2016 Interim

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Lawmakers learn economic impact of alcohol law updates

by Jim Hannah
LRC Public Information

When the greatest updating of alcohol regulations since the repeal of Prohibition passed the Kentucky General Assembly earlier this year, leaders across the state said it would help maximize the economic impact of a worldwide thirst for bourbon and birth of the craft beer industry.

But the lasting impact of the law, known as Senate Bill 11, may be the number of Kentuckians going to the polls to decide whether alcohol should be sold in their communities, Kentucky Department of Alcoholic Beverage Control Commissioner Christy Trout said at the Oct. 14 meeting of the Interim Joint Committee on Licensing and Occupations.

Following the demise of Prohibition, many communities across Kentucky decided to remain "dry" or "moist," which meant that alcohol sales were banned or restricted. Trout said SB 11 made it easier for communities to roll back 1930s-era alcohol regulations. Now, any incorporated city, regardless of size, may hold a local option election, meaning they can vote on whether to legalize the sale of alcoholic beverages or become "wet".

SB 11 also provided for local option elections on the precinct level for distilleries who find themselves in dry or moist areas.

"Senate Bill 11 is strengthening our fa-

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Bill to target fentanyl trafficking heard by panel

by Rebecca Hanchett
LRC Public Information

GRAYSON—Jessamine County Sheriff Kevin Corman can think of days when Nicholasville has averaged two to four drug overdoses in 24 hours. Much of the blame for that, he told state lawmakers last week, goes to heroin and the abuse of the pain killer fentanyl.

The combination of the two drugs can increase the potency of heroin by up to 50 times, according to drug enforcement agencies. Hundreds of overdoses in central and northern Kentucky in recent months have been attributed to the mixture. Nationwide, more than 29,000 people died from overdoes of heroin and painkillers including OxyContin, hydrocodone or fentanyl in 2014 alone.

And drug use is only part of the problem, Corman told the Interim Joint Committee on Judiciary on Oct. 7 at Ashland Community and Technical College. The other part is drug trafficking which is extremely lucrative where drugs like fentanyl are involved. A small amount can bring big money on the streets, he explained.

"I read something the other day that you can take $10 of this fentanyl and make $5000 worth on the street," said Corman.

Nodding in agreement next to Corman was Kentucky Attorney General Andy Beshear who was at the meeting with State Rep. Russ Meyer, D-Nicholasville, and Rep Dennis Keene, D-Wilder, to support a bill proposed by Rep. Meyer that would add fentanyl analogues, or knock-offs, not approved for human consumption to the list of highly-addictive Schedule I drugs under state law. Schedule I drugs, which include heroin and LSD, have no currently accepted medical treatment use in the U.S.

Calling the drug epidemic "Kentucky's greatest threat in general," Attorney General Andy Beshear covered highlights of the bill which would not only classify fentanyl analogues as Schedule I drugs but make trafficking in any amount of fentanyl or its analogues a felony.

There are at least 800 known fentanyl analogues and could be 1,000 or more, according to committee testimony.

Calling the drug epidemic "Kentucky's greatest threat in general," Beshear covered highlights of the bill which would not only classify fentanyl analogues as Schedule I drugs but make trafficking in any amount of fentanyl or its analogues a Class C felony for the first offense and a Class B felony for the second or subsequent offense. The penalty would be pared down if the person had a "substance use disorder" at the time the offense was committed. Trafficking 10 grams of more of fentanyl, including fentanyl analogues, would be a Class B felony under the proposal.

Judiciary Committee Co-Chair Sen. Whit-

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Fentanyl,

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ney Westerfield, R-Hopkinsville, asked Beshear if substance use disorder as defined in the bill would require a diagnosis or just a court finding. Beshear said the determination would just take a court finding under current language, and Meyer said that could be spelled out in the bill.

Sen. John Schickel, R-Union, was admittedly emotional when he spoke about the heroin epidemic and its impact on Boone County where he lives. He cast some of the blame on House Bill 463 passed by the 2011 Kentucky General Assembly. The bill, now law for over five years, reduced some drug penalties while moving defendants into drug treatment.

Schickel said Kentucky was below the national average for heroin overdoses in 2009-2010. After HB 463 was signed, he said, the state's heroin overdoses spiked. He suggested the drug penalties amended by HB 463 be raised back to the level they were at before 2011.

From his perspective, Corman said the issue isn't just about drug overdoses. It's about an increase in crime overall which he linked to the drug culture.

"This is getting to the point that probably 90 percent of all crime is related to this problem," said Corman. "You look at burglaries, thefts, robberies, a lot of your domestic violence… Somehow we have to put a lid on this and start winning," he told the committee.

The committee also received testimony on a proposed Reentry Drug Supervision Pilot Program explained by Rep. Lewis Nicholls, D-Greenup, heard a presentation on an evidence-based drug recovery model from the organization Celebrating Families, and received an update on gross misdemeanors legislation pre-filed for the 2017 legislative session that is similar to a bill considered last session.

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Sheriff Kevin Corman

Alcohol law,

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mous Kentucky Bourbon Trail adventures as premium tourism destinations while adding jobs and millions of dollars in new investment and tax revenue," Kentucky Distillers' Association President Eric Gregory wrote in a statement provided to the committee during the meeting. "These bold reforms are increasingly important as Kentucky competes with other states for the next generation of distilleries."

From 2010 through '15, there were 103 local option elections concerning alcohol sales, Trout said. Just in the first nine months of this year, there have been 48. Thirty-one resulted in at least limited alcohol sales. And seven more local option elections were pending at the time Trout spoke.

"This has an impact on the department," Trout said. "In previous years, we would have one license for a small-farm winery or something of the sort. Now, we are seeing hundreds of license applications come through the door as a result of these elections."

All cities and counties, regardless of population, may also enact ordinances to permit licensees to sell alcohol on Sunday or after midnight. Kentucky's smallest communities can also seek a hardship exception to allow restaurants with fewer than 100 seats to serve alcohol. Trout said the idea is to encourage restaurateurs to purchase, restore and operate in historic buildings.

At the time of the meeting, there were only 19 completely dry counties left in Kentucky.

Sen. Chris McDaniel, R-Latonia, asked a question during the Oct. 14 meeting of the Interim Joint Committee on Licensing and Occupations.

SB 11 allowed for the creation of two new types of liquor licenses. One type has been dubbed the "peddle pub," a license that allows passengers on human powered four-wheeled bicycles to drink alcohol. A designated driver controls the bike. The bikes, or quadricycles, have become popular in metropolitan restaurant and bar districts, including Cincinnati's popular Over-the-Rhine neighborhood.

The second is a new class of license for rectifiers – people who cut, blend, mix or infuse any ingredient in a distilled spirit.

Under SB 11, the maximum production cap for a microbrewery license increased from 25,000 barrels per year to 50,000 barrels per year. Microbrewers can now sell their own malt beverages, by the package and by the drink, to consumers at fairs, festivals and other similar types of events.

"This has expanded the industry," Trout told the legislative panel. "As you are probably aware, West Sixth (Brewing) recently purchased a farm in Franklin County for example."

SB 11 was also designed to encourage the growth of small-farm wineries. It increased the maximum production cap for a small-farm winery license from 50,000 gallons per year to 100,000 gallons per year. Small-farm wineries may also provide custom crushing services to winegrape growers or clients who source their own fruit. Trout said three wineries in Kentucky were already providing custom crushing services.

In addition, SB 11 allows bed-and-breakfast owners to obtain a license to sell alcoholic beverages to registered overnight guests. Since July 15, three B&B operators have obtained that license, Trout said.

Rep. Larry Clark, D-Louisville, asked if the state ABC had promulgated all the regulations contained in the omnibus SB 11.

Trout referred the question to the general counsel for ABC, Steve Humphress, who said the only regulation still pending deals with breweries providing refrigerated coolers to retailers.

Senate Majority Floor Leader Damon Thayer, R-Georgetown, thanked Trout, the first woman to become commissioner for the state ABC, for her presentation to the committee.

"Many of us are strong supporters of the free-enterprise system, but the alcohol business is, and has been since Prohibition, heavily regulated," Thayer said. "It is regulated for a reason. We appreciate your efforts to balance the free enterprise, tourism, economic development needs with the safety and protection of the public you have responsibility for."

P3 update delivered to lawmakers at KY Horse Park

by Rebecca Hanchett
LRC Public Information

LEXINGTON—Three attorneys from different state government agencies gave lawmakers a look this month at how Kentucky's new public-private partnership law will be put to use.

The attorneys—one from the Tourism, Arts and Heritage Cabinet, one from the Finance and Administration Cabinet and one from the Transportation Cabinet—explained that long-term partnerships allowed under 2016 House Bill 309 will combine private investment and public resources to meet state and local government needs. Other states have used P3s to improve schools, water systems, bridges, state parks and more.

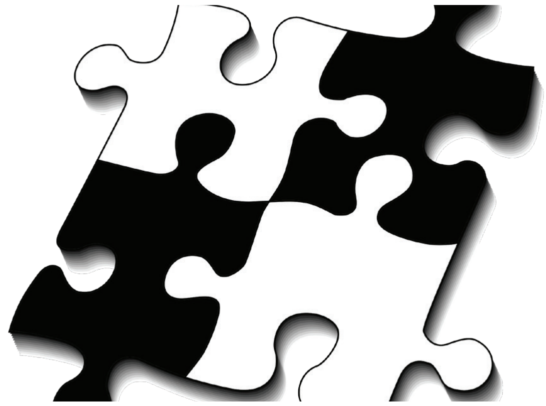
The testimony was offered on Oct. 20 at the Kentucky Horse Park during a meeting of the General Assembly's Labor and Industry Committee, the Economic Development and Tourism Committee, and the Special Committee on Tourism Development.

With over $100-plus million in maintenance needs at Kentucky's state parks, public-private partnerships, known as P3s, are expected to help reduce the parks' deferred maintenance while employing a strict system of checks and balances built into HB 309, said Tourism, Arts and Heritage Cabinet General Counsel Leigh Powers.

"We're not selling off state parks. We're finding ways to make them better," said Powers. The framework for P3s proposals, both solicited by agencies and unsolicited, will ensure that "the Commonwealth gets what it bargained for," she told lawmakers.

A handout provided by all three attorneys explained when P3s should be used and what considerations should be taken into account before approval for a P3 is given. Some of those considerations include benefits gained or not gained, timeliness and risk. Transportation Cabinet Assistant General Counsel Megan McLain explained additional considerations for transportation P3s includes, but is not limited to, compliance with federal requirements and investment-grade credit ratings.

The attorneys also explained that approved P3s must be part of competitive negotiation—meaning the contract will be awarded to a "responsible and responsive" party, per the handout. The handling of unsolicited proposals—P3 proposals that are not sought by the state or local government agency and instead independently



generated, for example—will also include a 30-day waiting period for the proposal and 90 days of public notice before further action can be taken, with procedures differing slightly for transportation projects.

Neither Powers or Finance and Administration Cabinet General Counsel Gwen Pinson shared details on P3s that may be pending in their respective agencies, although both said proposals have been received. McLain also did not offer info on any specific proposals.

Rep. Leslie Combs, D-Pikeville, who co-sponsored HB 309 with House Majority Caucus Chair Sannie Overly, D-Paris, said the framework the new law provides is considered "the most transparent in the country." She said HB 309 makes Kentucky one of around only seven states with such comprehensive P3 legislation that can be used for a wide range of public needs, said Combs.

"I do believe that as we said earlier, this is an opportunity for us to acquire infrastructure services across the Commonwealth. This is a new vehicle, a new financing tool," she said.

The joint meeting of the committees also included an overview of what's happening at the Kentucky Horse Park from park director Laura Prewitt and an update from AT&T Kentucky on infrastructure and investments made following the passage of 2015 HB 152. That was the telephone deregulation measure sponsored by House budget chairman Rep. Rick Rand, D-Bedford, which AT&T says has spurred telecom modernization in the state.

Sen. Paul Hornback, R-Shelbyville, who had proposed telephone deregulation legislation in prior sessions, said HB 152 has accomplished much of what it was designed to do. Hornback said the legislation is designed to move Kentucky forward by "making sure we didn't have outdated regulations in place."

Road-user fees drive legislative panel discussion

by Jim Hannah
LRC Public Information

A group of state lawmakers huddled recently to hear testimony on how to pay for filling potholes and easing traffic congestion – including alternatives to Kentucky's gas tax.

"The hot topic of the day for a lot of transportation stakeholders is this discussion on pay per mile or mileage-based user fees," said National Conference of State Legislatures Policy Specialist Kevin Pula during the Oct. 4 meeting of the Interim Joint Committee on Transportation.

He said the largest such pay-per-mile initiative is a pilot program in Oregon, known as OReGO. That program currently has 5,000 volunteers who have agreed to pay 1.5 cents per mile driven in exchange for getting reimbursed for the gas tax they pay at the pump.

California has also launched a pilot program, Pula said, and a number of other states have shown interest in testing this method.

He said the goal of those state's legislatures is to find a sustainable way to pay for roads in an era where maintenance and construction costs routinely outpace taxes collected to pay for transportation infrastructure. Pula said lack of road maintenance costs the average Kentucky motorist $315.11 per year of additional wear and tear on their vehicle.

From 2008 to '12, 40 percent of funding for highways and transit in the United States came from the states with another 35 percent of it coming from localities, Pula said. That means only 25 percent came from the federal government.

"I'm not meaning to dismiss the role of the federal government in transportation funding … but as with so many other issues, states are where significant action can happen with transportation funding," he said.

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2017 REGULAR SESSION CALENDAR

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JANUARY – PART I

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

FEBRUARY – PART II

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

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

( ) Denotes Legislative Day

MARCH

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

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Committee Meetings

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INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

Minutes of the 3rd Meeting of the 2016 Interim

September 15, 2016

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, September 15, 2016, at 11:00 AM, at Shelby Valley High School in Pikeville, Kentucky. Representative John Short, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative John Short, Co-Chair; Senators Chris Girdler, Ernie Harris, Wil Schroder, Reginald Thomas, and Mike Wilson; Representatives Kevin D. Bratcher, George Brown Jr., Leslie Combs, Tim Couch, Daniel Elliott, Chris Harris, Kim King, Brian Linder, Tom McKee, Terry Mills, Ruth Ann Palumbo, Fitz Steele, Wilson Stone, and Russell Webber.

Guests: Don Parkinson, Secretary, Tourism, Arts and Heritage Cabinet; Seth Wheat, Office of Adventure Tourism; Jared Arnett, Executive Director, SOAR.

LRC Staff: John Buckner, Chip Smith, and Karen Brady.

Tourism Trends in Appalachia

Secretary Parkinson stated that tourism is the third biggest industry in Kentucky, adding $13.7 billion to Kentucky's economy in 2015. In the eastern Kentucky, tourism has a $1.8 billion economic impact. Historical and cultural tourism is one aspect that has become important for the state. Other areas bringing visitors to Kentucky are the Kentucky Artisan Heritage Trails, Civil War: The Home Front, and Bon Appetit Appalachia. Coming soon will be a focus on statewide regional meals and the Covered Bridge Trail.

Secretary Parkinson spoke about historic preservation. In 2015, there was a tax credit for turning liabilities into assets. The state has invested $18 million for aesthetic/safety improvements at Kentucky State Parks. The estimated total investment in Appalachia for Kentucky state resort parks is $5.3 million.

The Kentucky Department of Fish and Wildlife contributes $5.9 billion in annual economic impact to the state. This comes from hunting, boating, fishing, and wildlife watching. Secretary Parkinson mentioned the 1997 Elk Restoration Program and stated that there is potential for this to be much bigger than it is right now.

Secretary Parkinson said the proposed visitor center project at the Appalachian Wildlife Center in Bell County will be for elk viewing. The area is also on the flight path for migratory birds. He hopes this will be operational in 2018 or 2019.

As for the film industry, Secretary Parkinson said that, over the last six years, Kentucky has approved the scripts for 23 movies, of which 12 were made and 12 have been made in the state this year. Kentucky is getting enormous activity for movies. To make the incentive program even better, Secretary Parkinson said the state must build film studios, and there is a need people who are educated to work in film. The administration is working with technical schools and postsecondary education on this issue.

Co-chair Short invited students attending the meeting to come forward if they had any questions. Several students took advantage of the opportunity and prefaced their questions with comments about the economic crisis faced by the community and in eastern Kentucky because of the downturn in coal mining. Families that not long ago were supported by jobs related to coal mining are now often faced with unemployment and economic hardship. Several students expressed skepticism about the viability of tourism-related jobs and questioned whether the jobs were annual, full-time jobs or seasonal, part-time positions and whether the wages paid would be sufficient to support a family. The also questioned how many jobs would be necessary to replace jobs lost due to the collapse of coal mining.

Adventure Tourism

Seth Wheat stated the mission of Kentucky Adventure Tourism is to promote and develop opportunities for outdoor recreation all over the commonwealth of Kentucky. He believes there is a tremendous opportunity to improve and capitalize on current resources.

Mr. Wheat explained that the Cross Kentucky Master Trail Plan does two important things—it gives an overview on how to build trails and lays out trail routes. Two of the state's longest trails are in eastern Kentucky. Water trails are very important to eastern Kentucky's trail development.

Mr. Wheat believes eastern Kentucky can take advantage of the Trans America bike route, which crosses the country from the Pacific to the Atlantic. This route already runs through Kentucky and is an opportunity for the state to attract its portion of those visitors.

Mr. Wheat stated the importance of connecting to trail systems and giving adventure tourists the opportunity to make an economic impact while they are in Kentucky. He also discussed the physical health benefits provided by access to outdoor recreation.

Kentucky is the only state to offer a Trail Town program on a statewide level. The primary goal of the Trail Town program is to get communities to connect to their existing natural resources. The main benefit of becoming a trail town is that the community will be branded as such. Trail towns can be located anywhere in the state, but most of them are primarily located in eastern Kentucky.

In response to a question from Representative McKee, Secretary Parkinson stated that P3 legislation offers the best opportunity in regards to upgrading, expanding, and renovating state parks.

In response to a question from Senator Harris, Mr. Wheat explained that trails are made differently depending on what part of the state it is located in, and also varies as to what type of trail it is.

Responding to a question from Senator Schroder, Mr. Wheat emphasized the importance of trail development being handled at the local level. Most trails are designed on a case by case basis, as to what best suits the local community that it is in and the type of visitors it will attract.

Economic Development Potential in Eastern Kentucky

Jared Arnett discussed the importance of job creation and diversification in eastern Kentucky. He compared a statistic showing that, for every 100 people who are 18 years and older, Fayette County has 60 jobs while Floyd County has 28 jobs.

Mr. Arnett stated that there are as many distressed counties in Kentucky (38) as there are in 12 other states combined. These counties are in the bottom ten percent in the country economically. Eastern Kentucky needs to change the way it thinks about economic development, and that is what SOAR is for—to serve as a facilitator of partnerships, strategies, and priorities of the system that creates jobs in eastern Kentucky.

SOAR has numerous partners working on industrial development in the region, and this has helped to be more competitive in industrial recruitment. Mr. Arnett stated the importance of showcasing the workforce of the region, and being able to tell a company about laid-off miners' skills such as welding and electrical work.

