entered college with a GPA of 3.0 to 3.5 had a sixty-eight (68) percent retention rate. Students who entered college with more than a 3.5 GPA had an eighty-six (86) percent retention rate. Students who did not meet the minimum GPA requirements could be placed in KCTCS programs and transfer on to traditional four

(4) year institutions after completing remedial work. Remediation continued to be emphasized at traditional four (4) year institutions. This administrative regulation established placement provisions, based on the co-requisite model for developmental education, for students not yet ready for traditional four (4) year institutions. This program placed students in credit-bearing courses in applicable degree pathways and with outside support systems, such as tutoring or mentoring, to foster student success.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 3, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

OFFICE OF THE ATTORNEY GENERAL:  
Office of Consumer Protection

40 KAR 002:345 & E. Visual aid glasses seller annual registration requirements. Kevin Winstead, staff attorney, represented the office.

In response to questions by Co-Chair Harris, Mr. Winstead stated that ten (10) to twenty (20) registrants were estimated to be affected annually. That estimate was developed based on the current registration of out-of-state contact sellers. The authorizing statute applied to sellers outside of Kentucky that sold contacts and glasses to Kentucky patients.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET:  
Department of Professional Licensing – Kentucky Athlete Agent Registry: Division of Occupations and Professions, Athlete Agents

200 KAR 030:011. Repeal of 200 KAR 030:010, 030:020, 030:030, 030:040, and 030:070. David Trimble, general counsel, represented the division.

BOARDS AND COMMISSIONS: Board of Cosmetology

201 KAR 012:251. Repeal of 201 KAR 12:085, 201 KAR 12:088, 201 KAR 12:120, 201 KAR 12:180, and 201 KAR 12:250. Julie Campbell, director, represented the board.

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.

201 KAR 012:280. Esthetic practices restrictions.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph and Sections 1, 3, 4, 6, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to: (a) clarify the definition for “cosmetic resurfacing exfoliating procedures; and (b) add definitions for “direct supervision; (3) to amend Section 2 to clarify that: (a) medical procedures shall not be performed by an esthetics or cosmetology licensee; and (b) services allowed under the direct supervision of a licensed health care practitioner shall fall within the category of cosmetic resurfacing exfoliating procedures; (4) to amend Section 4 to clarify that “direct supervision” shall be required; and (5) to amend Section 6 to clarify when the benefits and risks of all procedures shall be disclosed. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing

201 KAR 020:490. Licensed practical nurse infusion therapy scope of practice. Pamela Hagan, acting executive director, represented the board.

Amends the STATUTORY AUTHORITY paragraph and Sections 1, 2, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Physical Therapy

201 KAR 022:020. Eligibility and credentialing procedure. Louis Kelly, general counsel, represented the board.

201 KAR 022:040. Procedure for renewal or reinstatement of a credential for a physical therapist or physical therapist assistant.

201 KAR 022:170. Physical Therapy Compact Commission.

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.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife: Fish

301 KAR 001:201. Taking of fish by traditional fishing methods. Amber Arnett, staff attorney, and Ron Brooks, fisheries director, represented the department.

In response to questions by Co-Chair Hale, Mr. Brooks stated that the statewide creel limit for walleye and sauger was six (6), with a size limit of fourteen (14) inches. The limits were agreed to by the Ohio River Fish Management Team. The muskie size limit at Buckhorn Lake was previously thirty-six (36) inches and was



being revised to forty (40) inches. Fishermen were not seeing many large sunfish, which could be the result of overharvesting. The public had not submitted feedback regarding changes to carnico limits.

In response to a question by Co-Chair Harris, Mr. Brooks stated that it usually took a matter of years after overharvesting to return populations to previous levels. Sunfish typically reached a harvestable size within three (3) to four (4) years.

A motion was made and seconded to approve the following amendment: to amend Section 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

301 KAR 001:410. Taking of fish by nontraditional fishing methods.

In response to a question by Co-Chair Harris, Mr. Brooks stated that hand grabbing of catfish was synonymous with “noodling.”

A motion was made and seconded to approve the following amendment: to amend the agency heading to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

ENERGY AND ENVIRONMENT  
CABINET: Office of the Secretary:  
Administration

400 KAR 001:001 & E. Definitions for 400 KAR Chapter 1. Lesly Davis, executive director; Michael Mullins, regulation coordinator; and Bruce Scott, deputy secretary, represented the office.

400 KAR 001:040 & E. Administrative discovery.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 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.

400 KAR 001:090 & E. Administrative hearings practice provisions.

A motion was made and seconded to approve the following amendments: to amend Sections 5 and 24 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

400KAR001:100&E.Generaladministrative hearing practice provisions relating to matters brought under KRS Chapters 146, 149, 151, 223, 224, and 353.

A motion was made and seconded to approve the following amendments: to amend Sections 3, 6, 9, and 10 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

400 KAR 001:110 & E. Administrative hearings relating to matters brought under KRS Chapter 350.310 through 351.375.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 through 14 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Environmental Protection:  
Division of Water: Water Quality

401 KAR 005:002. Definitions for 401 KAR Chapter 5. Pete Goodmann, director, and Tony Hatton, commissioner, represented the division.

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.

401 KAR 005:005. Permits to construct, modify, or operate a facility.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 4, 7, 9, 11, 18, 20, 22, 24, and 25 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 25(1) to correct a conjunction. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 005:006. Wastewater planning requirements for regional planning agencies.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 005:015. Releases to be reported to the division.

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

401 KAR 005:037. Groundwater protection plans.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 005:039. Repeal of 401 KAR 5:035, 5:057, 5:070, and 5:300.

401 KAR 005:045. Treatment requirements;

compliance; biochemically degradable wastes.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 005:050. General provisions of KPDES permitting program.

401 KAR 005:052. Requirements applicable to cooling water intake structures of facilities regulated by Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b).

401 KAR 005:055. Scope of applicability of the KPDES program and pretreatment requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 005:060. KPDES application requirements.

401 KAR 005:065. KPDES permit conditions.

401 KAR 005:075. Cabinet review procedures for KPDES permits and permit timetables for 401 KAR Chapter 5.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 14, 15, and 17 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 005:080. Criteria and standards for the Kentucky Pollutant Discharge Elimination System.

401 KAR 005:320. Wastewater Laboratory Certification Program.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 6, 7, 10, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to delete Section 12, which was a one-time requirement that had already been implemented. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE  
DEVELOPMENT CABINET: Board of  
Education: Department of Education: Office  
of Learning Programs Development: Office of  
Instruction

704 KAR 003:015. Kentucky All STARS for  
Preschool Programs. Todd Allen, deputy general  
counsel; Amanda Ellis, associate commissioner,

Office of Teaching and Learning; and Dr. Wayne Lewis, interim commissioner of education, represented the office.

In response to a question by Co-Chair Harris, Dr. Lewis stated that this administrative regulation removed a deficiency from Kentucky's program. Approximately five (5) years ago, Kentucky was awarded a forty-four (44) million dollar Race to the Top Early Learning Challenge Grant. The grant was awarded to establish a unified rating system for Kentucky's early childhood learning programs, such as preschool, headstart, and childcare. The program included incentives to increase the quality of early learning settings.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

704 KAR 003:306. Kentucky Academic Standards for Historical and Cultural Influences of the Bible Elective Social Studies Course.

In response to questions by Co-Chair Hale, Dr. Lewis stated that the minimum standards established in this administrative regulation applied to all listed courses. These standards were established by administrative regulation, in contrast to curriculum, which was established at the local school level by the applicable School-based Decision-making Council. The elective social studies course on the Hebrew Scriptures, the Old Testament of the Bible, and the New Testament of the Bible, were high school level elective courses.

In response to a question by Senator Clark, Ms. Ellis stated that elective courses in Comparative Religions were also available. Senator Clark stated that it was necessary to be cautious with Bible-related courses, especially regarding consideration of which Bible would be used (the Vulgate, Jerusalem, King James Version, etc.)

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 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: Department of Alcoholic Beverage Control: Conduct of Business; Employees

804 KAR 005:080. Vintage distilled spirits. Steve Humphress, general counsel, and Marc

Manley, counsel, represented the department.

ENERGY AND ENVIRONMENT CABINET: Department of Natural Resources: Division of Oil and Gas

805 KAR 001:210 & E. Comment period for pooling of oil and gas shallow wells. Lesly Davis, executive director; Michael Mullins, regulation coordinator; and Bruce Scott, deputy secretary, represented the office.

Department of Insurance: Health Insurance Contracts

806 KAR 017:020. Disclosure of other coverage in application. Patrick O'Connor, deputy commissioner, represented the department.

806 KAR 017:091. Repeal of 806 KAR 017:010, 806 KAR 017:090, 806 KAR 017:130, 806 KAR 017:310, 806 KAR 017:320, 806 KAR 017:330, 806 KAR 017:440, 806 KAR 017:460, 806 KAR 017:500, 806 KAR 017:540, 806 KAR 017:545, 806 KAR 017:555.

806 KAR 017:300. Provider agreement and risk-sharing agreement filing requirements.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 through 4 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 017:360. Prompt payment of claims.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 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.

PUBLIC PROTECTION CABINET: Department of Professional Licensing – Kentucky Athlete Agent Registry: Division of Occupations and Professions, Athlete Agents: Registry

830 KAR 002:001. Definitions. David Trimble, general counsel, represented the division.

830 KAR 002:010. Registration and fees.

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

830 KAR 002:020. Complaints.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 through 5 to comply with the drafting and formatting

requirements of KRS Chapter 13A; and (2) to amend Section 2 to establish that failure to meet the filing deadline for a response to a complaint alleging a violation may be treated as a default of the obligation to file a response and an admission of the alleged violation, unless good cause is shown. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Public Health Protection and Safety: Sanitation

902 KAR 010:051. Repeal of 902 KAR 10:050. Julie Brooks, regulation coordinator; Erica Brakefield, section supervisor; and Jennifer Burt, branch manager, represented the division.

Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 020:008 & E. License procedures and fee schedule. Stephanie Brammer – Barnes, regulation coordinator, and Steve Davis, inspector general, represented the division.

In response to a question by Representative Marzian, Mr. Davis stated that these administrative regulations did not pertain to abortion facilities.

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

902 KAR 020:251. Repeal of 902 KAR 020:250.

902 KAR 020:260. Hospital-owned pain management clinics.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 020:275. Freestanding or mobile technology.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2, 3, 5 through 7, 10, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 020:401E. Repeal of 902 KAR 020:058, 902 KAR 020:145, 902 KAR 020:190, and 902 KAR 020:400.

Department for Public Health: Division of Public Health Protection and Safety: Food and



## Cosmetics

902 KAR 045:160. Kentucky food processing, packaging, storage, and distribution operations. Julie Brooks, regulation coordinator; Pam Hendren, branch manager; and Anita Travis, program manager, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 10, 11, 15, and 17 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

## Hazardous Substances

902 KAR 047:071. Repeal of 902 KAR 047:040, 902 KAR 047:050, 907 KAR 047:060, and 902 KAR 047:070. Julie Brooks, regulation coordinator; Erica Brakefield, section supervisor; and Jennifer Burt, branch manager, represented the division.

In response to a question by Senator Clark, Ms. Brakefield stated that these substances were regulated by the Consumer Product Safety Commission and related inspections were within the federal jurisdiction.

## Controlled Substances

902 KAR 055:011E. Repeal of 902 KAR 055:010. Stephanie Brammer – Barnes, regulation coordinator, and Steve Davis, inspector general, represented the division.

## Office of Inspector General: Inspector General

906 KAR 1:071E. Repeal of 906 KAR 001:050, 906 KAR 001:060, and 906 KAR 001:070. Stephanie Brammer – Barnes, regulation coordinator, and Steve Davis, inspector general, represented the division.

The following administrative regulations were deferred or removed from the September 11, 2018, subcommittee agenda:

## STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 004:100 & E. Evaluation of precinct election officers.

31 KAR 004:120 & E. Additional and emergency precinct officers.

## BOARDS AND COMMISSIONS: Board of Nursing

201 KAR 020:057. Scope and standards of practice of advanced practice registered nurses.

## Board of Podiatry

201 KAR 025:090. Prescribing and dispensing controlled substances.

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

503 KAR 001:110 & E. Department of Criminal justice Training basic training graduation requirements; records.

## TRANSPORTATION CABINET: Department of Vehicle Regulation: Administration

601 KAR 002:030 & E. Ignition interlock.

## LABOR CABINET: Department of Workers' Claims

803 KAR 025:089 & E. Workers' Compensation Medical Fee Schedule for Physicians.

## PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts

806 KAR 017:570. Minimum standards for Medicare supplement insurance policies and certificates.

## Department of Charitable Gaming

820 KAR 001:001. Definitions.

820 KAR 001:005. Charitable gaming licenses and exemptions.

820 KAR 001:011. Repeal of 820 KAR 1:010, 1:015, 1:016, 1:017, 1:026, 1:027, 1:028, 1:029, 1:033, 1:034, 1:036, 1:044, 1:056, 1:058, 1:100, 1:110, 1:120.

820 KAR 001:025. Reports.

820 KAR 001:032. Pulltabs.

820 KAR 001:042. Bingo.

820 KAR 001:050. Raffles.

820 KAR 001:055. Charity fundraising event standards.

820 KAR 001:057. Recordkeeping.

820 KAR 001:060. Prohibited conduct.

820 KAR 001:125. Gaming inspections.

820 KAR 001:130. Administrative actions.

820 KAR 001:135. Disposal of gaming supplies.

## CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Policy and Operations

895 KAR 001:001. Definitions for 895 KAR Chapter 001.

895 KAR 001:010. Eligibility for Kentucky HEALTH program.

895 KAR 001:015. Premium payments within the Kentucky HEALTH programs.

895 KAR 001:020. PATH requirement for the Kentucky HEALTH program.

895 KAR 001:025. Beneficiary premiums.

895 KAR 001:030. Establishment and use of the MyRewards program.

895 KAR 001:035. Covered services within the Kentucky HEALTH program.

895 KAR 001:040. Deductible accounts within the Kentucky HEALTH program.

895 KAR 001:045. Accommodation, modifications, and appeals for beneficiaries participating in the Kentucky HEALTH program.

895 KAR 001:050. Enrollment and reimbursement for providers in the Kentucky HEALTH program.

895 KAR 001:055. Designation or determination of medically frail status or accommodation due to temporary vulnerability in the Kentucky HEALTH program.

Office of Inspector General: Division of

## Certificate of Need: State Health Plan

900 KAR 005:020 & E. State Health Plan for facilities and services.

## Radiology

902 KAR 100:018. Repeal of 902 KAR 100:017, 902 KAR 100:060, and 902 KAR 100:090.

902 KAR 100:022. Licensing requirements for land disposal of radioactive waste.

902 KAR 100:052. Specific domestic licenses of broad scope for byproduct material.

902 KAR 100:070. Packaging and transportation of radioactive material.

902 KAR 100:072. Medical use of byproduct material.

902 KAR 100:100. Licenses for industrial radiography and radiation safety requirements for industrial radiographic operations.

902 KAR 100:142. Licenses and radiation safety requirements for well logging.

## Office of Inspector General

906 KAR 001:190. Kentucky National Background Check Program (NBCP).

## Department for Medicaid Services

907 KAR 001:642. Adult group 07-2018 benefit plan and copayments.

Department for Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 003:025. Technical requirements.

921 KAR 003:035. Certification process.

## Division of Protection and Permanency: Child Welfare

922 KAR 001:560 & E. Putative father registry and operating procedures.

The subcommittee adjourned at 1:50 p.m. The next meeting is tentatively scheduled for October 9, 2018, at 1 p.m.

## GOVERNMENT CONTRACT REVIEW COMMITTEE

### Committee Minutes

September 11, 2018

### Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, September 11, 2018, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

### Present were:

Members: Senator Stephen Meredith, Co-Chair; Representative Stan Lee, Co-Chair; Senator Julian M. Carroll; Representatives Chris Fugate and Mark Hart.

Guests: Ben Long, Kevin Winstead, Holly McCoy Johnson, Julie Campbell, Sharon Craig, Michael Rodman, Rick Bender, Lona Brewer, Hillarye Dailey, Daniel Jessee, Mike Savage, Angela Burrows, David McFadden, Stacy Woodrum, Dr. William Ralston, Diana Barber,

David Lawhorn, Connie Davis, Cassandra Weiss, Jay Hall, Lisa Wilson, Greg Collins, Barry Swanson, Jennifer Moore, Kelley Webb, Stephanie Bates, Lindsay Jackson, Brian Makinen, Erica Galyon, Angela Cummins, Mary Sue Helm, and Jay Hall.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.

#### **DEFERRED ITEM:**

##### **SECRETARY OF STATE**

National Association of Student Personnel Administrators, 181922. A motion was made by Representative Lee to defer the contract to the October 2018 meeting of the committee. Representative Senator Carroll seconded the motion, which passed.

#### **AUGUST DEFERRED ITEMS:**

##### **DEPARTMENT FOR MEDICAID SERVICES**

Myers and Stauffer, LLC, 1900002320. Stephanie Bates and Lindsay Jackson discussed the contract with the committee. A motion was made by Senator Carroll to defer the contract to the October 2018 meeting. Representative Hart seconded the motion, which passed.

##### **EASTERN KENTUCKY UNIVERSITY**

PWM Insurance, A Division of J. Smith Lanier & Co., 20-110. David McFadden and Brian Makinen discussed the contract with the committee. A motion by Senator Carroll to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

##### **KENTUCKY TEACHERS RETIREMENT SYSTEM**

Williams and Jensen, PLLC, 0007. A motion was made by Senator Carroll to defer the contract to the October 2018 meeting. Representative Hart seconded the motion, which passed.

A motion was made by Senator Carroll to approve Minutes of the August 2018, meeting of the committee. Representative Hard seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by

members of the committee. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Senator Carroll 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:**

##### **BOARD OF ACCOUNTANCY**

Stiles, Carter and Associates, CPAS, PSC, 1900002408.

##### **CHFS - OFFICE OF THE SECRETARY**

Thomas J. Hellmann Attorney-At-Law PLLC, 1900002243.

##### **DEPARTMENT FOR INCOME SUPPORT**

Malissa J. Mollett, 1900001951; Brandee Denise Wimberly, 1900002230; Donna J. Farmer, 1900002247; Brian Aaron Smith, 1900002255.

##### **DEPARTMENT FOR LOCAL GOVERNMENT**

ICF, Inc., LLC, 1900002394.

##### **DEPARTMENT OF CORRECTIONS**

American Correctional Association, 1900000060.

##### **DEPARTMENT OF EDUCATION**

National Council for Behavioral Health, 1900002159.

##### **DEPARTMENT OF HIGHWAYS**

HRV Conformance Verification Associates, Inc., 1900002383; Greenman-Pedersen, Inc., 1900002526; Palmer Engineering Company, 1900002527; QK4, Inc., 1900002600; DLZ Kentucky, Inc., 1900002601; AECOM Technical Services, Inc., 1900002603.