Mr. Arnett stated that the future of the Appalachian region hinges on its ability to embrace technology and to be a participant in the digital economy. Several of the community colleges teach the skillsets that are valuable in the digital economy. There is also a pilot program in Paintsville that guarantees those who complete it a job working remotely in eastern Kentucky for a tech company in Louisville.

Mr. Arnett discussed an immediate short-term opportunity in certified fiber optics. This gets coal miners retrained and working in a new career and industry with comparable wages.

In response to a question from Representative Bratcher, Mr. Arnett stated that SOAR is 60 percent privately funded.

Co-chair Short invited students to ask any questions that they may have regarding economic development in eastern Kentucky. They expressed concerns about the lack of jobs in the region, compelling many to move to central and northern Kentucky to find employment. Many students were dismayed about a seemingly disproportionate share of educational opportunities and institutions being located in "the Golden Triangle," which reinforced the idea that students must leave their communities to further their education.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Minutes of the Fourth Meeting of the 2016 Interim

September 21, 2016

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Health and Welfare was held on Wednesday, September 21, 2016, at 10:00 a.m., in Room 129 of the Capitol Annex. Representative Tom Burch, Co-Chair, called the meeting to order at 10:05 a.m., and the secretary called the roll.

Present were:

<u>Members:</u> Representative Tom Burch, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Denise Harper Angel, Jimmy Higdon, Alice Forgy Kerr, Reginald Thomas, and Max Wise; Representatives Robert Benvenuti III, George Brown Jr., Joni L. Jenkins, Mary Lou Marzian, Reginald Meeks, Phil Moffett, Tim Moore, Darryl T. Owens, Ruth Ann Palumbo, David Watkins, Russell Webber, Susan Westrom, and Addia Wuchner.

<u>Guests:</u> Don Stacy, M.D., Radiation Oncologist, dABR, cBioethics, Medical Liaison, Alliance for Innovative Medicine; Tim Feeley, Deputy Secretary, Cabinet for Health and Family Services; Adria Johnson, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Brandon Carlson, Cabinet for Health and Family Services; Judge Paula F. Sherlock, Jefferson Circuit Court, Family Trial Division 10; Katie Ann Lester, mother; Eric B. Durbin, DrPH, MS, Director, Cancer Research Informatics, Kentucky Cancer Registry; Lars Wagner, MD, Chief, Division of Pediatric Hematology/Oncology, Kentucky Children's Hospital, Professor of Pediatrics, Children's Miracle Network Research Chair in Pediatrics, University of Kentucky; Katie Bathje, MA, LPCC, Kentucky Cancer Consortium; Lynette Ponder, Personnel Associate, Lisa Payne, Social Service Supervisor, Susan Howard, Eastern Mountain Service Region, Jeff Culver, Katy Coleman, Rebecca Goggin, CPS investigator, Amy Preston, frontline worker, Fayette County, Department for Community Based Services, Cabinet for Health and Family Services; Vivian Hurt, retired social worker; Brenda Rosen, Executive Director, National Association of Social Workers; Gretchen Marshall, Assistant Director of the Division of Protection and Permanency, DCBS, Cabinet for Health and Family Services; Brandon Carlson, Executive Advisor, Office of the Secretary, Cabinet for Health and Family Services; Debbie and Ed August, parents; Jenny Glass; and Sarah S. Nicholson.

<u>LRC Staff:</u> DeeAnn Wenk, Ben Payne, Jonathan Scott, and Gina Rigsby.

Medical Marijuana

Don Stacy, M.D., Radiation Oncologist, dABR, cBioethics, Medical Liaison, Alliance for Innovative Medicine, stated that, as a cancer doctor, he treats patients who are dying or suffering from severe treatment or cancer-related side effects such as severe pain, nerve pain, nausea, loss of appetite and extreme weight loss, and mental disorders. Current standard medical therapy for these debilitating symptoms is not very effective and may cause severe side effects. After standard therapy has failed, cannabis has been highly effective for patients in treating these conditions. Some research shows that cannabis is an exit drug not a gateway drug and teen use decreases in states that have legalized marijuana.

The Alliance for Innovative Medicine (AIM) consists of physicians, medical professionals, law enforcement, and business professionals and serves as the voice for professionals who believe that medical cannabis should be legalized in the Commonwealth of Kentucky. Articles in JAMA Internal Medicine, Christian Science Monitor, The American Journal of Public Health, IDrugs, Health Affairs, and Cancer Epidemiology, Biomarks, and Prevention show that medical cannabis decreases opioid overdose deaths by 25 percent because it is a safer alternative to many of the prescriptions used now. It is virtually impossible for someone to overdose from cannabis. The opioid epidemic is a national problem. The NIH Medicinal Marijuana Expert Group, National Institutes of Health, and Trends in Pharmacological Sciences reports that medical cannabis acts faster with significantly fewer and less severe side effects versus Marinol, the synthetic version of THC. Dr. Vivek Murthy, United States Surgeon General, reported that since 1999, opioid overdose deaths have quadrupled and opioid prescriptions have increased substantially. Nearly two million people in America have a prescription opioid use disorder contributing to increased heroin use and the spread of HIV and hepatitis C.

In response to questions by Senator Alvarado, Dr. Stacy stated that he agrees there needs to be more research and three-phase studies conducted, but his patients do not have the luxury of waiting years for results of the studies. Many oncology trials are switching to patient self-reported data. Because each patient is different, there needs to be a variety of options available such as capsules, creams, oils, and edibles. Because cannabis is still illegal on the federal level, providers are afraid of losing funds for services already being provided for terminally ill patients. Senator Alvarado said that he is keeping an open mind on the topic and wants to see more clinical trials on medical marijuana. Groups like the American Medical Association and the Kentucky Medical Association have also said additional trials are needed.

In response to questions by Representative Benvenuti, Dr. Stacy stated that some of his patients already use cannabis for pain because they do not have the luxury of waiting years for the results of the research. There are no documented cases of overdose of someone using cannabis.

In response to a question by Representative Benvenuti and Senator Wise, Dr. Stacy stated that he wants a legal, safe way to help his patients.

Senator Higdon read from a recent Politico article on South Carolina Senator Lindsey Graham's evolution on the subject of legalizing marijuana. Senator Higdon stated that he is still on the fence about medical cannabis. One important factor will be how it is defined in legislation. He stated that he could support a bill like Senate Bill 304 from the 2016 Regular Session sponsored by Senator McGarvey that deals with end-of-life issues for Hospice patients.

In response to a question by Representative Owens, Dr. Stacy stated that each state has chosen a list of medical conditions where it is legal to use cannabis.

In response to questions by Representative Moore, Dr. Stacy stated that he does not conduct studies, but his information comes from treating his patients. He helped create AIM approximately six months ago. Since each patient is different, the effective dosage of cannabis would be different. It is not impossible to conduct research unless there is a change in state laws. Cannabis needs to change from a Schedule I narcotic to a Schedule II narcotic.

Representative Burch stated that lawmakers will continue to grapple with the subject in upcoming sessions until something is done.

Approval of the Minutes

A motion to approve the minutes of the August 17, 2016 minutes was made by Representative Watkins, seconded by Representative Meeks, and approved by voice vote.

Consideration of Referred Administrative Regulations

The following referred administrative regulations were on the agenda for consideration: **201 KAR 23:055** – establishes the requirements relating to inactive licenses, extension of inactive status, return to active status, and reinstatement by the Kentucky Board of Social Work; and **922 KAR 5:081** – repeal of 922 KAR 5:080, certification of assisted living residences. A motion to accept the referred administrative regulations was made by Representative Marzian, seconded by Representative Jenkins, and accepted by voice vote.

Childhood Cancer Awareness

Katie Ann Lester, mother of Bennett, stated that her daughter, Bennett, was born in 2013 and died in October 2015. At the age of two, Bennett was diagnosed with an aggressive brain tumor with a zero percent survival rate. Bennett never had a chance, because not enough research has been conducted on pediatric cancers. More funds are needed on the state and federal levels for pediatric cancer research.

Eric B. Durbin, DrPH, MS, Director of Cancer Informatics, Kentucky Cancer Registry, stated that cancer incidence rates are the number of new cases diagnosed in the population at risk over a specific time period. During 1999-2013, there were approximately 3,000 children diagnosed with childhood cancer in Kentucky, and of these children the highest prevalence was children between the ages of 15 and 19 years of age. There is a higher rate of childhood cancer incidence in Kentucky, especially in the Appalachian region, than anywhere in the United States. Survival has improved in Kentucky since 1994. Mutations in Predisposition Genes in Pediatric Cancer, reported that germline mutations in cancer-predisposing genes were identified in 8.5 percent of 1,120 pediatric cancer patients tested.

Katie Bathje, MA, LPCC, Program Director, Kentucky Cancer Registry, stated that the Kentucky Cancer Action Plan (CAP) is the state's comprehensive cancer control plan to reduce the burden of cancer and maintained by the Kentucky Cancer Consortium. The Kentucky Cancer Consortium is federally funded and meets quarterly. The plan is a blueprint for action that addresses prevention, screening and early detection, treatment and care, and quality of life. The CAP uses the latest cancer data from sources such as the Kentucky Cancer Registry to identify priority cancers and formulate measurable objectives towards reducing the burden for each.

One of the 2016 CAP's goals is to promote overall health of Kentucky cancer survivors from diagnosis onward to increase quality of life. Measurable objectives include the percentage of Kentucky pediatric oncology patients seen at Children's Oncology Group at Kosair Children Hospital and the University of Kentucky, five-year survival rate of Kentucky childhood cancer patients, and the number of Kentucky-specific resource guides available to pediatric cancer patients and their families or caregivers. Children should not be treated the same as adults.

In 2016 in the U.S., approximately 10,380 new cases of cancer will be diagnosed among children from birth to 14 years of age, and about 1,250 of those children are expected to die. In Kentucky, approximately 200 children are diagnosed with invasive cancer each year according to the National Cancer Institute. The Kentucky Cancer Registry reports that although pediatric cancer death rates have declined by nearly 70 percent of the past four decades, cancer remains the leading cause of death from disease among children.

Senator Wise stated that more needs to be done at the federal level on pediatric cancers.

In response to questions by Representative Wuchner, Lars Wagner, MD, Chief, Division of Pediatric Hematology/Oncology, Kentucky Children's Hospital, Professor of Pediatrics, Children's Miracle Network Research Chair in Pediatrics, University of Kentucky, stated that brain tumors are the leading cause of death in children and are more prevalent in eastern Kentucky. More research needs to be conducted to identify causes of childhood cancers and the best cure for each.

In response to questions by Senator Alvarado, Dr. Durbin stated that there is a correlation between smoking and lung cancer. It is difficult to capture data on the correlation between a smoking mother and childhood cancer.

In response to questions by Senator Higdon, Dr. Durbin stated that 19 years of age is when an individual would still be seen by a pediatric oncologist. Dr. Wagner stated that some adults get cancers more prevalent in children, so if a pediatric oncologist is comfortable seeing these adults, there could be better outcomes.

In response to a question by Senator Thomas, Dr. Durbin stated that poverty is a major factor in poor outcomes in cancer patients.

In response to a question by Representative Marzian, Dr. Durbin stated that symptoms of exposure to toxins can take many years to develop in children.

State Social Service Workers

Tim Feeley, Deputy Secretary, Cabinet for Health and Family Services (CHFS), stated that the cabinet is trying to build an environment conducive for long-term employment. The cabinet is visiting schools and universities to recruit new social workers.

Adria Johnson, Commissioner, Department for Community Based Services (DCBS), Cabinet for Health and Family Services, stated that the DCBS has six divisions: Service Regions, Child Care, Administration and Financial Management, Protection and Permanency, Family Support, and Program Performance. There are nine protection and permanency service regions and four family support regions. Some of the programs that the DCBS administers are the Supplemental Nutrition Assistance Program (SNAP), the Temporary Assistance for Needy Family Block Grant that includes K-TAP, Kentucky Works, and supportive services, the Child Care Assistance Program, foster care and public agency adoption, the Community Services Block Grant and standards for Kentucky's Community Action Network, eligibility determinations for Medicaid and health insurance affordability options, and regulations of state-funded domestic violence shelters, day care, private child care, and domestic violence batterer intervention providers.

From January to July 2016, of the 443 statewide staff turnovers, 294 were from resignations. Prior agency reporting did not reflect past due cases, request cases, and staff that is not at capacity. Effective August 2016, these variables have been incorporated within staffing and caseload reporting. An Adult Protective Services (APS) caseload ranges from 40 to 46 cases. Currently, 117 APS staff have 4,623 open cases. A CPS caseload ranges from 20 to 30 cases. Currently, there are 8,801 Child Protective Services (CPS) cases being handled by 1,134 CPS staff. KRS 199.461(3) sets the monthly statewide caseload average for social service workers in foster care, child protection, juvenile services, and adult protection at 25 active cases. In accordance with KRS 199.461(4), if the monthly statewide caseload average exceeds 25 active cases for 90 consecutive days, the DCBS is to report the fact, a description of the factors contributing thereto, and recommendations related thereto.

Statewide efforts to recruit and retain staff include salary increases for all frontline DCBS staff, continued enhancements to the Assessment and Documentation Tool (ADT) used during investigations, review of existing organizational and management structures, greater presence of leadership in local offices, and exploration of other quality improvements to recruit and retain staff. Some focused efforts in Jefferson County include temporary intensive leadership team, aggressive recruitment efforts and priority filling of frontline vacancies, improved work culture and environment, and development of a plan to address intake numbers to avoid future backlogs.

Lynette Ponder, Personnel Associate in Jefferson County, stated that DCBS social service staff is committed to work to serve Kentucky's families.

Lisa Payne, Social Service Clinician, stated that, since she was hired with the cabinet almost nine years ago, things have drastically changed for the worse.

Susan Howard, Eastern Mountain DCBS service region, stated that she has worked with DCBS for 41 years. A challenge is to know the exact needs of clients and what is needed to help meet those needs. Another challenge is how to meet the total number of past due cases. Abuse and neglect does not always happen between 8:00 a.m. and 4:30 p.m. Workers are committed and advocate for families.

Judge Paula F. Sherlock, Jefferson Circuit Court, Family Trial Division 10, stated that in 2005, she became a family court judge in Jefferson County. There are 1,820 active cases in the ten Jefferson County trial divisions. Resources for family courts have diminished. More children are in foster care than ever before because of increased addiction issues, increased gun violence, and crime. There is a disproportionate number of African-American children in state care. Judges depend on social service workers when hearing court cases. There is an enormous turnover rate of social workers which make cases harder to adjudicate. Recruitment and retention of social workers is crucial. There needs to be better communication between the cabinet administration and DCBS social workers.

Jeff Culver, DCBS social worker, stated that $50 million has been cut from the DCBS budget over the past nine years. There is a heroin epidemic problem. Senate Bill 200 caused more investigations and more children committee to the cabinet. Social workers have stressful, low-paying, dangerous jobs. There is a huge need for more experienced staff. Areas that need to be addressed are systemic issues, funding for veteran workers, need for hazardous duty pay, and higher pay for office support staff, updating intake criteria, evaluation of administrative tasks, and looking at employee criteria. Funding has to be part of the solution.

Katy Coleman stated that she has been with the cabinet for seven years. Social workers live in fear in the past of retaliation by the cabinet for speaking out about issues that need to be addressed. She hopes that this will not happen with the current administration. Social workers need more training to be more effective in their jobs. Past due investigations have been used against workers. Areas that need to be addressed are worker safety, the need for hazardous pay, and the need for more foster parents.

Rebecca Goggin, CPS investigator, stated that she has been frustrated that while performing a high stress and hazardous job protecting children, she is unable to advance in her career. New processes of evaluation of job performance are needed. Kinship care needs to be reinstated.

Amy Preston, frontline worker in Fayette County, stated that she is a 15-year veteran social worker. Staff retention is a crisis. Staff had to take mandated furloughs, because of the $50 million cuts in the budget. Workers have been ridiculed and scorned. Kinship Care needs to be reestablished. Kentucky has 8,000 children in out-of-home care. Children and families cannot afford to wait until change comes within the cabinet. Protection of children and families is monumental for workers.

Vivian Hurt, retired social worker, stated that with the recent raises veteran workers may earn less than new hires. Secondary trauma is a huge problem for social workers. Social workers need to receive hazardous duty pay. The current cabinet is too big to effectively take care of workers. There should be a cabinet that focuses on just child protection. The Child Welfare League of America recommends that workers investigate no more than 12 cases per month. Large caseloads is a national problem not just a state problem. It is hard to retain workers. Workers need immunity from civil and criminal cases brought against them.

Representative Burch stated that he visited the Jefferson County DCBS office and talked with social workers and found that the caseloads were still too high. Some concerns from workers were the lack of pay, no recognition, and high stress levels. There is a need to solve pay inequities between new hires and veteran staff.

Deputy Secretary Feeley stated that every worker is receiving a raise. The cabinet has heard workers concerns and are working on the problems. The days of retribution to workers for speaking out is over.

Commissioner Johnson stated that evaluations will have different criteria. The cabinet wants to structure Kinship Care with long-term outcomes. There is a need to prioritize child care. Another problem that is being looked at is Guardianship Assistance. Internal and legislative review is being conducted for foster care. Worker safety is of paramount importance.

In response to questions by Senator Higdon, Deputy Secretary Feeley stated that all state workers have a 37.5 hour work week. Moving to a 40-hour work week would take most of the additional funds allotted for raises for social workers, and he did not think this would be good for the morale of staff. Family support workers were included in the raises.

Representative Benvenuti stated that if a worker has problems with retaliations, falsification of documents, or any other problem, the Office of the Inspector General is there to help. He is confident the current administration is going to be more transparent than previous administrations. There is a systemic societal issue – parents need to be responsible for their children.

In response to a question by Senator Danny Carroll, Gretchen Marshall, Assistant Director of the Division of Protection and Permanency, DCBS, stated that the only change to the intake criteria for investigations was to add human trafficking.

In response to a question by Representative Meeks, Brandon Carlson, Executive Advisor, Office of the Secretary, Cabinet for Health and Family Services, stated that the cabinet is very concerned about security for workers. The cabinet has a contract with Murray Security. The security of the L&N Building is currently under review. Judge Sherlock stated that state law requires a foster care case be adjudicated in 45 days, and federal law requires 60 days. Sixty days would give more time to prepare for cases and adjudicate cases. Commissioner Johnson stated that discussions have begun to change the timeline, because she realizes it is a challenge to meet the 45-day adjudication deadline.

In response to questions by Senator Thomas, Commissioner Johnson stated that the Child Welfare League of America (CWLA) recommends 12 active cases per month. KRS 199.461(4), mandates a monthly statewide caseload average of 25 active cases per month. Currently social workers carry 23 cases per month. Ms. Preston stated that currently she has 27 cases. Historically, her caseload was between 25 to 40 cases per month.

Representative Brown stated that he would like a detailed plan on how the cabinet plans to accomplish the goals to improve the problems addressed at today's meeting.

Adjournment

There being no further business, the meeting was adjourned at 1:56 p.m.

INTERIM JOINT COMMITTEE ON AGRICULTURE

Minutes of the 4th Meeting of the 2016 Interim

September 14, 2016

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Agriculture was held on Wednesday, September 14, 2016, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Tom McKee, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Tom McKee, Co-Chair; Senators C.B. Embry Jr., Chris Girdler, David P. Givens, Dennis Parrett, Dorsey Ridley (via video conference), Damon Thayer, Robin L. Webb, Stephen West, and Whitney Westerfield; Representatives Mike Denham, Myron Dossett, Kelly Flood, Derrick Graham, David Hale, Richard Heath, James Kay, Kim King, Martha Jane King, Michael Meredith, Suzanne Miles, Sannie Overly, Tom Riner, Bart Rowland, Steven Rudy, Rita Smart, Wilson Stone, Chuck Tackett, James Tipton, Tommy Turner, and Susan Westrom.

Guests: Frank Burdzy, President and CEO, Chris Milan, Ingredient Source and Development Leader, Champion Petfoods, Doug Price, Harrison County, Hon. Bobby Foree, Henry County, Sharon Bird, Public Policy Director, Community Ventures, Sandra Canon, Community Ventures, Sydney Gardner, Community Ventures, and Tamara Sandberg, Executive Director, Kentucky Association of Food Banks.

LRC Staff: Lowell Atchley, Kelly Ludwig, Marielle Manning and Susan Spoonamore, Committee Assistants.

Champion Petfoods Operation in Logan County

Frank Burdzy, President and CEO, and Chris Milam, Ingredient Source and Development Leader, Champion Petfoods spoke about the company and the new Logan County production facility, DogStar® Kitchens. Champion Petfoods is very proud to be located in Kentucky. Its number one focus is to be a good corporate citizen and an active participant in the community. DogStar® represents long life and enduring life. It is anticipated that the two brands of petfoods, Origen and Acana, will endure future challenges. Champion Petfoods represents the best of the best. Champion Petfoods built the world's best kitchen in Auburn, Kentucky.

The Food and Drug Administration (FDA) has reviewed and studied the kitchen and recommended that all new recruits from the food industry tour the kitchen. It is called a "kitchen" because Champion Petfoods makes food. The kitchen has 370,000 square feet, half dedicated to production and half for distribution and use as a warehouse. Every day, the kitchen receives between 10 to 25 semi-load containers of fresh ingredients that produce 10 to 15 semi-loads of finished products, which are shipped to customers. Mr. Burdzy said the vision for Champion Petfoods is for petfoods to be trusted by pet lovers around the world. The mission statement for Champion Petfoods is referred to as "Biologically Appropriate Fresh Regional Ingredients Never Outsourced" (BAFRINO). Fresh meat is used daily. There are no corn-based products in Champion's food portfolio. Occasionally the chef prepares a meal for people to "eat like your dog dinner," using all the ingredients that are in the dog food. It is fit for human consumption.

Mr. Burdzy said that the company has been growing 25 to 30 percent annually. One part of the company's mission is to never outsource production. The values of Champion Petfoods include teamwork, responsibility, authenticity, innovation, and leadership. Within three to five years, Champion hopes to be one of the top 100 employers in the United States and Canada. Champion sells and markets its pet food products in over 80 countries. Orijen and Acana petfoods are becoming iconic brands in the marketplace. Champion has divided its marketplace into three segments: Canada, the United States, and the rest of the world. Champion is allocating its product to Europe, the Middle East, and Asia.

Mr. Burdzy said that the home office of Champion Petfoods is in Alberta, Canada, where it employs approximately 200 people. The investment in the new facility in Auburn, Kentucky, was over $120 million with 147 skilled regional workers. A portion of the kitchen was redesigned and is now regulated under the federal category for baby food. Champion is in the process of expanding and, by the end of 2017, there should be over 200 employees with a projected economic impact of $280 million. The most attractive asset of Kentucky is its agriculture footprint. He said that $25 million worth of ingredients have already been purchased from Kentucky producers and processors. Champion hopes to continue growing and expanding ingredient development for the petfoods.

In response to Chairman McKee, Mr. Burdzy stated that staff of the Cabinet for Economic Development and the state's agricultural production were critical components in selecting Kentucky. The key to Champion's success is developing new products in partnership with Kentucky agriculture.

In response to Representative Meredith, Mr. Burdzy stated that Champion will have between 200 and 220 employees after expansion is completed.

In response to Senator Parrett, Mr. Milan said that the products are primarily meat based with some carbohydrates, fruits, and vegetables that are locally grown. The interest in Kentucky to be a supplier for Champion Petfoods is tremendous. There are about 10 growers for greens, pumpkins, and squash. Apples are locally grown, but pear production in Kentucky is minimal. There are some red meats and poultry that are sourced locally.

In response to Senator Westerfield, Mr. Burdzy said that the kitchen in Auburn was the first location outside Canada that was built in the United States.

In response to Representative Rudy, Mr. Burdzy stated that Champion Petfoods started as a family business and deals with other commercial sales entities that are family owned and not part of a global organization. In the distribution network, Champion gives an overseas distributer exclusivity for that country. There are approximately a dozen product distributors in the United States, mostly family owned.

Kentucky's Fencing Law

Doug Price, Harrison County landowner, asked that the committee consider updating some of Kentucky's fencing laws. He said most of the laws have been in effect since 1942 with very few changes. He owns approximately 13 acres and does not farm. He had no plans to fence the land around his property. An adjoining landowner approached him about splitting the costs of building a fence along the joint boundaries, amounting to 2,400 feet. He said that Kentucky's fencing laws require him to split the costs with his neighbor who farms. He said that the law is unjust and should be changed since he does not have an agricultural operation. He would not be eligible for all the tax benefits afforded to an agricultural operation. He said that real estate agents should disclose fencing laws to purchasers of real estate adjoining a working agricultural operation.

Bobby Foree, a Henry County attorney and farmer, said that Kentucky's fencing law became effective in 1942. Since 1988, the fencing laws have not been changed whatsoever. There are very few published cases involving the fencing statutes. In his opinion, he said the statutes have served the Commonwealth well for many years. Agricultural operations need the laws that are currently in place that call for sharing equal fencing costs with adjoining landowners. Mr. Foree said that a PowerPoint, included in the committee folders for review, discussed Kentucky's Boundary Line Fence Act. The definition of "lawful fence" means that one does not have to build an expensive fence but the fence must be such that cattle cannot creep through. He said that there are several other related sections in the statutes regarding fencing law.

In response to Senator Hornback, Mr. Price said his property taxes were assessed at agriculture value since he had more than 10 acres. He said that if the law was changed he would be willing to pay the non-agriculture assessment.

In response to Representative Denham, Mr. Foree said it could cost around $10,000 or more to litigate a fence line lawsuit.

In response to Representative Westrom, Mr. Foree explained that the District Court would allow a landowner to build the fence even if the other adjoining landowner could not afford to pay. A lien would be placed on the adjoining landowner's property until the lien was paid off.

In response to Senator Parrett, Mr. Foree said if a landowner built a fence two or three feet from the property line, then the adjoining landowner could be charged with trespassing if he were running cattle. The adjoining landowner would need to build his or her own fence.

In response to Representative Tackett, Mr. Foree stated that, in some cases when an adjoining farm is split into tracts, the landowner who built a fence may lose out on that fence. As a fence ages, the fencing law may become a factor, especially on newly deeded tracts.

Bluegrass Harvest, an initiative of the Community Ventures organization, Lexington

Sharon Bird, Public Policy Director, Community Ventures, explained that Community Ventures has existed for 30 years. Its mission is to strengthen communities by helping people achieve their dreams of greater economic opportunity. Community Ventures is a small certified Small Business Association (SBA) lender that has helped 4,700 entrepreneurs start businesses, helped to retain 10,600 jobs, and has educated and/or counselled over 100,000 people. Community Ventures loans money to people who have low credit scores and cannot finance through traditional institutions. It counsels consumers on home buying and how to keep their houses and manage their finances. For people who get into financial difficulty, there is a program that can help with a mortgage payment up to $30,000. Ms. Bird stated that there is a community development on Cedar Street in Louisville that houses "Chef Space," a home for food entrepreneurs that would like to test a recipe to be sold in the community. There are 30 entrepreneurs who are sharing the kitchen space, and two have already opened a store front. In addition, Community Ventures is building 25 new homes in that area. The other project is located on Midland Avenue in Lexington. Ms. Bird stated that it will be a mixed use development that will include retail housing, local food businesses, and aging services all within walking distance.

Sandra Canon, President, Bluegrass Harvest, stated that Bluegrass Harvest has been involved in farmers markets for 10 years and that it recently started supplying restaurants with vegetables and fresh herbs. The guiding principle is to improve the health of Kentuckians, lowering health care costs, and increasing the income of the farmers. Through Community Supported Agriculture (CSA), Bluegrass Harvest is able to help connect farmers with employers who self-insure their employees. Bluegrass Harvest is working with the University of Kentucky, Hospice of the Bluegrass, and Appalachian Regional Healthcare in Hazard. These employers provide a $200 incentive to their employees towards a purchase of a CSA, a weekly box of fresh vegetables and fruits for 20 to 25 weeks. The upfront payment helps farmers to plan their crops. The consumer can go to the web page of the farmer and select the farm and the CSA, and make payments using a voucher post. The University of Kentucky has done pre- and post-surveys of the behavioral health changes brought about by the consumption of fresh vegetables and fruits. The survey showed that participants are eating less fast food and less processed food, buying more local produce, and preparing dinner at home. Other results showed that, when a CSA user eats more vegetables and fruits on a daily basis, annual doctor visits and pharmacy use decrease. Bluegrass Harvest is a measured, scalable program with a significant financial impact on farmers. If CSAs were offered to state employees at the cost of $200 per employee, it could create $39 million in new annual revenue to Kentucky produce farmers.

Representative Flood said it would be a great program for state employees, making employees healthier and creating jobs.

In response to Representative Rita Smart, Ms. Canon stated that she did not know why state employees were not participating in the program. It would be an investment from the employer.

Representative Kim King pointed out that there is a program within Humana Vitality that provides a small discount at participating stores for vegetables and fruits.

Farms to Food Banks Surplus Agricultural Commodities Program

Tamara Sandberg, Executive Director, Kentucky Association of Food Banks explained that she was representing the Kentucky Department of Agriculture's (KDA) Surplus Agricultural Commodities Advisory Committee. The Farms to Food Banks Trust Fund was created in the State Treasury as a restricted account to be administered by the KDA with advice from the Surplus Agricultural Commodities Advisory Committee. The July 1, 2015, through June 30, 2016, fiscal year report submitted to the Governor and the Legislative Research Commission showed that the program received $600,000 from the state in addition to $30,000 donated by taxpayers. As a result, over 3 million pounds of Kentucky produce was distributed in all 120 counties. About 400 farmers in 62 counties benefitted, with an average increase in cash flow of $1,500. Ms. Sandberg stated that $100,000 was set aside to provide for the Kentucky Hunters for the Hungry. Kentucky Hunters for the Hungry paid processor fees for venison that was donated to food banks. There were 21 game processors that requested approximately $37,000 in total for processing the donated venison. The balance of the unspent funds was used to purchase produce in May and June. The Farms to Food Banks program resulted in increased cash flow for farmers and helped farmers recover losses for produce that they could not otherwise sell. She stated that 3.2 million pounds of Kentucky-grown produce, including 25 different types of fruits and vegetables, were distributed to hungry Kentuckians.

In response to Chairman McKee, Ms. Sandberg said the increase in produce was due to the weather and the number of additional producers.

In response to Representative Martha Jane King, Ms. Sandberg said that every dollar donated to the Food Bank equals $8 of food through the Food Banks.

Representative Tipton stated that he is a member of the Hunger Task Force Committee that recently met in Louisville. One in six people in the Commonwealth are classified as food insecure, and one in five children are classified as food insecure.

In response to Representative Graham, Ms. Sandberg stated that the $100,000 was not in the current biennium budget. Through a contract with KDA, the Farms to Food Banks applied for the $100,000 grant.

In response to Representative Dossett, Chairman McKee said he would talk with John McCauley, Director, Farm Service Agency, about possible federal assistance for farmers in the western part of the state effected by weather.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

Task Force on Economic Development
Minutes of the 1st Meeting
of the 2016 Interim

September 15, 2016

Call to Order and Roll Call

The 1st meeting of the Task Force on Economic Development of the Interim Joint Committee on Economic Development and Tourism was held on Thursday, September 15, 2016, at 10:30 AM, at Shelby Valley High School in Pikeville, Kentucky. Representative Ruth Ann Palumbo, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Ruth Ann Palumbo, Co-Chair; Senator Ernie Harris; Representatives George Brown Jr., Daniel Elliott, Terry Mills, John Short, Wilson Stone, and Russell Webber.

Guests: Representative Chris Harris and Tony Toups, Advantage Capital Partners.

LRC Staff: John Buckner, Chip Smith, and Karen Brady.

Representative Harris explained the importance of his proposed legislation, the Kentucky Rural Jobs Act, which he believes will help foster economic progress in not only eastern Kentucky, but all of rural Kentucky. A void has been created in small rural communities across Kentucky by the reduction of the number of small community banks, thereby reducing the amount of capital available to local entrepreneurs. The bill is modeled after the highly successful New Markets tax credit program but will focus on rural jobs instead of urban areas.

Mr. Tony Toups, Principal, Advantage Capital Partners stated that access to capital for small businesses in rural areas has dropped off tremendously. This trend can be seen by the decline in employment and decline in business financing. Most significantly, over 20 percent of community banks have disappeared in the last five years alone. This lack of access to capital has created both a challenge and opportunity.

Mr. Toups stated that the rural jobs credit will be set up similar to New Markets. Federal licensing will apply, with either a license from the USDA to be a rural business investment company or a license from the SBA to be a small business investment company. The tax credit is structured in a way so that it does not negatively impact the general fund. It is a seven year credit; during the first two or three years, the credit is delayed. One hundred percent of the capital must be invested in the first two years.

To be an applicant fund, the application to the Department of Revenue has to demonstrate revenue positive. If an applicant does not meet projections, there are back-end penalties. When the initial investments are made, reports will be filed with the Department of Revenue showing the companies receiving the capital, the amount of the capital, who the investors are, and then annual follow up reports to show job creation, job retention, and economic impact.

Responding to a question from Representative Stone, Mr. Toups said there is no minimum number of employees for a small business to qualify for the tax advantage.

There being no further business, the meeting was adjourned at 10:53 a.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Elementary and Secondary Education
Minutes of the 3rd Meeting

of the 2016 Interim

September 12, 2016

Call to Order and Roll Call

The 3rd meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Monday, September 12, 2016, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Wilson Stone, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Wilson Stone, Co-Chair; Senator Danny Carroll, Co-Chair; Senators Jimmy Higdon, Reginald Thomas, Johnny Ray Turner, and Mike Wilson; Representatives Linda Belcher, Regina Bunch, John Carney, Jeffery Donohue, Derrick Graham, David Hale, Marie Rader, and Jill York.

Legislative Guest: Joni L. Jenkins.

Guests: Bob Rowland, KASA.

LRC Staff: Joshua Collins, Janet Stevens, and Christal White.

On a motion by Representative Carney and a second by Representative Belcher, the minutes of the July 18, 2016, meeting were approved by voice vote.

On a motion by Representative Carney and a second by Representative Rader, the minutes of the August 15, 2016, meeting were approved by voice vote.

Overview of School Safety and Related Data

Windy Newton, Cassie Blausey and Christina Wheeter from the Kentucky Department of Education's (KDE) Office of Continuous Improvement and Support explained how the KDE and Kentucky Center for School Safety (KCSS) work closely with one another to assist schools in providing a safe learning environment for students.

Ms. Blausey said that, regarding the statutory framework in KRS 158.440, legislative findings on school safety and order, the General Assembly came to three major conclusions: (1) every student should have access to a safe, secure, and orderly school that is conducive to learning; (2) all schools and school districts must have plans, policies, and procedures dealing with measures for assisting students who are at-risk of academic failure or of engaging in disruptive and disorderly behavior; and (3) state and local resources are needed to enlarge the capacities for research, effective programming, and program evaluation that successfully lead to addressing safety and discipline within the schools.

KRS 158.148 through 158.164 relate to discipline guidelines, major discipline problems, and successful strategies identifying and alleviating student drop outs, while KRS 158.440 through KRS 158.449 relate to safe schools data. Relating to schools, KDE oversees emergency management, discipline guidelines, safe schools annual report, successful strategies to identify and alleviate drop-outs, bullying and harassment, climate and culture, and partnerships.

Ms. Blausey said that, within emergency management, the charge to the schools in KRS 158.162 is to develop a school level plan that does not exist at the district level. A grant opportunity is available to build high-quality, district-level plans and work to coordinate all schools in a district as part of the comprehensive plan, but the grant will expire in March, 2017.

The safe schools annual report provides a summary of the school safety data.

Discipline guidelines are required under KRS 158.148. A significant portion of KDE's work entails bullying and harassment prevention, specifically directed under HB 91 and SB 228 from the 2016 Regular Session. Particularly noted is the Olweus Bullying Prevention Program (OBPP), which has been implemented in a few schools with excellent results. Another important aspect of the OBPP is an open line of communication where conversation is facilitated between the districts, schools, and parents when a concern is brought to the staff's attention.

In response to Chairman Stone's question, Ms. Wheeter said the bullying prevention training includes a cyberbullying component, along with a separate manual that addresses bullying behavior. More information can be found on KDE's website. Ms. Wheeter said while cyberbullying is considered part of the bullying law, each district maintains its own specific policies regarding online, internet, and digital use standards.

Ms. Clausey said KDE interprets learning culture and environment to be part of the discussion regarding school safety, specifically through novice reduction. The key process within novice reduction is to assist schools in creating a safe, inviting, and learning environment, a major concern for building a strong academic program and an important factor in bridging the achievement gap.

Ms. Clausey identified the partnerships KDE has developed with other key stake holders during school safety conversation – Kentucky Center for School Safety (KCSS), Juvenile Justice Oversight Council (JJOC), Juvenile Justice Advisory Board (JJAB), Kentucky Education Collaborative for State Agency Children (KECSAC), and Kentucky Association of School Administrators (KASA) School Safety. Regarding chronic absenteeism, KDE partners with Family Resource Youth Services Center (FRYSC), Behavioral Health Districts, Administrative Office of the Courts (AOC), and Kentucky Partnership for Families and Children (KPFC). Members from KDE serve on the JJOC and other councils. Another aspect of SB 200 is looking at guidance and support for districts and schools.

Ms. Newton said KDE duties include data collection criteria for safe schools, part of KRS 158.444, in reporting behavior incidents such as events of assault or violence, bullying, harassment, weapon, drugs, alcohol, and tobacco regardless of resolution, resolution of in-school removal, out-of-school suspension, expulsion with or without services, and corporal punishment, restraint, or seclusion. An average of 250,000 records of high-level incidences from schools and districts are brought to KDE's attention annually. High-level incidences include any behavior that includes assault or violence, bullying or harassment, or alcohol or drugs, including tobacco. Data is reported to KDE regardless of the resolution or consequence within the school system, and includes any behavioral event resulting in a student receiving in-school removal or out-of-school suspension, expulsion with or without services, corporal punishment, and restraint or seclusion. Although incidents of restraint and seclusion are not included in the statute, KDE collects the data based on a new regulation, promulgated in 2013.