##### **DEPARTMENT OF MILITARY AFFAIRS**

Mark E. Demuth, 1900002373.

##### **FACILITIES & SUPPORT SERVICES**

John A. Newman Consulting Engineers, 1900002339; S&Me, Inc., 1900002340; Ross Tarrant Architects, Inc., 1900002454; James R. Cash Auctions, 1900002502; EOP Architects, PSC, 1900002546.

##### **KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY**

Morgan Stanley Domestic Holdings, 1900002606; Morgan Stanley Domestic Holdings, 1900002607.

##### **KENTUCKY RETIREMENT SYSTEMS**

Reinhart Boerner Van Deuren, PSC, 1900001919.

##### **KENTUCKY STATE POLICE**

James Daniel Quarles, M.D., 1900002161.

##### **KENTUCKY STATE UNIVERSITY**

Dr. Angela Mashack, 19-09.

##### **KY COMMUNITY TECHNICAL COLLEGE SYSTEM**

Affordable Language Services, LLC, 770; United States Geospatial Intelligence Foundation, Inc., 771; Dye Brothers, 772.

##### **MOREHEAD STATE UNIVERSITY**

MAXIMUS Higher Education, Inc., 19-20.

##### **MURRAY STATE UNIVERSITY**

The Segal Company (Eastern States), Inc., 013-19; McClain DeWees, PLLC, 014-19.

##### **NORTHERN KENTUCKY UNIVERSITY**

Schultz & Williams, 2019-122.

##### **TRANSPORTATION - OFFICE OF THE SECRETARY**

Benson Group, LLC, 1900002528.

##### **UNIVERSITY OF KENTUCKY**

Stengel-Hill Architecture, A191090; TEKSystems, K19-204; Mid Atlantic Solid Waste Consultants, K19-206; Epic Technologies, LLC, K19-207; Berkeley Research Group, K19-208; Lois Lindauer Searches, LLC, K19-209.

##### **UNIVERSITY OF LOUISVILLE**

Learfield Communications, 19-045; Kenneth Randall, 19-046.

##### **WESTERN KENTUCKY UNIVERSITY**

Health Fitness Corporation, 182027; Bowling Green Warren County Community Hospital Corporation, d/b/a Medical Center Psychiatry, 182028; Steven Weintraub, 182029.



**THE FOLLOWING PERSONAL SERVICE  
AMENDMENTS WERE REVIEWED  
WITHOUT OBJECTION:**

**ADMINISTRATIVE OFFICE OF THE  
COURTS**

Adams Stepner Woltermann and Dusing,  
1600003912.

**BEHAVIORAL HEALTH,  
DEVELOPMENTAL & INTELLECTUAL  
DISABILITIES**

Train for Change, Inc., 1800000775.

**BOARD OF MEDICAL LICENSURE**

Multi, 1900000777; Multi, 1900000777.

**DEPARTMENT FOR PUBLIC HEALTH**

Multi, 1900001055.

**DEPARTMENT OF HIGHWAYS**

Community Transportation Solutions,  
0900012152; Burgess and Niple, Inc., 1200000158;  
J M Crawford & Associates, Inc., 1300000071;  
Strand Associates, Inc., 1300000192; HDR  
Engineering, Inc., 1300001736; Vaughn &  
Melton Consulting Engineers (Kentucky), Inc.,  
1400001085; EA Partners, PLC, 1400001234;  
HMB Professional Engineers, Inc., 1400003676;  
Palmer Engineering, 1600000444; Palmer  
Engineering County, 1600000467; URS  
Corporation, 1600000572; Michael Baker  
International, Inc., 1600003185; Stantec  
Consulting Services, Inc., 1700000598; Palmer  
Engineering County, 1700001263; AECOM  
Technical Services, Inc., 1700001318; Stantec  
Consulting Services, Inc., 1700001320; AECOM  
Technical Services, Inc., 1700001614; HMB  
Professional Engineers, Inc., 1800001263; QK4,  
Inc., 1900002166.

**DEPARTMENT OF MILITARY AFFAIRS**

Scottie W. Sloan, 1900001618.

**FACILITIES & SUPPORT SERVICES**

Schnabel Dam Engineering, Inc.,  
1200002448; Schnabel Dam Engineering,  
Inc., 1200002448; Third Rock Consultants,  
LLC, 1200003126; Stengel Hill Architecture,  
Inc., 1500001000; Sherman Carter Barnhart,  
1500001837; CMTA, Inc., 1500002374; THP  
Limited, Inc., 1500002870; Patrick Engineering,  
Inc., 1600000268; Clotfelter Samokar PSC,  
1700001117; K. Norman Berry Associates,  
1800000098.

**KENTUCKY STATE POLICE**

Kevin Rogers, 1900001704; Jonathan  
Blevins, 1900002154.

**PERSONNEL - OFFICE OF THE  
SECRETARY**

Cannon Cochran Management Services,

Inc., 1800002026.

**UNIVERSITY OF KENTUCKY**

THP Limited, Inc., A181150; Multi,  
A201000; Multi, A201030.

**UNIVERSITY OF LOUISVILLE**

JRA, Inc., 15-113.

**WESTERN KENTUCKY UNIVERSITY**

Multi, 182014.

**THE FOLLOWING MEMORANDA  
OF AGREEMENTS WERE REVIEWED  
WITHOUT OBJECTION:**

**BEHAVIORAL HEALTH,  
DEVELOPMENTAL & INTELLECTUAL  
DISABILITIES**

Northeast Kentucky Regional Healthcare  
Information Organization, 1900002275.

**BOARD OF HAIRDRESSERS AND  
COSMETOLOGISTS**

Kentucky Community and Technical  
College System, 1900000546.

**BOARD OF PROFESSIONAL  
COUNSELORS**

Department for Professional Licensing,  
1900002122.

**BOARD OF REGISTRATION FOR  
PROFESSIONAL GEOLOGISTS**

Department for Professional Licensing,  
1900002148.

**DEPARTMENT FOR COMMUNITY  
BASED SERVICES**

Office of the Governor, 1900002318.

**DEPARTMENT FOR ENVIRONMENTAL  
PROTECTION**

University of Kentucky Research  
Foundation, 1900000698-1; Community Action  
Kentucky, Inc., 1900002285.

**DEPARTMENT FOR FAMILY RESOURCE  
CENTERS & VOLUNTEER SERVICES**

Multi, 1900002434; Green River Area  
Development District, 1900002498; Teach  
Kentucky, Inc., 1900002504.

**DEPARTMENT FOR LOCAL  
GOVERNMENT**

City of Madisonville, 1900002267; Hancock  
County Fiscal Court, 1900002271; Hickman  
County, 1900002272; City of Morehead,  
1900002273; Magoffin County, 1900002274;  
Union County Fiscal Court, 1900002292;  
Union County Fiscal Court, 1900002323;  
City of Elkhorn City, 1900002324; Henderson  
County Fiscal Court, 1900002377; Harlan

County, 1900002380; Webster County Fiscal  
Court, 1900002402; Bell County, 1900002404;  
Greenup County Fiscal Court, 1900002411; City  
of Whitesburg, 1900002412; Owsley County,  
1900002416; City of Florence, 1900002425; US  
Department of Agriculture, 1900002430; City  
of Tompkinsville, 1900002433; Martin County  
Water District, 1900002592; Boone County,  
1900002608.

**DEPARTMENT FOR NATURAL  
RESOURCES**

Bell County Forestry Camp, 1900001794;  
Little Sandy Correctional Complex, 1900001796.

**DEPARTMENT FOR WORKFORCE  
INVESTMENT**

Multi, 1900002079; The Urban Institute,  
1900002264.

**DEPARTMENT OF CORRECTIONS**

Bullitt County, 1900000386; Pike County,  
1900000490; Pike County, 1900000501;  
Louisville Jefferson County Metro Government,  
1900000521; Bluegrass.org, 1900000606;  
Spalding University, 1900001366; Laurel County,  
1900002347.

**DEPARTMENT OF EDUCATION**

Council On Postsecondary Education,  
1900001330; Kenton County Board of Education,  
1900001561; Lawrence County Board of  
Education, 1900001562; Muhlenberg County  
Board of Education, 1900001605; Newport  
Independent School District, 1900001607;  
Trigg County Board of Education, 1900001611;  
Department for Public Health, 1900002180;  
University of Louisville, 1900002191; Campbell  
County Board of Education, 1900002200;  
Covington Independent School District,  
1900002201; Dayton Independent School  
District, 1900002202; Fayette County Board of  
Education, 1900002205; Harlan County Board of  
Education, 1900002207; Jefferson County Board  
of Education, 1900002208; Jefferson County  
Board of Education, 1900002281; Jefferson  
County Board of Education, 1900002294;  
Warren County Board of Education,  
1900002315; Casey County Board of Education,  
1900002354; Madison County Board of  
Education, 1900002355; Jefferson County Board  
of Education, 1900002356; Ludlow Independent  
School District, 1900002358; Henderson County  
Board of Education, 1900002361; McCracken  
County Board of Education, 1900002386; Barren  
County Board of Education, 1900002409; Eastern  
Kentucky University, 1900002418; Corbin  
Independent School District, 1900002492;  
Corbin Independent School District,  
1900002503; Covington Independent School  
District, 1900002505; Glasgow Independent  
School District, 1900002510; Leslie County

Board of Education, 1900002516; Lincoln County Board of Education, 1900002519; Livingston County Board of Education, 1900002521; Christian County Board of Education, 1900002536; Monroe County Board of Education, 1900002553; Spencer County Board of Education, 1900002562; Webster County Board of Education, 1900002568; Whitley County Board of Education, 1900002569.