Ms. Newton said student level data file is provided to OEA and KCSS by August 31 each year and KDE prepares the School Safety Annual Statistical Report (SSASR) by state, district, and school by early October. The SSASR is a high-level data analysis of behavior events and resolutions at the state level and is provided annually to the Educational Assessment and Accountability Review Committee (EAARS), KCSS and the federal government's Consolidated State Performance Report.

Ms. Blausey said funding is provided to local school districts through the KCSS, in an effort to improve school safety, student discipline, alternate education programs, intervention services, substance abuse prevention, and violence reduction. The Safe Schools Grant Program is the state's primary funding source for prevention activities and provides funds to all school districts within the state, with allocation based on enrollment. Grant money is managed and monitored according to spending guidelines within KCSS.

Ms. Blausey said KDE and KCSS collaborate on several school safety assessments, training and technical assistance for emergency management plans, suicide prevention workgroups, and coordination of safe school reporting in an effort to prevent duplicate reporting information.

In response to a question by Chairman Stone, Ms. Blausey said an average of 250,000 incidents are reported to KDE annually, although a federal requirement including tobacco as a drug violation contributed to a slight increase. While the average remains somewhat level, fluctuation within specific categories may occur.

Representative Carney expressed the importance of sufficient funding to provide safety in schools and commended KDE for offering the information to help best strategize where the dollars are needed at the local level. In response to Representative Carney's question, Ms. Blausey said KCSS could better provide the percentage of schools who have resource officers during their presentation.

Responding to questions from Representative Belcher, Ms. Newton said incidents meeting safe school criteria are required to be reported to KDE, but deferred the percentage to KCSS in their upcoming presentation. Ms. Newton said although the information is entered on a daily basis and readily available to the districts, the data provided may be inconsistent if it has not been verified and validated by the district for accuracy. Districts are encouraged to run reports for each school on a monthly or quarterly basis for data verification but stressed KDE receives the information annually.

In response to Senator Carroll's question, KDE staff said they will provide information to the committee regarding the substance abuse prevention programs which are available in public school systems. Senator Carroll said he believes funding is an issue.

In response Senator York's question, Ms. Wheeter said the OPBB policy identifying bullying is similar to Positive Behavior Intervention and Support (PBIS) policy, which is being supported statewide and is complementary to the OPBB. To create a positive school climate and culture, the OPBB sessions include values, respect, peer support, and discouragement of bullying behavior, training is provided by KCSS upon request. Although the program is not mandatory, it is part of the technical assistance provided at the state level. Ms. Wheeter said that OPBB was created by Dr. Dan Olweus, a Norwegian doctor, and adopted by the U.S. years ago due to its evidence-based success.

Kentucky Center for School Safety Annual Report

Jon Akers, Executive Director, Barbara Gateskill, Associate Director, Don Martin, Training and Technical Assistance Coordinator, and Karen McCuiston, Resource Center Director Staff, Kentucky Center for School Safety (KCSS), discussed the annual report.

In response to Representative Carney's question, Mr. Akers said 274 school resource officers provide services for 200 schools.

In response to Representative Belcher's question, Mr. Akers said 2,500 teachers were injured and claimed worker's compensation through Kentucky Employer's Mutual Insurance (KEMI). In the past year, sixty-five percent of the claims were filed by elementary teachers and 35 percent were filed by middle and high schools teachers.

Mr. Akers provided introductory remarks and an overview of the KCSS Annual Report. He said that KCSS has been serving schools since February, 1999. The contract agency, required under KRS 158.443(5), is Eastern Kentucky University. KCSS has partnerships with Murray State University and the Kentucky School Board Association. KCSS, governed by a board of directors appointed by the governor (KRS 158:442(3), serves superintendents, principals, counselors, teachers, parents, and other groups who work and protect children on a daily basis, such as behavioral health professionals and FRYSCs. KCSS also provides training assistance to non-public schools upon request.

Basic services include responding to immediate needs of district school officials requesting assistance, providing professional development training, providing technical assistance, overseeing the distribution of safe schools funds, researching best practices in school safety, providing information and offering training on these practices, and providing input on policies, regulations, and legislative bills. KCSS has a solid partnership with KDE on school safety matters.

The Kentucky General Assembly has

appropriated more than $144 million to support safe school efforts since 1999. Other than during the 2008 recession, an average of more than $10 million has been allocated for school safety.

The KCSS functions on $1.1 million of the allocation provided for services they offer. The other 90 percent goes to the school districts and is primarily used for alternative education programs, intervention services, and in-school suspension programs. A small portion is shared with school resource officers, security equipment, training programs, and community-based services.

Ms. Gateskill said the Safe School Assessment Program (SSAP) is the center's most demanded service. KCSS has visited 118 out of 120 counties since 2002 and has conducted 843 assessments to date. The process of school safety assessment begins each year around May 15th with advertisement to all Kentucky school districts and schools. A superintendent requests voluntary participation in safe school assessments and KCSS responds to the first 50 to request, normally two schools per district. This year KCSS has committed to assessing 101 schools between September and March, weather permitting.

The process of the safe school assessment begins with a preliminary survey which is sent to principals and administered to students, staff, and parents six weeks prior to the on-site visit. The on-site visit involves a six-person visitation team of highly experienced school administrators, KCSS consultants, KDE representatives, and KEMI representatives. The visitation team arrives before the beginning of the school day and observes supervision patterns, how students and staff conduct themselves throughout the day, and relationships between students and staff. KCSS also conducts interviews with as many students, staff, and parents as time allows, typically as many as 130 per day. KCSS also examines the school's climate and culture, such as learning environment, supervision patterns, relationships between students and staff, and students' trust in staff. The on-site visitation team also examines school hardware such as locks on school doors, items in disrepair, acceptable ingress and egress free of blockage, and building issues such as mold or mildew issues.

Ms. Gateskill said the outcome of the visit is a Comprehensive Safe School Assessment Report that contains commendations and a reasonable practice for mitigating the areas of concern. Also included in the report is the perceptual survey report, physical plant report, data charts of board and law violations for three previous school years, and the student-count data for the district or region. Ms. Gateskill said KCSS also provides follow-up services for technical assistance and training to address any area of concern that has been targeted.

Mr. Martin said once the on-site visit is completed, the Safe School Report is hand delivered to central office, with the superintendent and other administrators present as the findings are reported. The visitation team gives positive feedback, provides suggestions for improvement, and assists the districts in services they request. Mr. Martin's role in KCSS is to provide technical assistance and regional trainings regarding safety-related issues.

Mr. Martin said in addition to bullying, KCSS provides consultants for continued emergency operations plan training, terroristic threatening in schools training, bus driver training, alternative education implementation, severe weather preparedness, suicide prevention, drug prevention, internet crimes prevention, and safety walkthroughs.

Mr. Martin said the cooperative has partnerships with Kentucky public schools, KDE, KASA, KSBA, Louisville Diocese, Covington Diocese, Owensboro Diocese, Kentucky School Resource Officers, and Regional Educational Cooperatives. KCSS provides funding for the Kentucky School Resource Officers Training.

In response to Representative Donahue's question, Mr. Akers said there is a seamless transition from school to bus; however, schools with PBIS programs often do not consider bus drivers as part of that program. KCSS tries to use those principals that are taught in PBIS such as addressing kids, making them feel wanted, showing respect, and handling situations without confrontation. Representative Donahue requested a list of all Jefferson County Schools who do not include bus drivers as part of the PBIS program.

Ms. McCuiston said the KCSS continually provides up-to-date information to support school safety and keep kids safe. The KCSS website is easy to find, easily navigated and accessible to all: www.kysafeschools.org. Ms. McCuiston said although bullying is one of the most often visited topics on KCSS's website, the site also provides valuable additional information such as homework assignments, lesson plans, curriculum, videos, and webisodes.

Ms. McCuiston said although both have consequences, there is a difference between conflict and bullying. It is important to talk to students to determine whether bullying, or something else, is a concern. Children should never be labeled as a bully but need to understand certain behavior can be perceived as bullying.

Ms. McCuiston referred to an easily accessible cell phone application on the Substance Abuse and Mental Health Service Administration (SAMHSA) website called KnowBullying. The site provides parental tips on talking to children about bullying, since bullying can affect everyone from those who are bullied, those who bully, and those who witness bullying. Bullying is linked to many negative outcomes including impacts on mental health, substance abuse, and suicide.

Ms. McCuiston said the KCSS website bullying page has information on various topics available as tools for administrators, teachers, coaches, community members, and parents. These handouts and fact sheets can be downloaded from the website and printed for distribution.

Relating to drug abuse, Ms. McCuiston said one of the most beneficial tools is shock therapy, which entails displaying before and after pictures of drug abusers who have been on specified drugs over a period of time and the changes made to one's physical appearance as a result of the abuse.

School administrators approached KCSS regarding the need for a simple reporting tool to leave tips to prevent bullying, violence, and risky behavior. The Safety Tipline Online Prevention (STOP) is an online reporting and prevention tool where students, parents, or community members can report unsafe situations to school personnel to help de-escalate an issue before it becomes critical. KCSS provides the training, logo, and resources to school communities and offers services to all districts free of charge. KCSS serves as a post office for the email tip forms but will never house or view the tips, which are sent to designees at the school district. The hyperlink, logo, and graphics will be provided to participating school districts and placed on the district's website. Additional resources provided include brochures, posters, videos, and PowerPoints. KCSS has over 60 partnerships and over 160,000 students who have access to this communication tool. Parents, staff, or students can leave a tip by clicking the logo and selecting the appropriate form: bullying, violence, or other issue. Once submitted, the school can set up their phone to receive an automatic text to the alert.

In 2008 KCSS updated an Emergency Management Resource Guide, available online and frequently updated to keep up with fluctuating demands and legislative changes.

Ms. McCuiston said Safe Schools Week is set for October 16-22, in conjunction with Anti-Bullying Month. The 2016 slogan is Be the HERO, Stop the Bullying. HERO represents Honor, Encourage, Respect, and Opportunity.

In response to Senator Carroll's questions, Mr. Akers said the Kentucky Crime Prevention Through Environmental Design checklist (CPTED) are reviewed by trained staff during the construction of schools, and include the concept of crime prevention through environmental design, the parameters, and identification issues. This is a result of the requirement of KRS 158.447. Mr. Akers said KCSS, in collaboration with Kentucky Community Crisis Response Board (KCCRB), provides response after crisis situations. Senator Carroll said the definition of bullying was taken from a recommendation of the Governor's Task Force on Bullying, Mr. Akers said the intentional or non-intentional act is verbiage that may need to be discussed.

In response to Representative Belcher's question, Mr. Akers said the superintendent within the district requests assessments following communication with staff, teachers, students, and community leaders.

In response to Representative Carney's question, Mr. Akers said KCSS responds to requests by invitation only. Before each round of assessments, the districts who do not have previous participation in the program will receive a letter to offer services to that district and if needed, those districts will be given priority on the list. Representative Carney said these districts are missing an opportunity for a valuable service and requested a list of the districts that are not utilizing the service.

Mr. Jim Evans, Superintendent of Lee County Schools Districts, said his first experience with KCSS began in 2004 as high school principal, when a safety assessment was requested. He said the report was provided the same day by the team leader who highlighted the findings. A written, specific, and personalized report was provided on best practices to improve operational concern, including building accessibility, instructional program, securing premises during instructional periods, culture and climate, feeling of security, and student trust. Also reported were buildings, grounds, and facilities, traffic flow, security issues, parking lot, and signage. Findings within the report were supportive with research-based recommendations to improve school safety. Following the safety assessment, staff and school, with support from KCSS, worked to implement changes recommended to ensure operation was safely conducted with the resources available. He said the center was there to support their work following the assessment and improve the lives of students.

Mr. Evans said following the safety assessments in 2004, he was asked to become an assessor with KCSS to assist in conducting school safety assessments throughout the state. After the positive impact from Lee County's assessment, Mr. Evans was interested in learning more about the work to help improve schools in Kentucky and completed extensive training with the KCSS center and staff. Mr. Evans said becoming an assessor provided an opportunity to be on a team with trained practitioners and to assist other districts to ensure school safety and best practices, as well as allowing him to stay well informed of the most recent research pertaining to school safety. The opportunity to become a team member provided some of the best professional development learning received in his career as an educator and allowed him to see multiple occurrences pertaining to school safety, culture and climate, and instructional practices.

After Mr. Evans was named superintendent in 2008, he requested KCSS provide services and since that time the center has assessed all of the Lee County schools on a 2-year rotating basis. The center staff also visited on multiple occasions to provide Emergency Management Planning and Training with staff, including best practices on all aspects of emergency management.

Mr. Evans said KCSS is responsive to the needs of students, staff, schools, districts, and communities through multiple ways and said the work of the center is critical to ensure diligence in school safety for students, staff, parents, and community.

Mr. David Cox, Superintendent of Corbin Independent Schools, said the district's work with KCSS began as a preventative type of relationship and each assessment was informative. With a school built in 1934, the district faced many obstacles but was supported by KCSS, and a professional relationship developed.

Mr. Cox said the dynamics changed drastically and the relationship became more intense after a tragic incident involving students in his community. KCSS was called immediately. Even though school had a weather cancellation for nine days immediately following the incident, KCSS staff arrived at the school the following day, through several inches of snow, to assist the district in gathering grief counselors and trying to make sense of unanswered questions. Staff quickly learned viewing social media was a way to monitor the pulse of the community and students, and provided some issues the school could have faced and helped ward off potential issues that could have arisen. KCSS brought compassion, encouragement, experience, and clarity to a tragic event. Understandably, KCSS said staff close to the situation had not envisioned counseling for teachers as well as the children. Mr. Cox said although some of these seem like obvious chains of events, it is difficult to think clearly when a district is so closely affected. The incident would have been much more difficult to endure without the help of KCSS.

Mr. Cox reiterated comments by Ms. Blausey and Ms. Newton regarding the importance of school culture, perhaps the most overlooked dynamic today. Mr. Cox's attendance at a KCSS Conference allowed him to meet Frank DeAngelo, former principal of Columbine High School. At the suggestion of Mr. Cox, Mr. Akers and Mr. Martin convinced Mr. DeAngelo to visit Corbin on the opening day of school following the incident, where he delivered a message of hope, inspiration, and rebuilding the community.

Mr. Cox praised KCSS for their tremendous work regarding school safety and said KCSS will find an answer if it is not known. Mr. Cox said there are things that can be done to mitigate circumstances with adequate funding.

In response to Representative Stone's question, Mr. Akers said KCSS has a relationship with the Kentucky High School Athletic Association (KHSAA) and, at KHSAA's request, have worked together regarding concussion and hydration issues. Mr. Akers said KCSS also does event safety on preparation for after school events which could easily become soft targets for school safety.

In response to a question by Senator Carroll, Mr. Akers said, regarding the Juvenile Justice Reform, data has not been calculated to see if incidents are increasing due to students having negative impact or fear of repercussion.

There being no further business, the meeting was adjourned at 2:50 p.m.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY

Minutes of the 4th Meeting of the 2016 Interim

September 14, 2016

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Labor and Industry was held on Wednesday, September 14, 2016, at 11:30 AM, at the 39th Labor-Management Conference at Kentucky Dam Village State Resort Park in Gilbertsville, KY. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Senators Perry B. Clark, Denise Harper Angel, Ernie Harris, and Reginald Thomas; Representatives Lynn Bechler, Larry Clark, Will Coursey, Jeffery Donohue, Dennis Horlander, Terry Mills, and Jim Stewart III.

Guests: Deputy Secretary Mike Nemes, Kentucky Labor Cabinet; Commissioner Ervin Dimeny, Department of Workplace Standards, Kentucky Labor Cabinet; Deputy Commissioner Michael Donta, Department of Workplace Standards, Kentucky Labor Cabinet; and Commissioner Dwight Lovan, Department of Workers' Claims, Kentucky Labor Cabinet.

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

Approval of Minutes

A quorum was not obtained for the approval of the minutes from the August 18, 2016 meeting. The minutes will be voted upon at the next Interim Joint Committee on Labor and Industry meeting on October 20, 2016.

Announcements and Introductions

Co-Chair Alice Forgy Kerr announced that Co-Chair Rick Nelson was unable to attend the meeting, and Representative Brent Yonts was unable to attend due to a meeting he had with the Canadian Consul General. Representatives Terry Mills and Will Coursey introduced special guests and offered comments.

Kentucky Department of Workplace Standards Apprenticeship Program Update

Secretary Mike Nemes, Labor Cabinet, gave an overview of some of the goals and new initiatives of the cabinet. Kentucky manufacturers and businesses need skilled workers, and the current workforce is being depleted due to retirements of older individuals in the workforce. A $200,000 grant from the United States Department of Labor (USDOL), with an application in for more funds, will help the cabinet propel its apprenticeship program and assist in supplying Kentucky employers with a well trained workforce. The cabinet has hired a new director for its apprenticeship program and three new people whose job will be to meet with employers and assess their needs as far as the type of workers that they require and the skills they should have. Secretary Nemes mentioned the cabinet's effort to train incarcerated workers to prepare them to rejoin the workforce and expunging Kentucky felons' records and getting them involved in the apprenticeship program. The Secretary revealed the cabinet's new slogan for the apprenticeship program, *"kentucky TRAINED. kentucky BUILT."*

Commissioner Ervin Dimeny, Department of Workplace Standards, and Deputy Commissioner Mike Donta, Department of Workplace Standards, provided more detail about Kentucky's registered apprenticeship program. A registered apprenticeship program is a USDOL program in partnership with businesses and labor organizations. The National Apprenticeship Act of 1937 authorized the Federal government, in cooperation with the states, to oversee the nation's apprenticeship system. The goal is to provide on the job training and industry specific classroom education, producing highly skilled workers. There is a minimum of 144 hours a year of related classroom instruction within programs that range from one to five years and can be set up as time based, competency based, or a combination of both. This creates a beneficial program for both apprentices and employers. Completing an apprenticeship program in Kentucky guarantees an apprentice a national certification.

The USDOL recognizes over 1000 occupations, and there are approximately 500,000 apprentices nationwide, with 2,800 in Kentucky. Over 250,000 employers have registered apprenticeship programs across the nation. Although there are 133 individual and joint sponsored programs in the state representing over 1,000 employers, those numbers increase daily. About 70 percent of the programs are non-union and 30 percent are union. Of the registered apprenticeship programs in Kentucky, about 40 percent are construction related. Kentucky's registered apprenticeship programs range from building trades to advanced manufacturing, but the cabinet is looking to expand its program into healthcare and early childhood education.