DEPARTMENT OF MILITARY AFFAIRS

University of Kentucky Research Foundation, 1900002395; University of Kentucky Research Foundation, 1900002465.

HORSE RACING COMMISSION

University of Kentucky Research Foundation, 1900002363.

KENTUCKY FISH AND WILDLIFE RESOURCES

Murray State University, 1900000592.

KY APPLIED BEHAVIOR ANALYSIS LICENSING BOARD

Department for Professional Licensing, 1900002143.

OFFICE OF ADMINISTRATIVE SERVICES

Kentucky Medical Services Foundation, Inc., 1900001639-1.

OFFICE OF KY NATURE PRESERVES

Eastern Kentucky University, 1900002490.

TRANSPORTATION - OFFICE OF THE SECRETARY

Gateway Community & Technical College, 1900002248.

UNIVERSITY OF KENTUCKY

Kentucky Appalachian Transition Services, 001-19; St. Claire Regional Medical Center, 004-19.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

ADMINISTRATIVE OFFICE OF THE COURTS

Transitions, Inc., d/b/a Womens Residential, 1900001838.

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Kentucky Pharmacy Education and Research Foundation, Inc., 1700002898; St. Claire Medical Center, Inc., 1800000329; University Medical Center, Inc., 1800000414; Kentuckiana Health

Collaborative, 1800001173; Kentucky Pediatric Society Foundation, 1800001244; Kentucky Academy of Family Physicians Foundation, 1800001257; Oxford House, Inc., 1800001958; Kentucky Partnership for Families and Children, Inc., 1900000286.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Council on Postsecondary Education, 1800001930.

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Hospital Research & Education Foundation, 1800001682.

DEPARTMENT OF AGRICULTURE

Multi, 1700001659.

DEPARTMENT OF EDUCATION

University of Kentucky Research Foundation, 1900000107; Berea Independent Board of Education, 1900000712; Calloway County Board of Education, 1900000713; Simpson County Board of Education, 1900000714; Whitley County Board of Education, 1900000807; Western Kentucky University Research Foundation, 1900000999; Jefferson County Board of Education, 1900001043; Jefferson County Board of Education, 1900001115; Glasgow Independent School District, 1900001162; Kentucky Educational Development Corporation, 1900001200; Kentucky Educational Development Corporation, 1900001215; Corbin Independent School District, 1900001254; Kentucky Valley Education, 1900001265; Hardin County Board of Education, 1900001269; Hopkins County Board of Education, 1900001275.

EARLY CHILDHOOD DEVELOPMENT

Eastern Kentucky University, 1900000839.

KY INFRASTRUCTURE AUTHORITY

Mountain Water District, 0900012076; Mountain Water District, 1400001558; Perry County Fiscal Court, 1500001026; Perry County Fiscal Court, 1500001633; Mountain Water District, 1700001956.

OFFICE OF INSPECTOR GENERAL

Western Kentucky University Research Foundation, Inc., 1700001509.

TRANSPORTATION - OFFICE OF THE SECRETARY

University of Kentucky Research Foundation, 1800001354; University of Kentucky Research Foundation, 1800001510.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

ATTORNEY GENERAL

Tichenor & Associates, 1900002118. Ben Long, Kevin Winstead, and Holly McCoy Johnson discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Fugate seconded the motion, which passed.

BOARD OF HAIRDRESSERS AND COSMETOLOGISTS

Iso-Quality Testing, Inc., 1900000813. Julie Campbell and Sharon Craig discussed the contract with the committee. A motion was made by Representative Hart to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

BOARD OF MEDICAL LICENSURE

Thomas J. Hellmann Attorney-At-Law, PLLC, 1900002475. Michael Rodman discussed the contract with the committee. A motion was made by Representative Fugate to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

DEPARTMENT FOR ENERGY DEVELOPMENT AND INDEPENDENCE

Kentucky Coal Association, 1900002278. Rick Bender and Lona Brewer discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Fugate seconded the motion, which passed with Senator Meredith voting no.

DEPARTMENT OF CORRECTIONS

Praeses, LLC, 1900000026; Brian E. Elpers, 1900000845; Diamond Drugs, Inc., 1900001789. Hillarye Dailey and Daniel Jessee discussed the contracts with the committee. A motion was made by Representative Hart to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

EASTERN KENTUCKY UNIVERSITY

Hardy, Carey, Chautin & Balkin, 20-114; BKD CPA's and Advisors, 20-117. Mike Savage, Angela Burrows, and David McFadden discussed the contracts with the committee. A motion was made by Representative Fugate to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed.

JUSTICE - OFFICE OF THE SECRETARY

Mark Bernstein, DDS, 1900001581. Stacy Woodrum and Dr. William Ralston discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract



as reviewed. Representative Lee seconded the motion, which passed.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Gabriel Roeder Smith & Company, 1900002398; Intuition Systems, Inc., 1900002399. Diana Barber and David Lawhorn discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

KENTUCKY RETIREMENT SYSTEMS

Dean Dorton Allen Ford, PLLC, 1900001123. Connie Davis and Cassandra Weiss discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

SECRETARY OF STATE

Kinthead & Stilz, PLLC, 1900002235. Erica Galyon, Angela Cummins, and Mary Sue Helm discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Due to lack of second, the motion failed. A motion was made by Representative Lee to defer the contract to the October 2018 meeting of the committee. Representative Hart seconded the motion, which passed with Senator Carroll voting no.

TOURISM - OFFICE OF THE SECRETARY

Hunden Strategic Partners, Inc., 1900002462. Jay Hall discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

UNIVERSITY OF KENTUCKY

Greenwood/Asher & Associates, Inc., K19-205; Blue Cottage Consulting, Inc., K19-210; iMethods, LLC, K19-211; Impact Advisors, LLC, K19-212. Barry Swanson, Lisa Wilson, and Greg Collins discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Hart seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Pharmacy Systems, Inc., 1900001360. Jennifer Moore and Kelley Webb discussed the

contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Hart seconded the motion, which passed.

THE FOLLOWING PERSONAL SERVICE CONTRACT FOR \$10K AND UNDER WERE SELECTED FOR FURTHER REVIEW:

EASTERN KENTUCKY UNIVERSITY

Dave Henderson, 20-113; BKD CPAs & Advisors, 20-115. Mike Savage, Angela Burrows, and David McFadden discussed the contracts with the committee. A motion was made by Representative Hart to consider the contracts as reviewed. Representative Lee seconded the motion, which passed.

EXEMPTION REQUESTS:

ENERGY AND ENVIRONMENT CABINET:

The Energy and Environment Cabinet – Division of Water requested an exemption from the two year contracting restrictions for Nonpoint Source routine review of Memoranda of Agreements and Personal Service Contracts. A motion was made by Senator Carroll to grant the request to September 30, 2022. Representative Lee seconded the motion, which passed without objection.

ENERGY AND ENVIRONMENT CABINET:

The Energy and Environment Cabinet – Division of Water requested an exemption from the two year contracting restrictions for the remaining phases of the Map Modernization Management Support & Risk Management Grant. A motion was made by Senator Carroll to grant the request to September 30, 2022. Representative Lee seconded the motion, which passed without objection.

CABINET FOR HEALTH AND FAMILY SERVICES

The Office of Administrative and Technology Services requests an exemption from the two year contracting restrictions for eleven Kentucky Civil Money Penalty Contracts to be used in quality initiatives for Certified Nursing Facilities in Kentucky Long Term Care Facilities. A motion was made by Senator Carroll to grant the request to June 30, 2022. Representative Lee seconded the motion, which passed without objection.

ENERGY AND ENVIRONMENT CABINET:

The Energy and Environment Cabinet – Department for Natural Resources requested an exemption from the two year contracting

restrictions for the Imperiled Forest Tree Species Grant. A motion was made by Senator Carroll to grant the request to September 30, 2021. Representative Lee seconded the motion, which passed without objection.

There being no further business, the meeting adjourned at 12:52 PM.

## Farming, from page 3

Beeler applauded that kind of initiative, saying his agency is currently talking with two or three different groups with similar plans.

“You go to a commodity that’s got some shelf life to it, and you’ve also got something you can price yourself – that’s not priced for you,” he said.

Exhibits focused on agricultural innovation at this year’s recently-concluded Kentucky State Fair also received praise as the committee discussed AgLand – a new fair exhibit highlighting both the past and high-tech future of Kentucky farming. Beeler said he was more proud of the exhibit than of any event in his “40 some-odd years of going to the state fair.”

AgLand, Beeler said, showed fairgoers that farming is a modern practice, using modern technologies like soil testing, solar energy and GPS-controlled equipment.

“If what we’ve got to do is produce 70 percent more by 2050 to feed 9 billion people (world-wide) then everything we do – from a technology, from a science standpoint – has to be cutting edge,” said Beeler. “We have such a disconnect. People think we’re still following a mule. This is science - this is technology.”

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# 2019 Prefiled Bills

**BR3** - Senator Gerald Neal  
(6/6/2018)

AN ACT relating to racial and ethnic community criminal justice and public safety impact statements.

Create new sections of KRS Chapters 6 and 15A to make legislative findings and require racial and ethnic community criminal justice and public safety impact statements for certain legislation and administrative regulations.

(Prefiled by the sponsor(s).)

**BR4** - Senator Gerald Neal  
(6/6/2018)

AN ACT relating to prosecutions under criminal gang statutes.

Create a new section of KRS Chapter 506 to require a report for any charge or conviction under KRS 506.120, 506.135, 506.140, 506.150, 506.160, 506.170, 506.180, or 506.190.

(Prefiled by the sponsor(s).)

**BR7** - Representative DJ Johnson  
(6/27/2018)

AN ACT relating to property taxes for veteran service organizations.

Create a new section of KRS Chapter 132 to allow any veteran service organization that is exempt from federal income tax under Section 501(c)(19) of the United States Internal Revenue Code to be exempt from all city and county property taxes, if certain conditions are met; authorize the Department of Revenue to promulgate administrative regulations.

(Prefiled by the sponsor(s).)

**BR15** - Representative Dennis Keene  
(9/7/2018)

AN ACT relating to sports wagering and making an appropriation therefor.

Create a new section of KRS Chapter 154A to require the Kentucky Lottery Corporation to institute a sports wagering system; amend KRS 154A.010 to define "collegiate sports contest," "net sports wagering

receipts," "professional sports contest," and "sports wagering"; amend KRS 154A.030 to prohibit owners of professional sports teams from serving on the board; amend KRS 154A.050 and 154A.060 to include sports wagering; amend 154A.063 to allow the corporation to accept wagers on collegiate and professional sports contests; amend KRS 154A.065 to prohibit sports wagers on horse racing; amend KRS 154A.070 to include sports wagering; amend KRS 154A.090 to include sports wagering retailers; amend KRS 154A.110 to prohibit sales of sports wagers to persons under 18 years of age, provide for the allocation of unclaimed sports wager prize money, and restrict owners, coaches players, and others involved in a sporting contest from placing sports wagers; create new sections of KRS Chapter 154A to permit sports wagering at lottery retailers, horse racing tracks, and simulcast facilities; require the corporation to promulgate administrative regulations needed to establish and oversee sports wagering and prohibit participants in sporting events from placing wagers on games in which they are participating; create new sections of KRS Chapter 154A to establish the sports wagering distribution trust fund and a problem gambling awareness and treatment fund and limit uses of the sports wagering revenue to administrative costs, problem gambler treatment funding, and pension system funding; amend KRS 154A.120 to include sports wagering; amend KRS 154A.130 to exempt sports wagering receipts and specify that sports wagering receipts shall be deposited in the sports wagering distribution trust fund; amend KRS 154A.400 and 154A.410 to include sports wagering; amend KRS 154A.420 to include sports wagering and allow the corporation to require a retailer to establish a separate sports wagering electronic funds transfer account, where available; amend KRS 154A.430 to include sports wagering; amend KRS 154A.440 to require retailers to accept sports wagers only at the location listed on their contract; amend KRS 154A.600 and 154A.650 to include sports wagering; amend KRS 154A.990 to establish penalties for selling a sports wager to anyone under 18 years of age, to establish the crime of tampering with the outcome of a sporting event, to prohibit participants from wagering on a sporting event, and establish penalties; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR21** - Representative Rob Rothenburger  
(9/4/2018)

AN ACT relating to fire protection and making an appropriation therefor.

Amend KRS 95A.520 and 95A.540, relating to volunteer fire department mergers, to make it applicable to volunteer fire departments merging prior to the effective date of the Act; create a new section of KRS Chapter 95A to provide that for volunteer fire departments merging after the effective date of the Act, the Fire Commission shall pay to the departments the number of qualified shares of volunteer fire department aid each is entitled to for a period of 20 years after the date of the merger, upon the expiration of which the merged department receives only one share; provide contingency protocols if the merged fire department becomes unqualified; create a new section of KRS Chapter 95A to provide a contingency protocol if a new volunteer fire department is created out of the merged one during the 20 year period; create new sections of KRS Chapter 75 to allow an alternative tax rate and board structure for fire districts electing to do so; set tax rate at a maximum of \$0.15 for a district, and maximum of \$0.25 for a district operating the sole emergency ambulance service and make the tax subject to the recall provisions; establish a seven member board of which one is appointed by the county executive head, four are elected by persons owning property within the district, and two are firefighters of the districts elected by the firefighters of the district; set election procedures and times; amend KRS 132.023, relating to tax recall provisions, to integrate applicable fire districts, as defined in the section, within the scope of the section.

(Prefiled by the sponsor(s).)

**BR22** - Representative Mary Lou Marzian  
(8/22/2018)

AN ACT relating to public charter schools.

Amend KRS 156.095 to remove references to public charter schools; repeal KRS 160.1590, 160.1591, KRS 160.1592, 160.1593, 160.1594, 160.1595, 160.1596, 160.1597, 160.1598, 160.1599, and 161.141.

(Prefiled by the sponsor(s).)



**BR25** - Senator John Schickel  
(8/28/2018)

Honor the life and accomplishments of Jack Reno.  
(Prefiled by the sponsor(s).)

**BR26** - Senator John Schickel  
(8/28/2018)

Honor Judge Charles T. Moore upon the occasion of his retirement.  
(Prefiled by the sponsor(s).)

**BR27** - Senator John Schickel  
(8/24/2018)

Honor Father Richard G. Bolte for his many years of service.  
(Prefiled by the sponsor(s).)

**BR28** - Representative Chris Harris, Representative Angie Hatton  
(5/30/2018)

AN ACT relating to public utilities.  
Create new section of KRS 278.010 to 278.450 to set a residential fixed customer charge to recover no more than fixed capital costs for metering, billing, service connections, and customer service for electric, natural gas, and water utilities; amend KRS 278.010 to define "customer charge"; amend KRS 278.030 to include affordability as a criterion for utility rates and to establish that the policy of the Commonwealth is to require costs to be reasonable and to provide for their recovery; require the Public Service Commission to balance the interests of the utility, investors, and consumer in establishing fair, just, reasonable and affordable rates; amend KRS 278.183 to require that the costs paid through the environmental surcharge and subjected to two year review are subject to apportionment of fixed, direct capital costs for metering, billing, connection, and service; amend KRS 278.190 to allow the commission to examine the determination of costs and apply standards for rates that include affordability and balancing of interests of various parties affected by the rate; amend KRS 278.255 to require a management and operations audit beginning December 31, 2019, and every five years thereafter and to require the results of the audit be made available on the Public Service Commission and each audited utility's Web site; exempt electric distribution cooperatives from the initial and periodic audit requirements; amend KRS 278.260 to require the Public Service Commission to give the Office of the Attorney General's Office

of Rate Intervention notice of any investigation into unreasonable or discriminatory rates, measurements or practices by a utility under its jurisdiction.  
(Prefiled by the sponsor(s).)

**BR29** - Senator Julian Carroll  
(6/15/2018)

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," "net sports wagering receipts," "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, and to vest forceful control over sports wagering in the racing commission; amend KRS 230.225 to include sports wagering and to 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 138 to establish a 3 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, amend KRS 243.500 to exempt sports wagering.  
(Prefiled by the sponsor(s).)

**BR31** - Representative Attica Scott  
(7/24/2018)

AN ACT relating to public charter

schools.

Amend KRS 156.095 to remove references to public charter schools; repeal KRS 160.1590, KRS 160.1591, KRS 160.1592, KRS 160.1593, KRS 160.1594, KRS 160.1595, KRS 160.1596, KRS 160.1597, KRS 160.1598, KRS 160.1599, and KRS 161.141.  
(Prefiled by the sponsor(s).)

**BR32** - Representative Attica Scott  
(6/21/2018)

AN ACT relating to the investigation of a shooting or deadly incident by a law enforcement officer.

Create new sections of KRS Chapter 15A to provide definitions and establish an Officer Shooting Review Board to investigate any shooting of an individual by a law enforcement officer or officers or any deadly incident involving law enforcement; set requirements for board members; provide duties of the board; specify requirements related to investigatory work performed by the Kentucky State Police Critical Incident Response Team on behalf of the board; establish investigatory procedures and protocols; provide requirements for submission of the board's report to the Commonwealth's attorney of the jurisdiction in which the shooting or deadly incident took place or to the Attorney General; provide requirements for independent investigation of any shooting of an individual by a law enforcement officer or officers or any deadly incident involving law enforcement.  
(Prefiled by the sponsor(s).)

**BR36** - Representative Kim King  
(6/12/2018)

AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly.

Propose to amend Section 42 of the Constitution of Kentucky to prohibit members of the General Assembly from receiving legislative pay for a special session that has been called by the Governor because the General Assembly adjourned without passing a state budget; submit to the voters with ballot question.

(Prefiled by the sponsor(s).)

**BR37** - Representative Kim King  
(7/19/2018)

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any

state fiscal measure, including an appropriation or revenue-raising measure, voted upon in the Senate or House of Representatives or a committee thereof; require identification of any state fiscal measure by the director of the Legislative Research Commission upon request of a legislator, the Senate, the House of Representatives, or a committee of the Senate or House; require separate votes for any state fiscal measure.

(Prefiled by the sponsor(s).)

**BR45** - Senator Julie Adams  
(8/21/2018)

AN ACT establishing the Kentucky Rare Disease Advisory Council and making an appropriation therefor.

Create new sections of KRS Chapter 211 to establish the Kentucky Rare Disease Advisory Council; list members to be appointed by the Governor; state the duties of the council; require a report of council activities; create a rare disease trust fund to be administered by the Cabinet for Health and Family Services to finance the operation of the council and support rare disease research and treatment; require a report on expenditures from the fund; provide that the council shall to cease to exist on December 1, 2029, unless reestablished by the General Assembly.

(Prefiled by the sponsor(s).)

**BR47** - Representative Regina Huff  
(9/13/2018)

AN ACT relating to family resource and youth services centers.

Amend KRS 156.496 to allow school districts to accept monetary donations for the operation and maintenance of family resource and youth services centers; require that donations be used exclusively for those purposes.