Commissioner Dimeny said that the Labor Cabinet wants to refocus its attention to partnerships with state agencies like the Cabinet for Economic Development, the Education and Workforce Development Cabinet, and the Kentucky Community and Technical College System (KCTCS) to maximize its footprint in the Commonwealth. The Commissioner said there has been cross training of all partnering staff to better access the workforce. With its detailed assessments, the Labor Cabinet can then meet with employers to design a unique and specialized registered apprenticeship program for each individual employer. Each specified program will address the current and future needs of the employer. The cabinet hopes this approach with the apprenticeship program will change the way citizens view opportunities in the Commonwealth and supply the workforce with ample skilled workers to create a region that employers want to relocate to. The cabinet has a three year plan with a goal to double the number of apprentices in the state.

Deputy Secretary Mike Nemes addressed a concern from an audience member by stating the Labor Cabinet has hired staff to go throughout the state and inspect current registered apprenticeship programs to ensure regulations are still being followed and standards of the USDOL and the cabinet are still being met.

Deputy Commissioner Mike Donta replied to another concern from a member of the audience by saying safety of employees is a top priority for the Department of Workplace Standards. The department trains the apprenticeship program instructors on safety so that they can educate their apprentices. The department partners with Kentucky Safety and Health Network Incorporated, which focuses on increasing awareness of occupational safety and presents an annual conference to promote workplace safety and health. It assists the department with safety training after the observation was made that some newer employees entering the workforce were not being adequately trained on workplace safety.

After Representative Lynn Bechler posed a question, Deputy Commission Mike Donta explained that beginning in 2008 the USDOL allowed three types of apprenticeship programs which included time based, competency based, and a hybrid of both. Every person learns at a different pace and the different programs, such as the three year program and four year program, can accommodate various learning styles and paces. An apprentice can expect the same starting salary whether they complete a three year or a four year program. Commissioner Ervin Dimeny said that some apprenticeship programs with a shorter time frame may be completed by existing employees of companies or business that want to improve their skills. They may not need to complete one of the longer programs.

Co-Chair Alice Forgy Kerr recognized Representatives Jeff Taylor and Dennis Keene, who were in the audience. Answering a question from Representative Taylor, after he referenced his career at Tennessee Valley Authority, Commissioner Ervin Dimeny stated that communication between partners and involved groups along with identifying resources that are already available will help to eliminate redundancy in training amongst existing infrastructures of companies and businesses.

Deputy Commissioner Mike Donta addressed a question from an audience member by saying there are industry developed assessments and curriculum within the apprenticeship programs that are based on Federal standards and guidelines. The USDOL is looking into national standardized tests; however, an apprenticeship certificate earned in Kentucky would be valid in any state. Senator Reginald Thomas said that some apprentices may be ill prepared in some areas and lack some soft skills. He suggested that from an employer and state standpoint it would be more beneficial to offer additional education in areas such as math, English, and communication to accompany whatever specialized area of training the apprentice is receiving.

Secretary Mike Nemes mentioned the recently established $100 million bond pool for technical education facility upgrades and the $15 million Kentucky Dual Credit Scholarship program for high school students that can be used for apprenticeship programs.

Deputy Commissioner Mike Donta concluded by thanking the members for the financial support from the General Assembly. In the past five years, there have been 1,466 individuals to complete a registered apprenticeship program with an average completion wage of $23.36 an hour and an average yearly wage of $46,700. Those individuals in total contributed $68,462,200 to Kentucky's economy. The Deputy Commissioner pointed out a 2015 study released by the USDOL that placed Kentucky in the top six states of growth, and the Labor Cabinet was recently told by a visiting representative from the USDOL that Kentucky is in the top three in the nation for its youth apprenticeship programs. He gave a reminder of the cabinet's TRACK Program, which is a partnership between the Kentucky Department of Education's Office of Career and Technical Education and the Labor Cabinet to provide secondary students with career pathway opportunities into Registered Apprenticeship programs.

Responding to an inquiry from Representative Will Coursey, Secretary Mike Nemes confirmed that union programs are eligible to apply for funds from the $100 million bond pool for technical education recently established and that many applications received thus far have been from unions.

Kentucky Department of Workers' Claims Coal Workers' Pneumoconiosis Update

Commissioner Dwight Lovan, Department of Workers' Claims (DWC), gave an update on coal workers' pneumoconiosis (CWP) that included graphs which illustrated the current state of claims, agreements, awards, and dismissals. As of August 31, 2016, there have been 561 new CWP claims filed this year, and by the end of 2016 it is anticipated there will be 841 new claims filed, making it the largest number of new CWP claims filed since 1993. In December 2011, the *Gardner v. Vision Mining* (2009) decision by the Kentucky Supreme Court, which found the provisions of KRS 342.316 regarding the consensus and panel process used to determine eligibility for CWP benefits to be unconstitutional under the equal protection clause, altered how new claims were handled. As a result of delays due to the changes in the process and increased coal miner layoffs, the DWC started to see an increase in the number of new claims filed beginning in 2012. Although the Department attempts to stay up to date of handling claims, each individual claim now has to have an independent evaluation, which further delays resolution. Based upon expectations, statute of limitation issues, and statute of repose issues, the trend of the increase in new claims filed will continue. Kentucky now has the fewest number of coal miners since the late 1800s. Since miners do not file a claim until they stop working. An increase in claims continues as layoffs continue.

One issue that was elaborated on was the mandatory independent evaluations. Each applicant has to have an independent evaluation that is performed by an evaluator chosen by the DWC. The Administrative Law Judge (ALJ) relies heavily on these evaluations when making determinations. The problem lies in the fact that the number of new claims being filed is greater than the number of evaluations being performed. There are on average about 45 evaluations performed each month, however, an average of 80 new claims are filed each month. One ALJ, who has an extensive workers' compensation background, has been working diligently to resolve claims as quickly as possible with the relatively recent addition of mandatory independent evaluations and the increase in new CWP claims in general.

Another developing matter that Commissioner Lovan explained was the increase in the number of cases of progressive massive fibrosis (PMF), also known as complicated pneumoconiosis. It is the most advanced and incapacitating form of CWP. Most of these cases have been found in the Appalachian region of Pennsylvania, West Virginia, western Virginia, and eastern Kentucky. Eastern Kentucky has not only seen a rise in PMF but also in the number of individuals with rapidly progressing pneumoconiosis, which occurs when a person goes from simple pneumoconiosis to complicated pneumoconiosis in a short amount of time. Anyone who has been diagnosed with complicated pneumoconiosis is irrefutably presumed to be totally occupationally disabled, and thus a permanent total award is automatically given. Commissioner Lovan said this is one area that is extremely troubling.

The Commissioner said that the number of CWP dismissals has remained relatively constant. Some data on dismissals became skewed at one point due to the number of cases that had stayed in abeyance for a long period of time. Once those cases were settled, prioritizing the claims with the worst cases to be handled first, the statistics on the number of dismissals adjusted and became more consistent. Thus, there is currently a 40 to 45 percent award rate in all claims filed, compared to 60 percent in 2014 and 2015. With the combination of the existing rate of claim filings and the difficulties of obtaining independent evaluations, the department will continue to face obstacles in regards to claims going through the normal process without being in any period of abeyance.

Replying to Representative Terry Mills, Commissioner Lovan said there are an estimated 990 claims pending. In an effort to remain consistent, the Department takes out 40 to 50 of the oldest cases a month and schedules informal conferences with those claimants. There are on average about 45 evaluations performed each month, however, there are an average of 80 new claims filed per month. There is a 30 to 40 percent settlement rate on those cases. A normal workers' compensation case takes approximately 180 days to go through the process from start to finish, but a CWP claim takes double that amount of time. The Commissioner said that before the *Gardner v. Vision Mining* (2009) decision there were some cases that had been in abeyance for up to three years, but, as of right now, he is unaware of any cases filed before 2015 that have not been resolved.

Co-Chair Alice Forgy Kerr announced that the next Interim Joint Committee on Labor and Industry meeting will be October 20, 2016 at the Kentucky Horse Park, in conjunction with the Interim Joint Committee on Economic Development and Tourism. There being no further business, the meeting was adjourned at 12:26 p.m.

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

Minutes of the 4th Meeting of the 2016 Interim

September 8, 2016

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Veterans, Military Affairs, and Public Protection was held on Thursday, September 8, 2016, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Will Coursey, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Will Coursey, Co-Chair; Senators Julian M. Carroll, C.B. Embry Jr., Ernie Harris, Christian McDaniel, Gerald A. Neal, Mike Wilson, and Max Wise; Representatives Linda Belcher, Regina Bunch, Tom Burch, Larry Clark, Leslie Combs, Tim Couch, Ron Crimm, Myron Dossett, David Hale, James Kay, Donna Mayfield, David Meade, Terry Mills, Tom Riner, Dean Schamore, Rita Smart, Jeff Taylor, and Russell Webber.

Guests: US Army (Ret.) Major General Anders Aadland and Senior Consultant David Posey, International Representative, United Association Veterans in Piping (VIP); Commissioner Normal Arflack and Mark Bowman, Executive Director, Kentucky Department of Veterans Affairs; Lt. Col. (Ret.) Rick Gill and Joe Merimee, Lyon County American Legion Post 68, Service Dogs for Veterans.

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

Minutes

Senator Carroll moved to approve the August 3, 2016, meeting minutes. Representative Smart seconded the motion. The motion carried with a voice vote.

Veterans in Piping

General Aadland and David Posey shared a short video and PowerPoint presentation on the United Association Veterans in Piping (VIP) program. The video and presentation are part of the Legislative Research Library's official record. The video illustrated how the VIP program helps veterans transition into civilian life with job opportunities. Veterans develop skills through the United Association (UA) of Journeymen and Apprentices of the plumbing and pipe fitting industry who have partnered with the U.S. military to create the VIP program. This training puts veterans in high demand positions nationwide. The training is provided at no cost, and all funding is from the UA's International Training Fund, a management and labor cooperative. The VIP program is an 18-week pre-apprenticeship program, and upon graduation, the participants are given jobs and placed in the UA's five-year apprenticeship program to embark upon new careers. UA members earn good wages, pensions, and benefits. UA is a private sector trade union with over 340,000 members in the U.S., Canada, and Australia. It is a joint consortium of labor and private contractors and administers, funds, and supervises all training and certifications. UA members are trained as pipefitters, welders, sprinkler fitters, plumbers, and HVACR service technicians. The UA worked with congressional leaders to pass the 2011 Vow to Hire Heroes Act, which authorized full-time active-duty participation. There are eight UA VIP programs at Department of Defense installations all across the U.S., including one at Fort Campbell, which has had a welding program since 2014.

In response to a question from Senator Carroll, General Aadland said that VIP program interviews are vigorous and not for slackers. There is a standard for excellence.

In response to a question from Representative Burch, Gen. Aadland stated that the VIP program has women enrolled.

In response to a question from Representative Taylor, Mr. Posey stated that the VIP program markets to veteran's centers, high schools, and other places.

Service Dogs for Veterans

Joe Merimee described the canine partners for life program through the Lyon County American Legion Post 68. He indicated that 22 veterans commit suicide every day and many of these veterans suffer from severe Post Traumatic Stress Disorder (PTSD). He believes that many of the veteran suicides could have been prevented if they had a fully trained and certified PTSD service dog. After becoming aware of this issue, the Lyon County American Legion Post 68 fully committed to establishing a PTSD service dog program, and will be a service dog center of training excellence for Kentucky. Post 68's goal is to provide fully trained and certified service dogs at no charge to suitable veterans. This initiative comes at a steep price, and Post 68 is searching for partners to help finance the program. Service dogs cost $25,000 or more to train and match with the right veteran. The VA does not provide PTSD service dogs to veterans. A brochure with information from the Lyon County American Legion Post 68, Inc. is part of this official record.

Lt. Col. (Ret.) Rick Gill testified that his dog, Lennie, has been invaluable and even lifesaving to him after his 35 years in the military and 848 flight missions in Vietnam. Upon returning home, Col. Gill did not realize he had PTSD, but he eventually was determined to be 70 percent disabled due to PTSD. After hearing about a program in Virginia called the Extreme Exposure Program and completing an application for a service dog, he was one of eight veterans out of 400 applicants who received a certified service dog from an organization in Carbondale, Illinois. He was chosen to receive a dog and was able to train with Lennie to help him deal with severe (PTSD). He expressed his gratitude for having Lennie and how the program and Lennie have been life changing. During his testimony, Lennie was nudged him as he started to get upset as he spoke about his experience in the military and the difficulties he encountered when he returned home. He stressed the need for more veterans to receive properly trained service dogs in Kentucky.

In response to a question from Representative Kay, Mr. Merimee stated that Post 68 uses Clay McElroy, a dog trainer with 30 years of experience. The program takes up to 18 months training with each dog chosen and then another year of training with a veteran who has been chosen for that specific service dog. There are places that a person can pay $150 to obtain a tag that indicates that the person has a service dog. Mr. Merimee said there should be protections for veterans as some puppy mills claim to have service dogs, but the dogs not have proper training and the veterans do not get a real service dog. There are no legal standards for service dogs at this time.

In response to a question from Representative Crimm, Col. Gill explained that his Lennie nudges him when he senses that he is getting upset and that the dog is like a partner who wakens him when he has flashbacks or bad dreams in order to calm him down.

In response to a question to a question from Representative Smart, Col. Gill stated that service dogs are covered by federal legislation that allows him to take Lennie to any public place or anywhere he goes.

State Nursing Home Bed Allocation

Commissioner Arflack gave a PowerPoint presentation on state veterans' homes. The PowerPoint presentation illustrated the specific census for the four homes for 2016. Thompson-Hood Veterans Center in Wilmore has 285 beds of which 233 are occupied, the Eddie Ballard Western Kentucky Veterans Center in Hanson has 156 beds of which 105 are occupied, and the Paul E. Patton Eastern Kentucky Veterans Center in Hazard has 120 beds of which 113 are occupied. The Radcliff Veterans Center has projected admissions for November 2016; furniture is being delivered and installed at this time. The facility must have 21 residing veterans before it may ask for the VA recognition survey for final approval. After the facility is duly certified and recognized, the first neighborhood will be filled, and then admission will progress by neighborhoods of 30 veterans each. This facility is designed to be as close to home as possible with a community living concept and even private patios.

Commissioner Arflack discussed the revised admission process. A webpage and phone applications have replaced the 16-page paper application. The burden has shifted from veterans and families to admissions staff of the Kentucky Department of Veteran's Affairs.

Commissioner Arflack discussed the future construction status of the Bowling Green Project and the Magoffin County efforts. The Bowling Green project's 90 beds did not receive funding support but it remains active on the unfunded priority list. He clarified that he does not anticipate that changing and does not expect any movement on the Magoffin County efforts until a feasibility study has been completed. The contract for the feasibility study should be finalized by the end of September.

Mr. Bowman explained the federal VA's FY16 funded projects list. There are more projects on the list than are feasible to be funded. The State Home Grant Construction Program (SHGCP) received an annual appropriation of $120 million for FY16 and an additional $20 million from the Office of Rural Health for a total of $140 million in funds. Projects 1 through 36 were offered funding on FY16's priority list. Funds are used for various projects throughout the year, so the list can change due to leftover funding; there is no guarantee that projects 1 through 36 will be built. The SHGCP updated list is expected to be published in December 2016, according to Lisa Moore, Grant Manager at SHGCP.

Mr. Bowman explained the construction process. After facility is placed on the priority one list, at best it could be five to eight years before construction starts; it could take eight to twelve years before construction starts. The BowlingGreen project is at 109 on the list and will stay on the bottom tier as an application until state funding is supported by the General Assembly. General Arflack stated that his sole purpose is to insure that veterans in the Commonwealth are taken care of in the manner they deserve.

In response to a question from Representative Hale, General Arflack explained that Thompson-Hood is not at capacity. Approximately 233 are occupied. It is an older facility, and at times a wing is closed for upkeep. Also, the facility's proximity to Lexington makes for a competitive market for hiring sufficient qualified staff to support filling more beds.

In response to a questions from Representative Combs, Mr. Bowman stated that a facility such as Radcliff would employ about 200 employees, but there are about 750 employees in the three existing facilities at this time. A 120 bed facility would probably translate into at least 160 jobs. Representative Combs stressed the need for providing beds for veterans in eastern Kentucky and said a new facility would provide desperately needed jobs.

Chairman Coursey stated that Representative Short was in the audience and had requested to speak to the committee. Representative Short explained that eastern Kentucky is experiencing a terrible economy. There are already four veterans' nursing homes in Kentucky, of which three of those are west of I-75. He said there is a need to have nursing homes closer to the veterans' families as they cannot afford to travel so far to see loved ones. Veterans in eastern Kentucky who a nursing home in their area. Larry Lannin, a guest of Representative Short, expressed his desire for a new facility in eastern Kentucky.

In response to a question from Chairman Coursey, Mr. Bowman indicated that the feasibility study would take several weeks to get started and then six to eight weeks to complete.

In response to a question from Representative Belcher, Commissioner Arflack stated that he does not know how decisions were made prior to his becoming commissioner, which is why he is asking for a feasibility study to determine where there is the greatest need. Commissioner Arflack stated that KDVA will make the final decision based on the results of the feasibility study.

There being no further business, the meeting was adjourned.

SPECIAL SUBCOMMITTEE ON ENERGY

Minutes of the 4th Meeting of the 2016 Interim

September 16, 2016

Call to Order and Roll Call

The 4th meeting of the Special Subcommittee on Energy was held on Friday, September 16, 2016, at 10:00 AM, at Domtar Paper in Hawesville, Kentucky. Representative Dean Schamore, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Dean Schamore, Co-Chair; Senators Joe Bowen, Ernie Harris, Ray S. Jones II, Brandon Smith, and Johnny Ray Turner, Representatives Rocky Adkins, Leslie Combs, Tim Couch, Jim Gooch Jr., Martha Jane King, Sannie Overly, Tom Riner, John Short, Jeff Taylor, and Brent Yonts.

Guests: Mr. Steve Henry, General Manager, Domtar Paper, Breckenridge County Judge Executive, Maurice Lucas and Hancock County Judge Executive, Jack McCaslan.

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

The August 19, 2016, minutes were approved, without objection, upon roll call vote by Senator Bowen and second by Representative Overly.

Welcome and Introductory Presentation

Mr. Steve Henry, General Manager, Domtar Paper, explained that Domtar Paper is a Fortune 500 company, leading the market in the pulp and paper industry in North America and continuing to expand its personal care division. Domtar Paper was incorporated in the United States with its headquarters in South Carolina. The Domtar facility in Hawesville has 456 employees, and 65 employees are at the Owensboro location. Based on economic studies in the paper industry, it is estimated that for every 100 jobs another 325 jobs were directly tied to the operation (forestry, logging, contractors, and suppliers). He stated that the hourly employees were represented by United Steel Workers Local 1261. Mr. Henry said that the estimated regional economic impact for the Hawesville/Owensboro location was $335 million per year.

Domtar Paper designs, manufactures, markets, and distributes a wide variety of everyday pulp, paper, and personal care products from copy paper to baby diapers. Domtar's overall sales were approximately $5.3 billion for 2015. Eighty-three percent is from pulp and paper sales and 17 percent is from the personal care product sales. Domtar has seen a three percent to five percent decline in the demand for printing and writing papers. The markets have seen an increase from exports which offer additional competition. Domtar is seeing growth in personal care, pulp, and specialty papers. Domtar is the largest manufacturer of uncoated freesheet in North American. In 2015, Domtar produced 3.4 million tons of paper manufacturing capacity.