(Prefiled by the sponsor(s).)

**BR48** - Senator Gerald Neal  
(6/19/2018)

AN ACT relating to firearm storage.

Create a new section of KRS Chapter 527 to prohibit the unlawful storage of a firearm.

(Prefiled by the sponsor(s).)

**BR51** - Senator Alice Kerr  
(8/17/2018)

AN ACT relating to pregnancy-related discrimination.

Amend KRS 344.030 to include within the definition of "reasonable accommodation" accommodations made for pregnancy, childbirth, and related medical conditions; define "related medical condition"; amend KRS 344.040 to make it unlawful for an employer to fail to accommodate an employee affected by pregnancy, childbirth, or a related medical condition; require employers to provide notice to all employees regarding the right to be free from discrimination for pregnancy, childbirth, and related medical conditions.

(Prefiled by the sponsor(s).)

**BR55** - Representative Mark Hart  
(9/14/2018)

AN ACT relating to local boards of education.

Amend KRS 160.190 to change a local board vacancy from being appointed by the chief state school officer to being appointed by a majority vote of the local board; establish a timeline and procedures of appointment; establish a procedure for a failure to make appointment by local board; make changes throughout to conform.

(Prefiled by the sponsor(s).)

**BR64** - Representative Attica Scott  
(7/31/2018)

AN ACT relating to an exemption of feminine hygiene products from sales and use taxation.

Amend KRS 139.010 to define feminine hygiene products; amend KRS 139.480 to exempt from sales and use tax the sale or purchase of feminine hygiene products; apply to sales or purchases made after August 1, 2019, but before August 1, 2023; require Department of Revenue to report to the Interim Joint Committee on Appropriations and Revenue the amount of exemptions claimed.

(Prefiled by the sponsor(s).)

**BR65** - Representative Attica Scott  
(7/31/2018)

AN ACT relating to the exemption certain baby products from sales and use taxation.

Amend KRS 139.010 to define "diapers"; amend KRS 139.480 to exempt from sales and use tax the sale or purchase of diapers and certain baby products; provide that the exemptions apply to sales or purchases made after August 1, 2019, but before August 1, 2023; require the Department of Revenue to report to the Interim Joint Committee on Appropriations and Revenue the amount of exemptions

claimed.

(Prefiled by the sponsor(s).)

**BR67** - Representative Rob Rothenburger  
(9/7/2018)

AN ACT relating to local procurement.

Amend KRS 45A.385 to increase from \$20,000 to \$30,000 the maximum amount of a contract for which a local public agency may use small purchase procedures; amend KRS 424.260 to allow local officials to make contracts up to \$30,000, rather than up to \$20,000, without taking out newspaper advertisements for bids.

(Prefiled by the sponsor(s).)

**BR69** - Senator Julie Adams  
(8/31/2018)

AN ACT relating to mental illness.

Amend KRS 532.130, 532.135, and 532.140 to add a diagnosis of serious mental illness to the disabilities which prevent execution for persons convicted of capital offenses.

(Prefiled by the sponsor(s).)

**BR72** - Representative Dennis Keene  
(9/7/2018)

AN ACT relating to exempting admissions to events held by nonprofit organizations from sales and use taxation.

Amend KRS 139.470 to exempt from sales and use tax the sale of admissions to events held by nonprofit organizations and to remove the specific exemption for county fairs to conform; amend KRS 139.200 to conform; apply to transactions occurring on or after July 1, 2019.

(Prefiled by the sponsor(s).)

**BR76** - Representative David Osborne, Representative Lynn Bechler, Representative Danny Bentley, Representative John Blanton, Representative Kevin Bratcher, Representative Larry Brown, Representative John Carney, Representative Myron Dossett, Representative Jim DuPlessis, Representative Daniel Elliott, Representative Joseph Fischer, Representative Ken Fleming, Representative Jim Gooch Jr., Representative David Hale, Representative Mark Hart, Representative Richard Heath, Representative Regina Huff, Representative DJ Johnson, Representative Kim King, Representative Adam Koenig, Representative Stan Lee, Representative Chad McCoy, Representative David Meade, Representative Suzanne Miles, Representative Jerry Miller, Representative Phil Moffett, Representative Tim Moore, Representative Kimberly Moser, Representative Jason



Nemes, Representative Jason Petrie, Representative Phillip Pratt, Representative Melinda Prunty, Representative Brandon Reed, Representative Sal Santoro, Representative Diane St. Onge, Representative Walker Wood Thomas, Representative James Tipton, Representative Tommy Turner  
(7/13/2018)

AN ACT relating to nonprofit exemptions in taxation and declaring an emergency.

Amend KRS 139.495 to exempt from sales and use tax the sale of admissions by nonprofit educational, charitable, or religious institutions; amend KRS 139.200 to add the exemption; amend KRS 132.195 to exempt from property tax leasehold interests in property owned by a purely public charity when the property and income are used to further the purely public charity's mission; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR84** - Senator John Schickel  
(9/14/2018)

Honor the life and accomplishments of William "Bill" Edgar Graves.  
(Prefiled by the sponsor(s).)

**BR94** - Representative David Meade  
(9/6/2018)

AN ACT relating to the taxation of admissions for sales and use tax.

Amend KRS 139.010 to exclude fees paid to enter or participate in a fishing tournament and fees paid for the usage of a boat ramp from the definition of admissions; apply to fees paid on or after July 1, 2018.  
(Prefiled by the sponsor(s).)

**BR98** - Representative Robert Goforth  
(8/29/2018)

AN ACT relating to an emergency contact information registry.

Create a new section of KRS 186.400 to 186.640 to establish an emergency contact information registry within the Kentucky Driver's License Information System.  
(Prefiled by the sponsor(s).)

**BR103** - Representative Rick Nelson  
(7/20/2018)

AN ACT relating to minimum staffing requirements for long-term care facilities.

Create new sections of KRS Chapter 216B to require staff-to-resident ratios in long-term care facilities as a condition of licensure or relicensure; establish minimum

staffing requirements; prohibit long-term care facilities from admitting new residents if the facility fails to comply with the minimum staffing requirements, beginning on the second day of noncompliance and continuing until six days after the required staffing is achieved, with exceptions allowed for weather emergencies and other similar events; require additional staffing based on the needs of the residents; exempt intermediate-care facilities for persons with intellectual disabilities, institutions for the treatment of mental illnesses, personal care homes, and family care homes from the minimum staffing requirements; create a 17-member board to review staffing requirements on an annual basis; establish a civil fine of no more than \$1,000 for each day that the staffing requirements are not maintained; establish legislative findings and declarations.

(Prefiled by the sponsor(s).)

**BR107** - Representative Robert Goforth  
(8/29/2018)

AN ACT proposing to amend Sections 99, 124, and 144 of the Constitution of Kentucky relating to a Judge of the County Court.

Propose to amend Sections 99, 124, and 144 of the Constitution of Kentucky to eliminate the Office of Judge of County Court in urban-county governments; submit to the voters for approval or disapproval.

(Prefiled by the sponsor(s).)

**BR120** - Representative Kevin Bratcher  
(8/15/2018)

AN ACT relating to the safety of canines and felines.

Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle if a person enters the vehicle with the reasonable, good-faith belief that a dog or cat is in immediate danger of death if not removed.

(Prefiled by the sponsor(s).)

**BR121** - Representative Kevin Bratcher  
(8/15/2018)

AN ACT relating to an animal abuse registry.

Create new sections of KRS Chapter 17 to establish the animal abuse offender registry; require the Kentucky State Police to maintain a registry of offenders who commit an animal abuse offense; establish the animal abuse offender registry fund; amend KRS 525.130 to increase the penalty for cruelty to animals in the second degree to a Class D felo-

ny for a second or subsequent offense; establish a short title of "Arrow's Law"; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR138** - Representative Robert Goforth  
(8/29/2018)

AN ACT relating to homestead food operators and homestead food products.

Create a new section in KRS Chapter 217C to define "homestead food operator," "potentially hazardous food," and "homestead food product"; create a new section in KRS Chapter 217C to allow homestead food operators and homestead food products to be exempt from licensure and permitting as required by the Cabinet for Health and Family Services; repeal KRS 217C.090, relating to the sale of unpasteurized goat milk.

(Prefiled by the sponsor(s).)

**BR144** - Representative Chad McCoy  
(9/7/2018)

AN ACT relating to charitable gaming.

Amend KRS 238.545 to remove some of the restrictions on the frequency with which charity fundraising events may be held at unlicensed facilities.

(Prefiled by the sponsor(s).)

**BR155** - Representative Dennis Keene  
(9/10/2018)

AN ACT relating to drug treatment and prevention and making an appropriation therefor.

Create a new section of KRS Chapter 222 to establish the Kentucky addiction prevention, recovery, and enforcement fund; establish administering committee membership; direct all revenues from the Commonwealth related to the drug epidemic to the fund; describe authorized fund expenditures; require fund reporting; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR159** - Representative Brandon Reed, Representative Kevin Bratcher, Representative Mark Hart, Representative Richard Heath, Representative Melinda Prunty  
(8/16/2018)

AN ACT relating to the display of the national motto in public schools.

Amend KRS 158.195 to require each public elementary and secondary school to display the national motto in a prominent location in the school.

(Prefiled by the sponsor(s).)

**BR168** - Representative Linda Belcher  
(9/12/2018)

AN ACT relating to prevailing wage.  
Create new sections of KRS Chapter 337 to establish a prevailing wage law for all public works projects; amend KRS 12.020, 99.480, 227.487, 336.015, 337.010, and 337.990 to conform.

(Prefiled by the sponsor(s).)

**BR172** - Representative Attica Scott  
(9/5/2018)

AN ACT relating to gang violence.  
Amend KRS 506.120 to remove language related to "criminal gang syndicate;" repeal KRS 506.135 relating to definitions, 506.140 relating to criminal gang recruitment, 506.150 relating to criminal gang activity or recruitment, 506.160, relating to minimum service of sentence for defendant acting as a member of a criminal gang KRS 506.170 relating to enhancement of penalty for conviction for criminal gang related felonies, KRS 506.180 relating to cause of action by victim of criminal gang incident, and KRS 506.190 relating to criminal gang-related property subject to forfeiture; amend KRS 532.080 to conform.

(Prefiled by the sponsor(s).)

**BR174** - Representative Jeffery Donohue  
(9/13/2018)

AN ACT relating to public procurement.

Create new sections of KRS Chapter 45A to set forth findings of the General Assembly and establish a policy of the Commonwealth of Kentucky to promote the Kentucky and United States economies by requiring a preference for iron, steel, and manufactured goods produced in Kentucky and the United States; define "manufactured in Kentucky," "manufactured in the United States," and "United States"; require preference for iron, steel, and manufactured goods made in Kentucky in construction and maintenance contracts and subcontracts; provide for a waiver of the Kentucky preference requirement; require preference for iron, steel, and manufactured goods made in the United States if the Kentucky waiver is granted; provide for a waiver of the United States preference requirement; establish a short title of "Kentucky Buy American Act"; amend KRS 45A.343, 45A.352, 65.027, 162.070, 164A.575, 176.080, and 424.260 to require compliance with the Kentucky Buy American Act.

(Prefiled by the sponsor(s).)

**BR175** - Representative Jeffery Donohue  
(9/13/2018)

AN ACT relating to economic development incentives.

Amend KRS 154.32.010 to define "minimum weekly wage"; amend KRS 154.32-020 to require an approved company to pay all new full-time employees whose jobs were created as a result of the economic development project no less than the minimum weekly wage and provide employee benefits for those jobs equal to at least 15% of the minimum weekly wage established by the agreement; amend KRS 154.32-030 to delete all provisions that allow the approved company to receive full incentives if 90% of the job and wage requirements are met upon activation or annual review; amend KRS 154.32-040 to delete a provision that would allow the approved company to receive a reduction in tax incentives for failing to meet job and wage requirements; specify that Act's provisions apply to applications preliminarily approved prior to the Act's effective date.

(Prefiled by the sponsor(s).)

**BR178** - Representative Brandon Reed  
(9/6/2018)

AN ACT relating to a youth crossbow deer hunting season.

Create a new section of KRS Chapter 150 to require the Department of Fish and Wildlife Resources to promulgate administrative regulations to establish a statewide youth crossbow deer hunting season; define terms; require the statewide youth crossbow deer hunting season to take place each year on the same dates established by the department for the statewide archery deer hunting season; require participants to comply with all statewide deer hunting requirements, including supervision requirements for youth deer hunters.

(Prefiled by the sponsor(s).)

**BR181** - Representative Jill York  
(8/31/2018)

AN ACT relating to accountability of charitable organizations.

Create a new section of KRS Chapter 367 to require the Office of the Attorney General to make available on a publicly accessible Web site a list of charities that fail to meet the financial accountability standards recommended by the American Institute of Philanthropy's CharityWatch, based on a three-year average of annual expenditures.

(Prefiled by the sponsor(s).)

**BR194** - Senator John Schickel  
(9/17/2018)

Honoring Connie Crigger upon being named by the Kentucky Association of School Administrators as Administrator of the Year for 2018.

(Prefiled by the sponsor(s).)

**BR198** - Senator John Schickel  
(9/17/2018)

Adjourn the Senate in honor and loving memory of Damian Kevin Stanton  
(Prefiled by the sponsor(s).)

**BR207** - Representative Regina Huff, Representative Jill York  
(9/13/2018)

AN ACT relating to the taxation of pension income, making an appropriation therefor, and declaring an emergency.

Amend KRS 141.019 to increase the pension income exclusion from \$31,110 to \$41,110; apply retroactively for taxable years beginning on or after January 1, 2018; require the Department of Revenue to automatically issue refunds; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR208** - Representative Regina Huff  
(9/13/2018)

AN ACT relating to road safety.  
Amend KRS 512.070 to include, as criminal littering, permitting unsafe amounts of mowed grass to remain on a highway.

(Prefiled by the sponsor(s).)

**BR238** - Representative Kimberly Moser  
(9/14/2018)

AN ACT relating to Kentucky educational excellence scholarships and declaring an emergency.

Amend KRS 164.7884 to allow KEES funds to be used for qualified workforce training programs; EMERGENCY.

(Prefiled by the sponsor(s).)

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#### **Senate**

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Committee Co-chair Rep. Addia Wuchner, R-Florence, said the review panel and the pediatric abusive head trauma legislation (House Bill 285) passed during the 2010 regular session have become national models.

“When we as legislators collaborate and work with everyone together, I think we come up with the best solution,” Wuchner said. She added that another tool Kentucky has to combat child neglect is the Prevent Child Abuse Kentucky organization.

“We are going to dovetail nicely with the prior presentation because what we do is prevention,” said Jill Seyfred, the organization’s executive director. “We try to catch the kids upstream. We don’t do treatment. We don’t do intervention. We are prevention in all of its form.”

She said the organization’s programs include a new partnership with a managed-care group and the state hospital association that focus specifically on parents of newborns before they leave the hospital. It is designed to promote safe sleep practices and prevent head trauma.

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REAL ID,  
from page 3

censes.  
Goforth then asked what would happen if a Real ID was lost in the U.S. mail and didn’t arrive in 30 days. Henderson said Kentucky is working with the U.S. Postal Service on ways to track down lost IDs.

Rep. Lynn Bechler, R-Marion, asked if the Army would accept the temporary licenses to enter Fort Campbell or other military bases. Henderson said Kentucky was still in discussion with the military on that issue.

Rep. Walker Thomas, R-Hopkinsville, asked what would happen if a driver’s license is up for renewal before the Read ID is available. Henderson said in those cases residents will still have to renew their license but could return after the switchover and get a Real ID for just \$15.

Rep. David Hale, R-Wellington, said allowing two types of identifications, Real ID compliant and non-compliant, just muddied the waters.

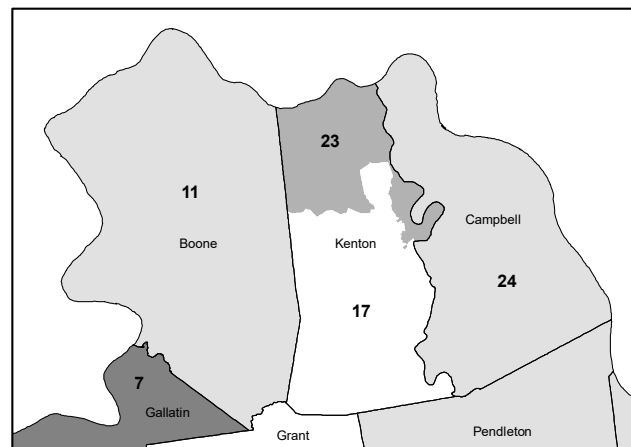
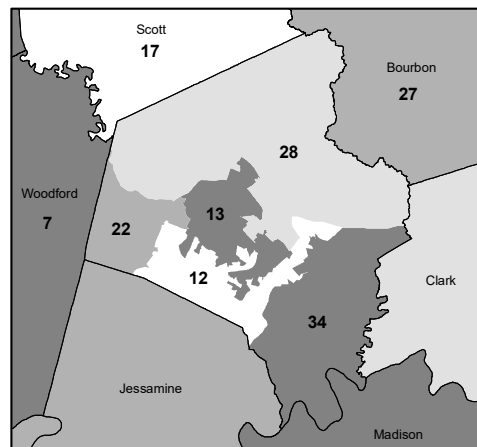
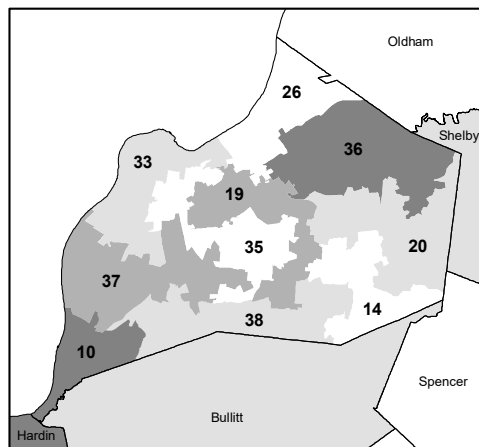
Senate Transpiration Committee Chairman Sen. Ernie Harris, R-Prospect, said state legislation (2017 House Bill 410) to bring Kentucky in compliance with the federal Real ID Act wouldn’t have passed the Senate without offering residents a choice between Real ID compliant and non-compliant licenses. He said some were concerned Real ID amounted to a de facto national ID.

Division of Driver Licensing Director Matt Cole, who also testified, said over half of the states in compliance with the Real ID Act are offering non-compliant licenses. He said the adoption rate of the federally compliant ID has only been about 25 percent to 30 percent in those states.

Rep. Steve Riggs, D-Louisville, said he felt the rollout was muddled by the naming of the Real ID compliant and non-compliant licenses. Kentucky has named its Real ID the “Voluntary Travel ID” and the non-compliant version the “Standard Credential.” Riggs suggested that the Standard Credential be renamed the “substandard credential.”