Mr. Henry said that, since 2007, Domtar has seen a 58 percent reduction in safety incidents, which is still not good enough. Domtar cares about its people and the environment. Domtar invests heavily in their employees through wellness efforts and training, and its employees are active partners within the community. For example, Domtar has partnered with Daviess County to build an Exploration Station on a converted school bus. The Exploration Station reaches out to students who do not have the educational opportunity during the summer to read books and other activities. In addition, the Station was able to offer free lunch to students who were on reduced or free lunches during the year. Domtar was pleased to sponsor a Ben Carson reading room at Faust Elementary in Owensboro.

Mr. Henry explained that Domtar had invested billions of dollars to upgrade their facility. The H-2 express is the newest and most modern printing and writing paper machine in North America. It runs at speeds up to 50 miles per hour. Domtar received the 2014 AF&PA (American Forest and Paper Association) Leadership in Sustainability Award for Energy Efficiency and Greenhouse Gas (GHG) reductions. The plant generates 75 percent of the energy used at Domtar. Through combined heat and power, Domtar produces enough renewable energy to power 22,600 average homes for a year. Domtar does not sell power to the open market.

Mr. Henry said that some of the market challenges facing the paper industry are declining markets and intense foreign competition. Other paper mills are declining at a greater rate and are converting over to paper markets, worldwide. Imports supply 20 percent of the market in North America. More recently, 17 percent of the domestic industry has been shut down since 2012 – that equals 1.9 million tons per year of capacity. Verso paper mill in Wickliffe, Kentucky permanently closed this year, impacting 390 families plus 1,325 indirect jobs. The largest facility in North America, International Paper in Alabama, shut down in 2014, resulting in 1,100 direct job losses. Mr. Henry stated that Domtar's biggest expense is the cost of wood, followed by energy and chemicals.

Mr. Henry said that higher energy costs make Domtar less attractive for facility sustaining capital investments. Kentucky has always enjoyed lower energy costs, but that has changed within the last three years. The energy Domtar has to buy from

Kenergy totals $4.15 million a year – an increase of 62 percent compared to 2013.

Mr. Henry expressed concerns regarding Kentucky's energy prices. Kentucky should support the development of cost-effective strategies that promote energy efficiency and alternative resources and continue to recognize the vital importance of its fossil resources, including coal, and the impact it has on the economy. There are other significant regulatory costs such as coal combustion residuals and effluent limitation guidelines. LG&E and KU have been approved to spend approximately $994 million to comply with those guidelines. The industry, residential customers, and all others will have to foot the bill amounting to approximately $800 per Kenergy member. There should be a level playing field for biomass. Some states inadvertently tilted the field by providing incentives and subsidies to companies burning wood.

In response to Senator Bowen, Mr. Henry said that there is no chipping mill at Hawesville, but there are some at other Domtar mills. The wood that is received at the Hawesville Mill is chips. Sawdust is also used for fuel.

Representative Riner stated that if the public were more educated about China's workforce, who are abused, then more people would refuse to buy products from China.

In response to Representative Adkins, Mr. Henry stated that Domtar produces approximately 55 megawatts a year. The plant uses all of the 55 megawatts. Domtar is a net purchaser from Big Rivers through Kenergy.

Chairman Schamore stated that a resolution was passed in early 2016 asking that the President, members of Congress, and Secretary of Commerce review the dumping of paper. He said that he hoped the federal government would take into account the companies that are already taking measures to help the environment and local communities.

Mr. Henry said that Domtar plans to continue working towards making sure that the Hawesville Mill will be viable for the long term.

In response to Representative Adkins, Mr. Henry said that the barge facility was built in 2013. The wood chips are brought up the river, unloaded, and belt-lined into the facility. Domtar invests approximately $12 million per year in capital investment and $42 million per year for maintenance.

In response to Senator Turner, Mr. Henry said that soft and hard chips are kept separate depending on the type of paper being made.

In response to Representative Martha Jane King, Mr. Henry said that there has been more demand for paper bags. Although plastic bags are cheaper, consumers are recognizing environmental consequences such as never decomposing in a landfill.

There being no further business, the meeting was adjourned.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection

Minutes of the 3rd Meeting of the 2016 Interim

September 19, 2016

Call to Order and Roll Call

The 3rd meeting of the Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection of the Interim Joint Committee on Appropriations and Revenue was held on Monday, September 19, 2016, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Jeffery Donohue, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jeffery Donohue, Co-Chair; Senators Denise Harper Angel, Stan Humphries, Alice Forgy Kerr, and Max Wise; Representatives Terry Mills, Ruth Ann Palumbo, Marie Rader, Dean Schamore, and John Short.

Guests: Dominic Grotto, Vice-President of Board of Directors, Waterfront Botanical Gardens; Kasey Maier, Director for Program Development, Waterfront Botanical Gardens; Caroline Boeh Baesler, Executive Director/General Counsel, Office of Legal Services, Cabinet for Economic Development (CED); Josh Benton, Executive Director, Workforce Development, CED; Phillip Brown, Chief of Staff & Legislative Liaison, Tourism, Arts, and Heritage Cabinet; Karen Williams, President & CEO, Louisville Convention and Visitors Bureau; Anthony Leachman, CFO, Chief Business Development officer & Co-Interim CEO, Kentucky State Fair Board (KSFB); and Steve Kelly, Executive Director of Expositions & Co-Interim CEO, KSFB.

LRC Staff: Joe Lancaster, Raymont Griffith, Stephanie Rich, Greg Troutman, and Jenny Wells.

Update of Louisville Waterfront Botanical Gardens

Ms. Maier presented an update on the status of the Louisville Waterfront Botanical Gardens.

In response to a question from Chair Donohue, Ms. Maier said that in 1999 an individual donor passed away and established a $1.5 million trust to build a botanical garden in Louisville.

In response to a question from Rep. Schamore, Ms. Maier noted that a study indicated that when a city comparative to the size of Louisville in population has a botanical garden, visitors tend to extend their visits to the city approximately two days longer.

Overview of the Economic Development Partnership Board

Ms. Baesler presented an overview of the Economic Development Partnership Board.

In response to a question from Chair Donohue, Ms. Baesler stated that the board had met once but is required by statute to meet twice per year. Ms. Baesler stated that a second meeting is scheduled for November 30, 2016.

In response to questions from Rep. Mills, Ms. Baesler stated that the Economic Development Partnership Board provided three candidate names for the position of Secretary of the Cabinet for Economic Development to the Governor. Ms. Baesler stated that the Governor has requested three additional names from the board.

Cabinet for Economic Development - Workforce Development Partnerships

Mr. Benton presented an overview of the Kentucky Workforce Development Partnerships.

In response to a question from Chair Donohue, Mr. Benton said that, since the apprenticeship program is relatively new, available data is insufficient to determine program effectiveness.

Kentucky State Fair Board - Old Cardinal Stadium Demolition - Capital Project

Mr. Brown, Ms. Williams, Mr. Leachman, and Mr. Kelly presented an overview of tourism in Louisville and the condition of Old Cardinal Stadium.

In response to questions from Chair Donohue, Ms. Williams stated that there is a great need for a quality hotel on-site at the Kentucky State Fair Grounds. Mr. Leachman noted that with public private partnership (P3) legislation in place, the State Fair Board is anticipating more opportunities to attract developers. Mr. Kelly stated that a major demolition cost relative to Old Cardinal Stadium includes major underground infrastructure relocation, such as electrical, water, and sewer lines.

There being no further business before the subcommittee, the meeting was adjourned at 10:54 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Human Resources

Minutes of the 3rd Meeting of the 2016 Interim

September 19, 2016

Call to Order and Roll Call

The 3rd meeting of the Budget Review Subcommittee on Human Resources of the Interim Joint Committee on Appropriations and Revenue was held on Monday, September 19, 2016, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Joni L. Jenkins, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Joni L. Jenkins, Co-Chair; Senator Carroll Gibson; Representatives George Brown Jr., Tom Burch, Mary Lou Marzian, Donna Mayfield, and Addia Wuchner.

Guests: Angie Maddox, Constituent; Stephen Miller, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services (CHFS); Adam Meier, Deputy Chief of Staff for Policy, Office of the Governor; and Deck Decker, Executive Director, Office of Administrative and Technology Services, CHFS.

LRC Staff: Miriam Fordham, Jonathan Eakin, and Benjamin Thompson.

Benefind

Ms. Maddox provided testimony on the struggles her family has had with transitioning to Benefind.

In response to questions from Rep. Burch, Ms. Maddox noted that while services for her child have resumed, it took around six months to get all issues worked out.

In response to questions from Chair Jenkins, Mr. Decker stated that any erroneous letters sent out in the early days of Benefind should be corrected. Mr. Decker also noted that open-enrollment would not be affected by issues with Benefind.

In response to questions from Rep. Wuchner, Mr. Decker stated that the cabinet would have continued to pay the $1.5 million per month that it cost the state to not roll out Benefind had any problems been anticipated. Mr. Decker said he was unsure whether people who had been affected by Benefind problems had received an apology.

Update on Medicaid Section 1115 Waiver Application

Commissioner Miller and Mr. Meier presented an update on the details and status of the Medicaid Section 1115 Waiver, otherwise known as Kentucky HEALTH.

In response to a question from Rep. Brown, Commissioner Miller noted that, if someone on the Kentucky HEALTH waiver received a General Education Development degree (GED), then the cost of the GED test would be covered by the plan. The individuals would also receive some funds in the "My Rewards" account.

In response to questions from Rep. Marzian, Mr. Meier stated that the administration was focused on "Plan A," but negotiations with the Centers for Medicare and Medicaid Services (CMS) are ongoing.

In response to a question from Rep. Brown, Mr. Meier said that nothing will change for those whom the waiver might affect during negotiations with CMS.

In response to a question from Chair Jenkins, Mr. Meier stated that the waiver filed by Ohio, which was denied by CMS, had a lockout period that could encompass anyone regardless of level of income. The waiver Kentucky submitted only allows a lockout for failure to pay premiums if the member makes more than 100 percent of the Federal Poverty Level. Commissioner Miller confirmed that the federal comment period for the waiver application would last until October 8, 2016.

In response to a question from Rep. Wuchner, Mr. Meier stated that it is possible that Kentucky HEALTH will not be implemented for a year even if the waiver is approved by CMS.

In response to questions from Chair Jenkins, Commissioner Miller noted that with the update to the Section 1115 Waiver, there was little change in the number of people expected to transition from Medicaid to private insurance. Commissioner Miller stated that CHFS meets with the managed care organizations (MCOs) on a monthly basis and that the current contract runs through the end of 2016.

There being no further business before the subcommittee, the meeting was adjourned at 11:15 AM.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Primary and Secondary Education

Minutes of the 3rd Meeting of the 2016 Interim

September 19, 2016

Call to Order and Roll Call

The 3rd meeting of the Budget Review Subcommittee on Primary and Secondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Monday, September 19, 2016, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Arnold Simpson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

<u>Members:</u> Senator Stephen West, Co-Chair; Senators Danny Carroll, C.B. Embry Jr., and Gerald A. Neal; Representatives John Carney, Derrick Graham, Dennis Horlander, and Charles Miller.

<u>Guests:</u> Robert L. King, President, Council on Postsecondary Education; Dr. Jay Box, President, Kentucky Community and Technical College System; Dr. Michael T. Benson, President, Eastern Kentucky University; Dr. Aaron Thompson, Interim President; Kentucky State University; Representative Rita Smart; Senator David Givens.

<u>LRC Staff:</u> Jim Bondurant, Amie Elam, Jennifer Krieger, Jennifer Rowe, and Chuck Truesdell.

Approval of Minutes

Representative Richards made a motion, seconded by Representative Meeks, to approve the minutes of the August 1, 2016, and August 25, 2016, meetings. The motion carried by voice vote.

Council on Postsecondary Education

Robert L. King, President, Council on Postsecondary Education (CPE), detailed the effects of budget cuts on Kentucky's public postsecondary institutions. His presentation included an overview of program and position elimination at each institution. The presidents of Eastern Kentucky University (EKU), Kentucky State University (KSU), and Kentucky Community and Technical College System (KCTCS) were present to answer questions relating to each of their respective colleges and universities.

In response to a question from Chair Simpson, Dr. Benson said that EKU is trying to preserve full-time positions for tenured faculty. EKU relies on adjunct professors in certain disciplines.

In response to a question from Representative Smart, Dr. Benson said that tuition program benefits for faculty and staff are still in place. The program is a priority for the university.

In response to a question from Senator Givens, Dr. Benson said that the percentage of payroll contributions for pension costs is 50 percent. EKU is undergoing a thorough program review to eliminate undergraduate programs that are no longer serving a large enough number of students. EKU is trying to be responsive to the demands of students and the workforce.

In response to a question from Representative Carney, President King said that postsecondary institutions are often the single largest employers in the communities in which they serve. CPE will provide information on local revenue versus local return for each institution's service region.

In response to a question from Representative Graham, Dr. Benson said that there were cuts to upper, middle, and lower-level staff, including cuts at the cabinet level. Faculty workloads are increasing.

In response to a question from Senator West, President King said that the majority of Kentucky postsecondary institution budgets have stayed relatively stable.

In response to a question from Senator Carroll, Dr. Benson stated that donated money is often designated for a specific purpose. The university has met with donors to urge them to loosen restrictions. President King said that donors do not like to give money to offset decreasing state level support.

In response to a question from Chair Simpson, Dr. Benson said that 91 percent of EKU's freshman class is from Kentucky. About 70 percent of EKU graduates stay in Kentucky.

In response to a question from Representative Smart, Dr. Benson stated EKU is very sensitive to the cost of tuition and fees because of the university's particular service region.

In response to a question from Chair Simpson, Dr. Thompson stated that retention rates at KSU are improving. Graduation rates will continue to suffer as the university works to correct enrollment and financial errors made over the years. In the past, KSU has had students who were enrolled and received grant money but did not go to class or pay the university. KSU is now helping students achieve success from the beginning.

In response to a question from Representative Meeks, President King said the KSU has been poorly managed over the last decade, but the current leadership is making every effort to right the ship. The Governor and General Assembly have the right to hold KSU to the same financial and academic standards as they do with all universities. KSU graduates are being used in recruiting efforts. Alumni giving is at 4 percent, and there are many ongoing efforts to rally alumni support for the university.

In response to a question from Representative Graham, Dr. Thompson stated that budgetary cuts at KSU were strategic. To make a larger impact on the budget, most of the cuts were to upper-level staff.

In response to a question from Representative Imes, President King said that core enrollment numbers are based on full-time equivalent students. Dr. Box said that 65 percent of students are taught on campus, 15 percent are enrolled in online classes, 15 percent are dual credit students and five percent are workforce training for credit.

In response to a question from Representative Carney, President King said that the former property of St. Catherine College will not be purchased by a state university at this time.

There being no further business to come before the subcommittee, the meeting was adjourned at 12:02 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Postsecondary Education

Minutes of the 3rd Meeting of the 2016 Interim

September 19, 2016

Call to Order and Roll Call

The third meeting of the Budget Review Subcommittee on Postsecondary Education of the Interim Joint Committee on Appropriations and Revenue was held on Monday, September 19, 2016, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Arnold Simpson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative Arnold Simpson, Co-Chair; Senators Danny Carroll, C.B. Embry Jr., and Gerald A. Neal; Representatives Larry Clark, Derrick Graham, Kenny Imes, Reginald Meeks, and Jody Richards.

Guests: Robert L. King, President, Council on Postsecondary Education; Dr. Jay Box, President, Kentucky Community and Technical College System; Dr. Michael T. Benson, President, Eastern Kentucky University; Dr. Aaron Thompson, Interim President; Kentucky State University; Representative Rita Smart; Senator David Givens.

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

Approval of Minutes

Representative Richards made a motion, seconded by Representative Meeks, to approve the minutes of the August 1, 2016, and August 25, 2016, meetings. The motion carried by voice vote.

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In response to a question from Representative Meeks, President King said the KSU has been poorly managed over the last decade, but the current leadership is making every effort to right the ship. The Governor and General Assembly have the right to hold KSU to the same financial and academic standards as they do with all universities. KSU graduates are being used in recruiting efforts. Alumni giving is at 4 percent, and there are many ongoing efforts to rally alumni support for the university.

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In response to a question from Representative Carney, President King said that the former property of St. Catherine College will not be purchased by a state university at this time.

There being no further business to come before the subcommittee, the meeting was adjourned at 12:02 p.m.

INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

Minutes of the 3rd Meeting of the 2016 Interim

September 27, 2016

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, September 27, 2016, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Tom Buford, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Jeff Greer, Co-Chair; Senators Julie Raque Adams, Chris Girdler, Christian McDaniel, Morgan McGarvey, Dennis Parrett, Albert Robinson, John Schickel, and Dan "Malano" Seum; Representatives Ron Crimm, Mike Denham, Joseph M. Fischer, Chris Harris, James Kay, Dennis Keene, Adam Koenig, David Meade, Michael Meredith, Brad Montell, David Osborne, Steve Riggs, Jonathan Shell, Fitz Steele, Wilson Stone, James Tipton, and Ken Upchurch.

Guests: Matthew Niehaus, Deputy Commissioner and Matt Lockett, Director of Health and Life Division, Kentucky Department of Insurance; Tim Mullen, Director, Market Regulation, National Association of Insurance Commissioners; Ronnie Pryor, Legislative Agent, Kentucky Land Title Association; Michelle Turner, Arnzen, Storm and Turner, P.S.C. and President of the Kentucky Land Title Association; Craig Hall, Vice President, Kentucky State Manager, Old Republic National Title Insurance Company; and Tom Campbell, First American Title Insurance Company.

LRC Staff: Sean Donaldson and Dawn Johnson.

Approval of Minutes

A motion by Senator Robinson and second by Representative Steele to approve the minutes of the August 23, 2016, meeting carried by voice vote.

Unclaimed Life Insurance Policies

Representative Chris Harris said he intended to refile legislation that would make the 2012 Unclaimed Life Insurance Benefits Act retroactive following an appeals court decision that the legislation did not apply to policies sold before it went into effect. Many of those policies were sold in lower socioeconomic areas. The legislation would require biannual checks of the Death Master File by insurance companies to determine if any policyholders are deceased. If so, the company must make reasonable efforts to pay any benefits owed.

Tim Mullen, Director of Market Regulation with the National Association of Insurance Commissioners (NAIC) reviewed the NAIC's development of a policy locator and the role of the agency.

Co-Chair Buford noted that all 50 states will participate in the program.

Responding to Co-Chair Greer's question, Mr. Mullen said the scope of the program is to search all policies not just specific time periods.

In response to Co-Chair Greer's question, Matt Niehaus, Deputy Commissioner of the Department of Insurance, said it has yet to be determined if enabling legislation is needed or if an order from the commissioner will suffice to search all policies, not just those issued after 2012. Co-Chair Greer said there should be no exclusions in the policies available for search. Representative Harris said the online system will be a good start, but the legislature needs to ensure beneficiaries are contacted, noting that some people do not have internet access.