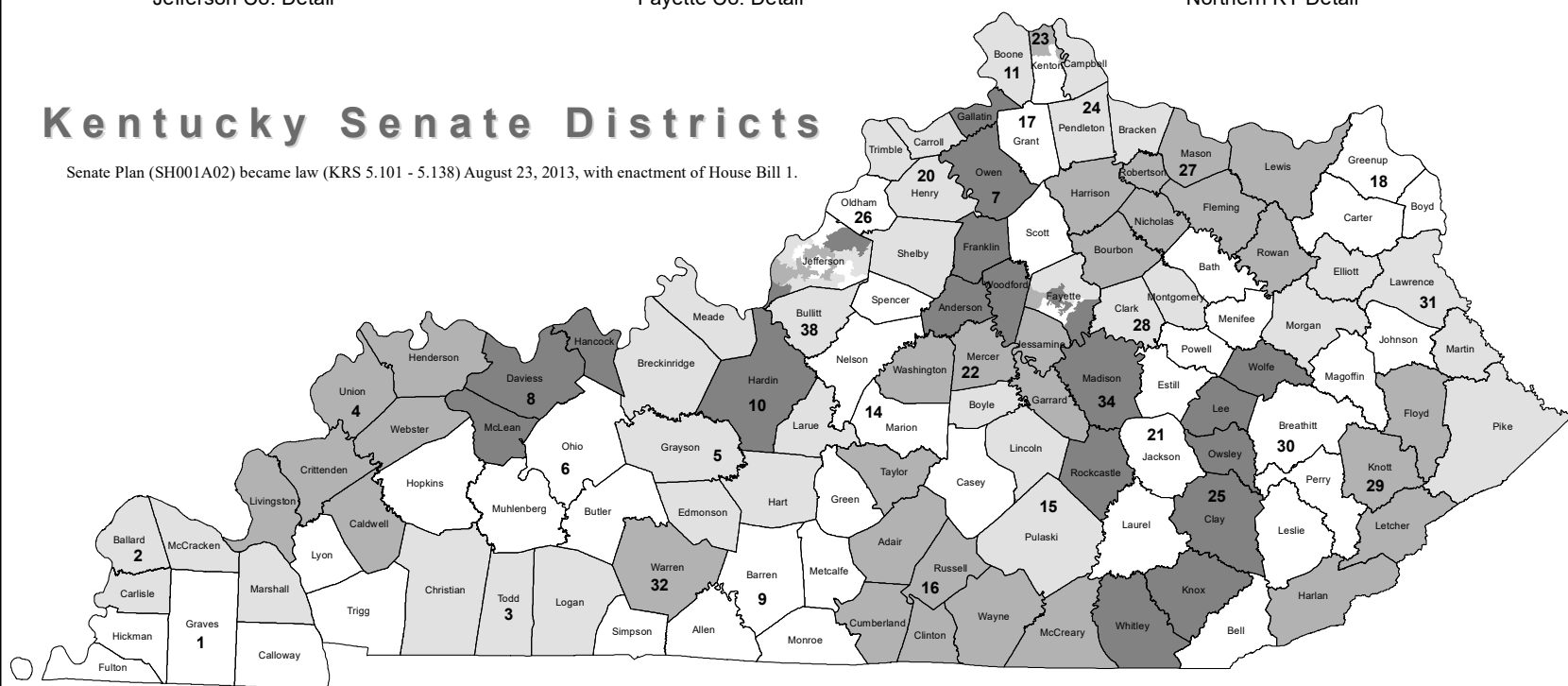
Rep. Ken Upchurch, R-Monticello, who chaired the committee, ended the discussion with another suggestion.

“I would just caution that we make sure we have a public education campaign because ... it is very confusing,” he said to the state transportation officials giving the update to the committee.



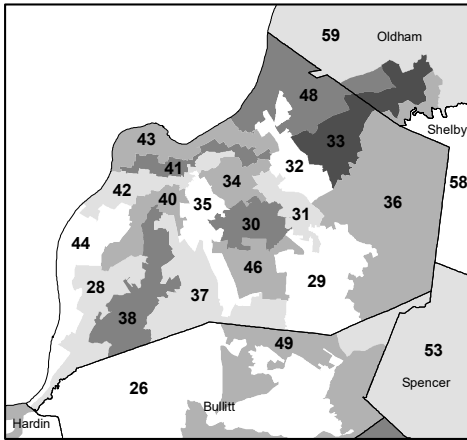
# Kentucky Senate Districts

Senate Plan (SH001A02) became law (KRS 5.101 - 5.138) August 23, 2013, with enactment of House Bill 1.

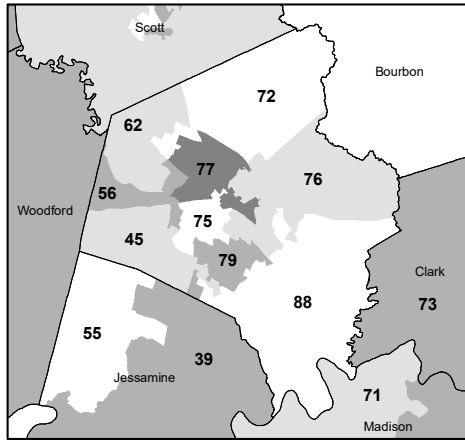


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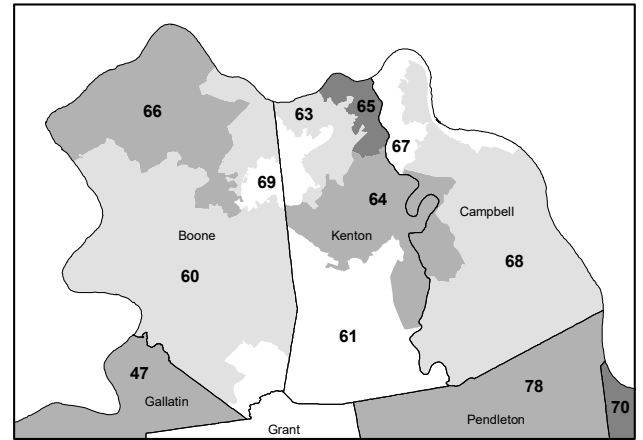




Jefferson Co. Detail



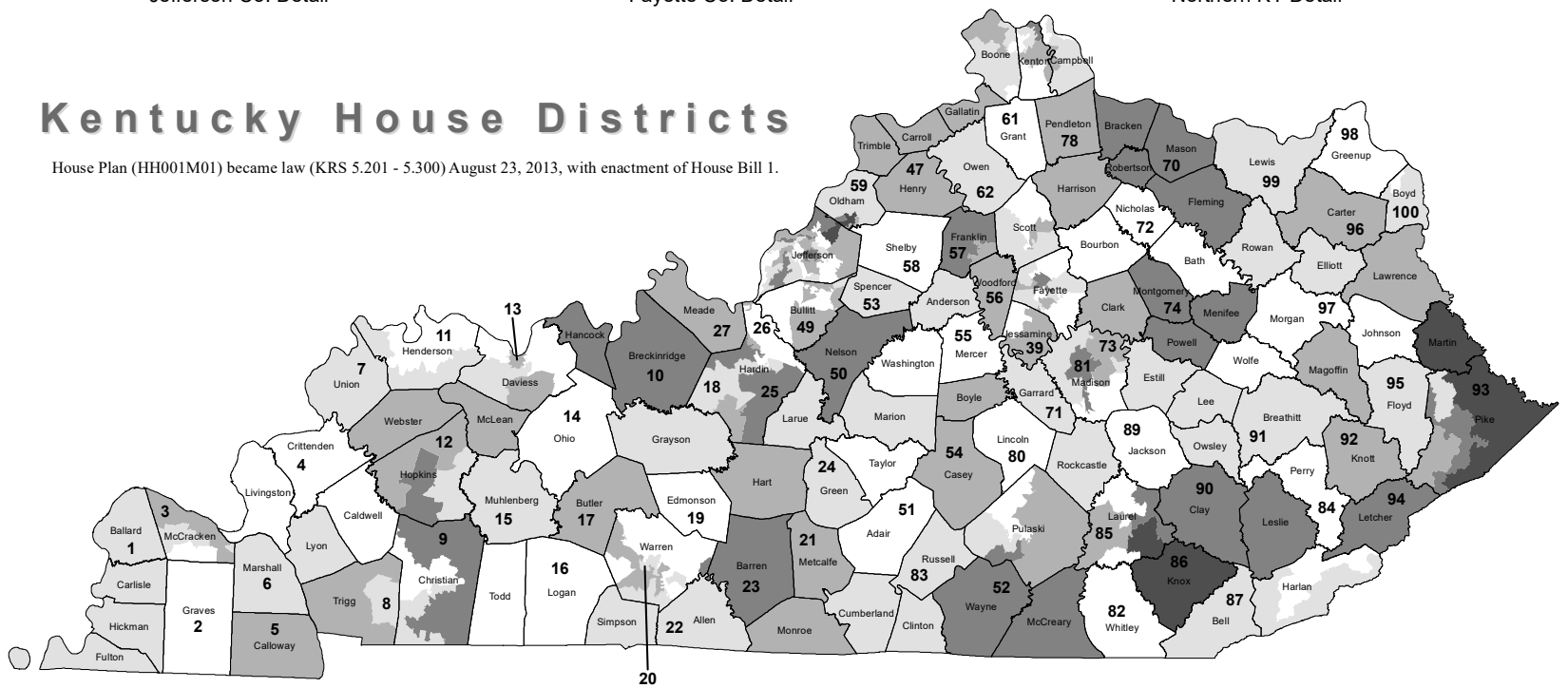
Fayette Co. Detail



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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2018 Interim

## LEGISLATIVE RECORD

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