Deputy Commissioner Niehaus explained that the department is considering creating a similar system, and thus participating in the NAIC's program will have a positive fiscal impact. The department's website would have a pass-through page for consumers to link to NAIC. Information for insurers, consumers, and regulators will be within the system.

Co-Chair Buford said the NAIC program will be beneficial to Kentuckians who may be named as beneficiary in another state.

Mr. Mullen said there will be no cost to participate in or use the NAIC's policy locator.

Responding to Representative Crimm's question, Mr. Mullen said companies will be asked for active and inactive policy information. Representative Crimm expressed concern that beneficiaries of policies issued in other states may not be notified if the policyholder dies.

Responding to an earlier statement by Representative Harris, Deputy Commissioner Niehaus said the department hoped this is a system where the process can be started and entered into without the need for, at this moment, additional legislation, so as to avoid more layers of bureaucracy.

Title Insurance Agent Licensing

Ronnie Pryor, Legislative Agent, Kentucky Land Title Association, explained that Kentucky is the only state that does not license land title insurance agents. He asked that committee members again support legislation establishing a licensure system. There would be no cost to taxpayers.

Michelle Turner, President of the Kentucky Land Title Association, said the association's primary concern is to give consumers a place to check licensing of agents, any agent disciplinary action, or to lodge a complaint.

Tom Campbell, First American Title Insurance Company, said uniformity with other states helps agents work in their industry.

Craig Hall, Vice President, Kentucky State Manager, Old Republic National Title Insurance Company, said licensure gives some protection to Kentuckians to ensure the person doing title work has gone through a vetting process.

Mr. Pryor said there should be minimum standards and background checks to become a title insurance agent.

Responding to Co-Chair Bufford's questions Ms. Turner said the association is looking at an approximate $100 licensure fee to be paid by the agent. A licensure requirement should be evidence of having an errors and omissions policy or a legal malpractice policy.

Representative Meredith said he wanted to make sure the process was not overly onerous. He said the Kentucky Bankers' Association agreed to language in the 2016 legislation but would like to review any 2017 legislation.

In response to Representative Koenig's question, Ms. Turner said that, to become an agent, an application is filed. Mr. Hall said that anyone can begin working as a title agent because there is no requirement to be affiliated with an agency. Ms. Turner said there have been unscrupulous people working as agents in the state.

There being no further business, the meeting was adjourned at 11:20 AM.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 3rd Meeting of the 2016 Interim

September 28, 2016

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on State Government was held on Wednesday, September 28, 2016, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Brent Yonts, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Stan Humphries, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Albert Robinson, and Damon Thayer; Representatives Kevin Bratcher, John Carney, Leslie Combs, Derrick Graham, Kenny Imes, James Kay, David Meade, Reginald Meeks, Suzanne Miles, Phil Moffett, Brad Montell, Lewis Nicholls, Sannie Overly, Tom Riner, Steven Rudy, Sal Santoro, Kevin Sinnette, Diane St. Onge, Tommy Turner, Ken Upchurch, and Jim Wayne. (Senator Ridley attended via videoconference from Henderson, Kentucky.)

Guests: Thomas Stephens and Jenny Goins – Personnel Cabinet; Jason Parks, LexisNexis; and Joseph Lee, RELX.

LRC Staff: Judy Fritz, Alisha Miller, Kevin Devlin, Karen Powell, Roberta Kiser, and Peggy Sciantarelli.

The minutes of the August 24 meeting were approved without objection, upon motion by Representative Rudy.

Representative Yonts and the committee expressed appreciation to Representative Montell for his service. He is leaving the General Assembly at the end of September to assume a deputy secretary position in the Education and Workforce Development Cabinet. Representative Yonts recognized Representative Wayne for the recent publication of his debut novel, "The Unfinished Man."

2017 Kentucky Employees' Health Plan

Guest speakers from the Personnel Cabinet were Thomas Stephens, Secretary of the Cabinet, and Jenny Goins, Commissioner, Department of Employee Insurance. In conjunction with a slide presentation they discussed the Kentucky Employees' Health Plan (KEHP), its successes, and highlights of the 2017 plan year.

Secretary Stephens said KEHP has been self-insured since 2006 and is the largest self-funded insurance plan in Kentucky, with annual payments of $1.7 billion. The plan has 178,000 active employees and pre-65 retiree members, representing 290,000 covered lives. School boards comprise 54 percent of the membership; early retirees, 20 percent; state agencies, 20 percent; and quasi-governmental agencies, six percent. KEHP has a significant wellness component to help control costs and increase personal health awareness. The Consumer Drive Health Plans (CDHPs) encourage consumerism and increase health insurance literacy. Anthem is the third-party administrator; CVS/Caremark is the pharmaceutical benefit manager; HumanaVitality—rebranded as "Go365"—is the wellness program administrator; WageWorks administers flexible spending accounts (FSAs) and health reimbursement arrangements (HRAs); and Vitals SmartShopper is the vendor that assists in choosing high-quality, best-price locations for health care services.

Commissioner Goins said open enrollment for the 2017 plan year will be October 10-24. It is a mandatory open enrollment, which means each member must actively enroll or waive coverage. The first of 13 statewide benefit fairs will be held October 3 at the State Office Building in Frankfort. The retirement systems will also have representatives available at the benefit fairs. The same four plans will be offered in 2017. LivingWell plan premiums will not increase for members who completed their LivingWell Promise in 2016 and choose a LivingWell plan for 2017. Premiums will increase one percent in the Standard CDHP and Standard PPO plans. A low-cost single coverage plan for non-tobacco users will be offered for $13.10 per month.

The medical deductible for the LivingWell PPO plan and the out-of-pocket maximum for all four plans will increase by $250 (single) and $500 (family) for in-network coverage. These increases will save KEHP approximately $24 million. To comply with IRS requirements, members may once again carry over $500 of unused healthcare FSA funds to the new plan year. The minimum amount to carry over is $50.

Beginning in 2018, the embedded HRAs in the CDHP plans, the waiver general purpose HRA, and the waiver dental/vision only HRA will have a maximum carry-over of $7,500. The maximum would affect only 637 members, primarily in the waiver HRA plans. This change is expected to save $1 million by preventing future carry-over of large liabilities to the plan. Starting in 2017, prescriptions on the prevention therapy drug benefit list will not be subject to the deductible for the LivingWell or Standard CDHP plans. The Diabetes Value Benefit will continue.

LiveHealth Online Medical, which became available in July 2015, will continue to be covered at no cost to members. There have been 10,587 registrations for this benefit and 3,706 online visits with a provider. Even though it is covered 100 percent, this benefit has saved KEHP $700,000 since its inception. A new benefit, LiveHealth Online Psychology, will be offered in 2017, also at no cost to members and their dependents age 10 and above.

Previously, completion of the LivingWell Promise was required in order to be eligible for a LivingWell plan the following year. Based on new guidelines of the Equal Employment Opportunity Commission (EEOC), in the 2017 plan year KEHP will change how members are rewarded for their participation in wellness benefits. Members who completed their LivingWell Promise in 2016 and elect a LivingWell plan in 2017 will not have a premium increase. Members who did not complete the Promise in 2016 and choose a LivingWell plan for 2017 will have a $40 surcharge added to their premium. The LivingWell promise requires members to complete either the HumanaVitality (Go365) health assessment or a biometric screening between January 1 and July 1, 2017. In 2016, almost 98 percent of members who elected a LivingWell plan completed their LivingWell promise. The "family cross-reference" premium option is a valuable benefit not often found in other states' plans.

Commissioner Goins said one-third of the population in the CDHP plans do not meet their deductible, and 20 percent of plan members do not reach their out-of-pocket maximum. While increased deductibles and out-of-pocket maximums save money for KEHP, the increases do not negatively impact all plan members. As mandated by the Affordable Care Act, medical and pharmacy out-of-pocket maximums accumulate together rather than separately in the CDHP plans. This is cost effective for members who take multiple prescriptions. It is a goal of KEHP to promote cost awareness as well as wellness. Because members are encouraged to continue their medications, there is no increase in the maximum pharmacy out of pocket.

Combined medical and pharmacy claims in 2015, per subscriber, were 12.5 percent less than in 2013. When Anthem became third-party administrator in 2015, better medical discounts were negotiated with network providers, and the medical cost per subscriber decreased from $647 to $514. A significant portion of claims cost is attributable to the same high-cost conditions encountered in 2004, such as coronary artery disease and musculoskeletal disorders.

LivingWell plan enrollment was 85 percent in 2016, a slight decrease from 86 percent in 2015. The decrease probably resulted from benefits analyzers recommending lower cost plans to certain members and because some members failed to complete their LivingWell promise.

Secretary Stephens said the paperwork necessary to communicate with members is a challenge and a cost driver. In the years going forward, KEHP hopes to optimize electronic communications, where possible and appropriate. Commissioner Goins said that engagement with the members is one of the biggest issues facing KEHP. There have already been several meetings with vendors regarding future plan years. She spoke about the value of the telemedicine benefit and KEHP's emphasis on wellness. The growth in wellness since 2012 is illustrated by the number of members completing the health assessment and biometric screening and participating in KEHP step challenges.

KEHP includes almost 20,000 diabetic members. Overall utilization of diabetes prescriptions in the four plans has increased by nine percent, which actually helps save costs because members are using their medications as they should. The diabetes value benefit has resulted in a reduction in member out-of-pocket costs—from 20 percent in the first three months of 2015 to seven percent in the first three months of 2016. KEHP is considered a role model for its Diabetes Prevention Program. The program has grown to 49 providers in 71 counties and currently has 332 active participants in 62 active classes. Commissioner Goins said KEHP is proud of its accomplishments, both for its membership and the state as a whole, and strives to ensure good benefits for members while being fiscally responsible to the state.

Representative Wayne said there is reason to be proud and that he believes KEHP is being managed very well. Based on his personal experience, Anthem is an outstanding third-party administrator and is responsive to members. He also gives credit for that to the direction provided by KEHP leadership.

Representative Wayne questioned whether the funds taken from the health insurance trust fund in 2016 to help balance the budget could have been used to keep deductibles stable and to lower KEHP costs for the 2017 plan year. Secretary Stephens said the monies remaining in the trust fund each year are essentially in a stand-alone "silo" and are not available to be utilized in KEHP cost computations unless permitted by legislative change. The state's contribution is about 84 percent of the total health insurance cost, with employee premiums covering approximately 16 percent. He believes that directing the approximately $500 million taken from the trust fund toward the retirement systems' unfunded liability was the most prudent use of those funds. Commissioner Goins said that, by statute, each plan year stands alone. Any surplus at the end of the year cannot be used to pay down premiums or benefits for the next plan year. The surplus remains in the trust fund, subject to budgetary action. From the perspective that both the state and employees contribute to the retirement systems, she believes using the health insurance trust fund to help fund the retirement systems was a positive use of those monies.

Representative Wayne said the General Assembly has repeatedly stolen money from the health insurance trust fund to fill gaps in the budget. Such a large amount—between $500 and $650 million—taken from the trust fund in 2016 raises the question whether KEHP is being overfunded and whether the program could be improved by reducing deductibles, copays, and premiums and the amount being paid by the state. However, he would not want this issue to overshadow the good being done by KEHP, which is an outstanding program with tremendous leadership.

Representative Graham commended Secretary Stephens and Commissioner Goins and the previous gubernatorial administration for the hard work of KEHP and for establishing a wellness program to promote better health care. When he asked about the LivingWell promise, Commissioner Goins explained that members who failed to complete the LivingWell promise in 2016 but who choose a standard plan in 2017 would not have to pay the $40 premium surcharge; and they could choose a LivingWell plan again in 2018 at the discounted rate.

Senator Alvarado praised the achievement of the Diabetes Prevention Program, especially the improvement in the average A1C test results. He asked about the overall estimated cost of the medical and psychology telehealth benefit. Commissioner Goins said KEHP is saving $700,000 on the medical side. Online visits to a Ph.D. psychologist will probably cost the plan $95 and $80 for visits to a therapist. According to the actuary, if everyone who currently uses behavioral health services would use LiveHealth Online Psychology, KEHP would save $1 million. Senator Alvarado commended KEHP for "taking the bull by the horns" in promoting the online health care. He suggested that providers, especially emergency rooms (ERs), should be willing to share responsibility by making visitors to the ER aware that they might be able to save money by using the free online benefit. Commissioner Goins said that ER visits are one of the plan's biggest headaches. Some people "emergency room shop," and one Kentucky member visited an ER 19 times in the first half of the plan year. KEHP has a "pay and educate" program, which requires a member who goes to the ER without a medical emergency to pay more of the cost. KEHP has been addressing the ER problem and will take to heart Senator Alvarado's point about partnering with ERs.

Secretary Stephens and Commissioner Goins discussed the Vitals SmartShopper program, which rewards members for shopping for their health care and saves money both for them and the state. They said KEHP hopes more people will begin using this valuable tool. It is an excellent program and is starting to add more high quality health care options to the available choices.

Representative Carney credited the Diabetes Prevention Program for helping him personally. He asked the speakers about a problem involving classified school board employees who have KEHP coverage. He said he received an e-mail calling his attention to the fact that classified staff who retire after July 2013 receive only $12.80 for each year of work. Most custodians, food service workers, bus drivers, and other classified school board staff will not draw enough from retirement to cover the cost of single health insurance coverage. He cited an example of a food service worker who draws $400 monthly for retirement after working 20 years and receives $256 to apply toward insurance coverage—not enough to cover their $750/month health insurance plan. Secretary Stephens said he did not feel qualified to speak about that but would look into the matter and get back with Representative Carney. Commissioner Goins said the retirement systems set the health insurance rates and that KEHP does not have that information. She suggested that Representative Carney forward the e-mail to her, and she will get an answer for him. He said he just wanted to make everyone aware of the situation. School systems cannot work without the classified employees, who are alarmed about their health insurance cost. Secretary Stephens noted that a small number of active state employees with family coverage have to write a check for their insurance because their salary is not sufficient to cover the employee portion of the insurance cost.

Representative Moffett commended KEHP's wellness initiatives. Responding to his questions, Commissioner Goins provided further details relating to biometric screenings and the cap on the waiver general purpose HRA carryover balance.

Responding to questions from Senator Bowen, Commissioner Goins provided more information about the LivingWell Promise and the HumanaVitality point system. She also explained that KEHP coverage includes Medicare-eligible retirees who return to active employment with the state.

Senator Thayer said he appreciates the good work of KEHP in promoting its consumer-driven health plans and for helping to restore trust in the Personnel Cabinet after a recent scandal involving the former secretary of the cabinet.

Answering questions from Representative St. Onge, Commissioner Goins said the telehealth benefit is available on all four plans. There is no limit on the number of visits to LiveHealth Online Medical, but she would find out for Representative St. Onge whether there is a limit on visits to LiveHealth Online Psychology. She also confirmed the federal requirement that persons are not eligible for the Waiver General Purpose HRA unless they can attest to having other group health insurance coverage. Persons covered by government-sponsored plans like Medicare or Tricare are also not eligible.

Representative Yonts thanked the speakers for their presentation and their good work. He asked Senator Ridley—who was attending via videoconference—whether he had any questions. Senator Ridley said he did not but would like to receive a copy of the slide presentation.

LexisNexis Presentation – Identity Fraud and Business Tax Noncompliance: How They Could be Crippling Agencies Unaware

Guest speakers were Joseph Lee, Manager of State Government Affairs for RELX, and Jason Parks, Senior Client Executive, Tax and Revenue, LexisNexis. Mr. Lee said RELX, parent company of LexisNexis, is the fourth largest information solutions company in the world, with a goal to empower government and businesses with information to make the best solutions and decisions possible. LexisNexis is a public records search tool assisting government agencies to locate people, better detect fraud, accurately verify identity, perform in-depth due diligence, and more easily visualize complex relationships.

In conjunction with a slide presentation, Mr. Parks said he will discuss identity fraud and business tax noncompliance in order to further educate the committee regarding the challenges facing agencies in Kentucky and nationwide. He said every American's identity perhaps could already be stolen, considering the amount of personally identifiable information (PII) that has been compromised through data breaches. Almost 800 data breaches, both in the private and public sectors, over the past couple of years have translated into approximately 27,000 identities being reported stolen every day. Military personnel and children are 52 times more likely to have their identities stolen. Agencies must learn to protect citizens from criminals who are using that information against them. In 2015, more than 707 million records have been lost or stolen, with 53 percent for the purpose of identity theft. Stealing credit card information by using skimmers continues to be a tactic used by criminals.

The Consumer Sentinel Network tracks identity theft complaints that are reported to the Federal Trade Commission (FTC). In 2014, 32.8 percent of reported identity thefts were used for the purpose of tax or wage-related fraud. In 2013, 34.7 percent of military victims' stolen information was misused for tax or wage-related fraud. In 2015, these percentages increased to 45 percent. Children are also being targeted. Millions of American children were included among those who had their personal information stolen in the 2015 data breach of health insurance giant, Anthem, Inc. A teenage girl in Georgia (called Olivia in the slide presentation) who applied for a student loan discovered she had been a victim of identity fraud for 10 years.

According to data provided by Travelers, when thieves steal information, 36 percent use it for credit and debit card fraud, and 21 percent commit tax or employment fraud. PII is being sold on the black market. Social Security numbers are a commodity in the underground and can reportedly be bought for as little as $3.80. They have become so easy to obtain that thieves now usually bundle the number with extra identifying information like birth dates and medical records.

A change in mindset has resulted in a change in the methodology for validating an identity. States are starting to think differently about identity fraud because of the number of personal records that have been compromised. LexisNexis is partnering with agencies and helping them recognize that identities are represented not only by a person's PII. Mr. Parks said he was a victim of identity theft four years ago and spent about three years fighting with credit reporting agencies about debts for which he was not responsible. That experience has increased his interest in helping other victims of identity fraud. Agencies are starting to realize that it is more important to look at the connections people have—their identity network—and not merely their PII.

Fraudsters have learned to adapt. When agencies continue to do only data matching, it can result in what is known as toxic identities. The identity may be synthetic. Many agencies—specifically revenue and tax agencies—are starting to realize the importance of relying not solely on a rules-based system but coupling that with some type of identity filter to prevent identity fraud from ever occurring but also to prevent criminals from using the stolen information. A rules-based filter is great at isolating outliers in large data sets, but its static nature requires long configuration when changes are needed. Adding a dynamic ID fraud filter helps the system make smarter decisions, based on the evolving nature of individual identities. Since 2012, LexisNexis has partnered with several states, including Kentucky, to help with identity fraud programs, especially in revenue. Tax Refund Investigative Solution (TRIS) is a proven patented identity fraud solution. The total amount of identity fraud it has stopped since 2012 is $100,000,000, an amount that is still growing.

Business (tax) noncompliance is a major issue in many states, including Kentucky. One of the primary reasons is that a lot of the information is related to the filers. Jurisdictions issue licenses, permits, and registrations at different levels of government. That often causes an increase in business (tax) noncompliance. Government analysis shows that business noncompliance has increased as the number of small businesses has grown. The Internal Revenue Service (IRS) estimates that 48 percent of annual revenue produced by small to midsize businesses from 1950 to 2010 was under-reported—either intentionally or unintentionally. LexisNexis partnered with the Governing Institute to conduct in-depth interviews with leaders at state and local tax agencies from 25 states (representing 50 percent of the US population) on the subject of business tax compliance, which continues to weaken or cripple state and local government budgets. The survey found that 85 percent of people contacted—primarily tax administrators—indicated that business tax noncompliance is a problem in their jurisdiction; 45 percent indicated that it is a major problem. The three taxes with the most noncompliance issues were sales and use tax, corporate income tax, and withholdings. Those surveyed indicated three areas that would be most helpful to them—higher quality data, better capabilities to link data, and a secure data warehouse with data from all states.

Mr. Parks said that data silos for licensing, permits, and tax are making it difficult for states and local jurisdictions to collaborate and better understand the full picture of a business. Being able to use a platform or an exchange that links data allows states and local government agencies to educate businesses about compliance before they fall into noncompliance. Voluntary compliance is the least expensive form of compliance. A combined business analysis means no more hiding in data silos. Business Integrity Solution links data with LexisNexis data on the same platform and increases effectiveness across agencies that are performing auditing, investigations, collections, and inspections. Users analyze combined LexisNexis and government data simultaneously for more effective and efficient compliance reviews and casework selection.

Building a major analytical business exchange for combating business tax noncompliance is not new to Lexis Nexis, which has a history of creating major analytical exchanges in both the private and public sectors. The Comprehensive Loss Underwriting Exchange (CLUE) has covered more than 300 million insurance claims records over 25 years. The Small Business Financial Exchange (SBFE) is a nonprofit organization that helps small businesses obtain credit. LexisNexis has been a strategic partner in helping with the cost of starting a new business. The National Accuracy Clearinghouse (NAC), helps states combat identity fraud and helps recipients of government benefits from five southern states.

Mr. Parks said that LexisNexis believes strongly in the importance of combating identity fraud and protecting the identities of Kentuckians as well as the state treasury. The company can also help state and local agencies build an exchange that can help tackle some of the growing challenges relating to business tax noncompliance. He commended the Department of Revenue and other agencies within the state that have worked with LexisNexis.

Representative Sinnette said he has not been able to receive LexisNexis legal research updates on his Apple computer and asked whether LexisNexis is Apple compatible. Ms. Parks said he is not an engineer and cannot speak to that but will get an answer for Representative Sinnette.

Representative Nicholls asked whether adopting a "Real ID" law in Kentucky would help fight fraud within the state system (Note: The General Assembly passed a Real ID law in the 2016 RS to comply with federal requirements, but the bill was vetoed.). Mr. Parks said he thinks it would help combat identity fraud but that states need to be adaptable, since fraudsters are constantly changing their methods of getting past controls that are put in place.

When Representative Yonts asked, Senator Ridley said he did not have any questions. With business concluded, the meeting was adjourned at 2:51 p.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

Minutes of the 2nd Meeting of the 2016 Interim

September 27, 2016

Call to Order and Roll Call

The 2nd meeting of the Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs of the Interim Joint Committee on State Government was held on Tuesday, September 27, 2016, at 1:00 PM, in Room 171 of the Capitol Annex. Representative Reginald Meeks, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Reginald Meeks, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Albert Robinson, Dan "Malano" Seum, and Damon Thayer; Representatives Kevin D. Bratcher, Joseph M. Fischer, Derrick Graham, and Mary Lou Marzian.

LRC Staff: Judy Fritz, Karen Powell, Kevin Devlin, Roberta Kiser, and Terisa Roland.

Approval of Minutes

The minutes of the August 23, 2016 meeting were approved without objection, upon motion by Senator Bowen and second by Representative Marzian.

Overview of Constitutional Amendments Filed During the 2016 Regular Session

Representative Meeks said Section 256 of the Constitution sets forth how an amendment is adopted as well as the particulars as to form, number, subject, and scope. A copy of Section 256 was provided to the members.

Representative Meeks explained that amendments: may be proposed by either chamber of the General Assembly at a regular session; must have the approval of three-fifths of all the members; may only be on the ballot at a regular election for House members; there can be no more than four amendments on any one ballot; must be voted on separately by the voters of the commonwealth; must only relate to a single subject matter; and the Governor does not have to approve the bill.

He stated that KRS 118.415(2) establishes that if the General Assembly does not provide the "question" that will appear on the ballot, the Attorney General is required to put the substance of the amendment into a "question" that will be placed on the ballot. A copy of KRS 118.415 was provided to the members.

Representative Meeks said that, since 1891, there have been 39 amendments that have been approved by the voters of the Commonwealth and 38 amendments that have been defeated. A list of the approved and defeated amendments was given to the members.

Representative Meeks said that, during the 2016 Session, there were 24 constitutional amendments that were proposed, eight from the Senate and 16 from the House. Copies of those bills were provided to the members.

Representative Meeks said several of the proposed constitutional amendments were sponsored by members of the task force. The members reviewed each of the proposed bills.

Senator Bowen discussed 2016 SB 244 relating to administrative regulations. Since 2011, 16 bills relating to administrative regulations have been filed.

Representative Marzian reviewed 2016 HB 188 relating to Constables. There have been ten bills filed since 2011 relating to Constables.

Senator McDaniel discussed 2016 SB 10, which would have moved the election of statewide elected constitutional officers to even-number years.

Representative Meeks said there were three bills filed since 2011 related to marriage. Representative Marzian briefly discussed 2016 HB 156, and Representative Fischer reviewed 2016 HB 571.

Representative Meeks said four bills had been filed relating to Office of Judge of the County Court and seven property bills filed since 2011. Senator Harper Angel filed 2016 SB 95 relating to property exemptions from taxation and gave a brief discussion.

There have been ten bills filed since 2011 relating to the limit of terms for members of the General Assembly. The task force reviewed HB 116, HB 199, HB 264, and HB 78 from the 2016 Regular Session.

Representative Meeks said every ten years one of the most important duties of the General Assembly is redistricting. He said there have been six redistricting bills filed since 2011. Senator Robinson filed SB 137 in 2016. Senator Thayer filed SB 8 relating to Judicial Redistricting and gave a brief discussion.

A number of voting bills have been filed and referred to the task force. HB 70, filed by Representative Owens, would have restored voting rights to certain convicted felons. Discussion followed that, with enactment of HB 40, some felons would have their voting rights restored.

After the overview of the Constitutional amendments filed during the 2016 Session and an acknowledgment by Representative Meeks that there had been 12 casino gambling bills filed since 2011, there was a brief discussion of responses, comments, and questions.

Paper copies of all document that were distributed to the members are available in the Legislative Research Commission Library.

There being no further business, the meeting was adjourned at 2:00 p.m.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 3rd Meeting of the 2016 Interim

September 28, 2016

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on Local Government was held on Wednesday, September 28, 2016, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Steve Riggs, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Steve Riggs, Co-Chair; Senators Julie Raque Adams, Ralph Alvarado, Denise Harper Angel, Stan Humphries, Christian McDaniel, Morgan McGarvey, Albert Robinson, Dan "Malano" Seum, and Damon Thayer; Representatives Linda Belcher, George Brown Jr., Ron Crimm, Mike Denham, Jim DuPlessis, Cluster Howard, Adam Koenig, Brian Linder, Tom McKee, Michael Meredith, Russ A. Meyer, Phil Moffett, Jonathan Shell, Arnold Simpson, Chuck Tackett, James Tipton, Jim Wayne, and Susan Westrom.

Guests: Sandra Dunahoo, Amy Barnes, Jessica Lee, and Andrew Schachtner, Department for Local Government; Peter Goodmann, Division of Water and Daniel Cleveland, General Counsel, Energy and Environment Cabinet; Talina Mathews, Stephanie Bell, Andrew Melnykovych, and David Spenard, Public Service Commission; Roger Recktenwald and Shellie Hampton, Kentucky Association of Counties; Daviess County Judge/Executive Al Mattingly; Larue County Judge/Executive Tommy Turner, Garrard County Judge/Executive John Wilson, and Vince Lang, Kentucky County Judge/Executives Association; Anne-Tyler Morgan, Michael Kurtsinger, and Bruce Roberts, Kentucky Fire Commission; Jack Couch, KIPDA Area Development District; Bert May, Kentucky League of Cities; and Mike Sunseri and Jarred Ball, Kentucky Office of Homeland Security.

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

Approval of Minutes

Upon the motion of Senator Bowen, seconded by Representative Riggs, the minutes of the August 24, 2016 meeting were approved.

Issues relating to the Department for Local Government

Commissioner Sandra Dunahoo of the Department for Local Government (DLG) said that every effort is made to fund all Community Development Block Grant (CDBG) projects. August 1 was the deadline for project applications, which have all been reviewed. DLG is working with applicants to work through any deficiencies. There is nearly enough funding for all of the eligible applications received. This year DLG encouraged applicants to submit good, strong applications and work with DLG so that the applications can be approved. Funding was just received from HUD, and applications have been reviewed on a short turnaround schedule. DLG hopes to begin announcing awards within a week.

Appalachian Regional Commission applications were due by August 15, but the deadline was extended to August 29. Applications are currently under review. It appears that DLG will have a continuing resolution this year and will not have its full funding allocation from Washington on October 1. However, DLG will be able to access a percentage of last year's allocation on October 1. DLG received $22,067,783 in application requests with $9 million available. Kentucky was able to get $10,000,000 for the Appalachian Regional Commission POWER. DLG will submit a new application for Eastern Kentucky and hope to be selected for a clinic in 2018 that will fund optometrists to perform laser surgery.

Regarding the Recreational Trails Program, the board has met and made recommendations. DLG will be reviewing the applications for compliance issues, and it hopes to make announcements during the next month.

The board was meeting the same day as the committee meeting for the Land and Water Conservation Fund. Applications will be reviewed by DLG for compliance issues, and DLG hopes to make announcements in October.

The Innovative Readiness Training (IRT) Program with the Delta Regional Commission has a military mission which is a coordinated troop effort—complete deployment utilizing multiple branches. There are dental, vision, medical, and pharmacy clinics located in Paducah, Bardwell, and Carlisle. There are over 13,000 patient contacts. The program is very popular with the troops, who are very appreciative.

In response to a question from Representative Brown, Commissioner Dunahoo said the amount of CDBG funding received from HUD was $23 million, and there was $24 million in requests.

In response to a question from Senator Bowen, Commissioner Dunahoo said that there were dozens of applications for CDBG funds.

In response to a question from Representative Riggs, Commissioner Dunahoo stated that she was not in a position to comment on the concept of having an Office of Inspector General within DLG. She would need to discuss it with the Governor.

Presentation on Possible Solutions for Package Sewer Treatment Plant Abandonment

Mr. Peter Goodmann, Director of the Division of Water (DOW), said that there are 243 municipal wastewater treatment plants. There are about 900 individual home units. Where water lines exist, people generate sewage, so the question is whether the public is being served.

To ensure reliable, sustainable, and compliant wastewater infrastructure, the following must be done: expanding and maintaining existing infrastructure, which involves using sewer rates revenue and using available grant and loan funding; regionalizing or finding financially viable and responsible partners for small and privately owned systems; and using new methods and old methods in new ways to address the issues.

There are 203 small wastewater treatment plants (WWTPs), which are package plants that serve neighborhoods, mobile home parks, apartments, and campgrounds. This figure does not include small WWTPs owned by public entities such as the Department of Parks, Kentucky Transportation Cabinet, and school districts, and those serving single businesses or other entities. The average flow of a WWTP is 35,000 gallons per day and the average age of one is 27 years. The design life of these plants is 30 to 40 years. There is an issue with aging infrastructure and aging owners. Thirty-six of those 203 facilities are utilities regulated by the Public Service Commission (PSC). The WWTP issue is not a new one. Twenty-five years ago, there were three times as many. Historically in Jefferson County there were 500 package plants. This year there are none.

The goal of regionalization is to bring the flows to regional WWTPs that provide better treatment and which are operated by in-perpetuity entities. Regionalization takes a long time and includes funding, cooperation, and creativity. Some scenarios for taking over a plant are better than others. The best case scenario is one where there is a system within or near to the regional planning area; one having access to a cooperative regional planning authority that will receive the outflow; one having a sewer system that is "available," near a regional system that has adequate capacity to receive the plant's sewage; one that can use gravity rather than lift stations to transport the sewage to its destination; one that has limited inflow and infiltration in the collection system; and one having a large customer base, which would assist with economies of scale.

The most challenging scenario is one where a plant is far from a regional planning area and regional sewers; one where there is a lack of available, or willing, partners such as a county or city government or private entities; one possessing significant infrastructure issues--especially inflow and infiltration issues; and one having fewer service connections.

DOW, local governments, Kentucky Infrastructure Authority (KIA), PSC, area development districts (ADDS), and Kentucky Association of Counties (KACo) are working together to collect additional data to develop a robust risk profile for each WWTP and to rank those 203 WWTPs. The groups will assess the risk of abandonment (and not just the formal, PCS abandonment process), non-compliance due to poor operation and maintenance, and infrastructure failure. In addition, other factors will be used including the age of their infrastructure; their flow; their structural integrity; their monthly rate/cash flow for operation and maintenance; the number of connections to the WWTP each has; each system's proximity to regional planning area and available sewers; the water quality of each system's receiving stream; the quality of wastewater effluent produced by each system; their compliance history and active enforcement actions; and DOW's general perceptions toward each.

Regarding solutions and recommendations, abandonments are on the uptick and the infrastructure is beyond design life, but there is no current emergency. Because of the importance of the issue, all groups involved need to make sure they understand the scope of the problem, including the prioritized risks, before they try to identify and implement solutions. Give the agencies some time to characterize the issues and develop some recommendations. There are no global solutions yet.

In response to a question from Representative Meredith, Mr. Goodmann said he will get the number of school districts of the 36 facilities that are governed by the PSC.

In response to a question from Senator Bowen, Mr. Goodmann stated that regionalization is important and the best solution. Ensuring financial viability for future treatment plants is an excellent idea going forward. Retroactively applying a financial viability requirement to existing plants may be problematic, but that concept is under examination.

Representative Riggs asked staff to research if current law takes into consideration that package plants may not be new but remodeled.

In response to a question from Representative Riggs, Mr. Goodmann said that the concept of septic systems is still valid.

Mr. Andrew Melnykovych, Communications Director for the Public Service Commission (PSC), said that privately owned wastewater systems under PSC jurisdiction represent only a small fraction of sewer service in Kentucky and it is a fraction that is steadily diminishing, which is good news. However, they attract much attention because of their financial vulnerability, which is due to their ineligibility to receive funds otherwise available to publicly owned systems.

The abandonment statute only applies to systems under PSC control. The ultimate goal is to maintain continuity in service.

Transferring operations of the small WWTPs to existing systems is an effective solution.

Responding to a question from Representative Riggs, Mr. Melnykovych indicated that the PSC attempts to transfer the systems as expeditiously as possible.

Mr. David Spenard, General Counsel for the PSC, stated there are statutory timeframes dictating time windows and certain procedures for the commission's deliberations.

Representative DuPlessis suggested requiring the establishment of a small escrow account for each system to accumulate for a ten to 30 year period.

Mr. Melnykovych stated that is a concept that would have to be looked at very carefully but merits study. It would have to be considered on a case-by-case basis.

Senator Seum noted he had heard testimony, relating to a failed WWTP, indicating that rates had not been adjusted in ten years because of the difficulty of doing so.

Andrew Melnykovych noted that for systems having under $5,000,000 annual operating income there is a simplified process called an alternative rate filing. PSC staff provides feedback for rates designed to effectively operate the WWTP. Information provided to the committee by the PSC notes which utilities have applied for rate changes. In most cases, the utilities get the rate applied for or a very close figure to the requested amount. There is a simplified process available for smaller utilities, but the operator of the utility must make the decision to use the process.

Responding to a comment from Representative Riggs relating to perceptions of a complicated and a slow rate-changing process, Mr. Melnykovych said that the PSC is always evaluating its processes to make them work better than they do.

Representative Belcher commented that it is time to stop pointing fingers and start looking for solutions.

In response to a question from Representative Belcher, Mr. Melnykovych said PSC inspectors do have authority to require improvements in WWTPs and that there is an inspector process in place. A historic trigger for abandonments has been attributed to a utility having to correct an expensive problem.

In response to a question from Senator Bowen, Mr. Goodmann noted that most abandonments are from infrastructure failure. Some WWTPs are fine and well-run. Some solutions for providing for the disposition of individual WWTPs will be evident. Solutions for other WWTPs may be less evident.

Representative Linder commented that it is easier for the owners not to ask for a rate increase. He is not sure that the process is really that hard. The solution may be that legislation is needed to tell the owners to come in every three to five years for a rate review.

In response to a question from Representative Meredith, Mr. Melnykovych stated that everyone under PSC authority would be eligible for a rate increase. PSC does not have the authority to require WWTPs to apply for a rate increase.

Daviess County Judge/Executive Al Mattingly said that it is time to stop talking about who is at fault.

Daviess County has two plants: one with 67 customers and the other one with 125 customers. The first meets low to moderate income requirements, the latter qualifying for little if any help. The small system has paid $11.50 per month for the last 40 years. The new cost for service, even with CDBG grants and low cost partially forgivable loans, will be around $70 per month. The larger system has paid $15.00 a month since 2000. Its cost will increase to $90 to $100 per month. Daviess County is fortunate that it has a regional wastewater agency for people to turn to when a package system fails.

Judge Mattingly offered the following suggestions: require the PSC to request a rate review every two years for the package plants; require a certain amount of money per customer to be placed in a trust fund to accumulate, much as public landfills do, to provide funds for major failures; and grant abandonment only if all required permits are in place and the plants are in reasonable working order.

Daviess County's experience is not unique. The situation is occurring throughout the Commonwealth and while the state is contemplating what can be done, local governments are struggling every day to keep people in their homes.

Mr. Roger Recktenwald, Director of Research Planning with the Kentucky Association of Counties (KACo), said that local governments were ultimately responsible for wastewater treatment in private systems as well as public systems. The PSC's process for abandonment is extremely complicated and needs to be streamlined. Regarding inspections, there is no direct communication with the owners, operators and inspectors. It is important that DOW and PSC are working together, however, they need to reach out to include all parties concerned. The committee should not abandon the progress that has been made and keep pushing the different groups for solutions.

Representative Belcher suggested that the groups meet on a regular basis and volunteered to meet with them.

Interlocal Agreement Training and Promotion Efforts

Larue County Judge/Executive Tommy Turner, Legislative Chair, Garrard County Judge/Executive John Wilson, and Vince Lang, Executive Director, Kentucky County Judge/Executives Association (KCJEA), addressed the committee.

In response to a question from Representative Riggs, Mr. Lang said there are interlocal agreements (ILAs) that deal with the problem of wastewater, but does not know if it has been within the last year or so. He would find the answer to that question.

Judge Turner said were statutorily created in KRS 65.210 to 65.300, which is known as the Interlocal Cooperation Act. The origin of the Act can be found in legislation passed in the early 1960s.

The Act contains a concise statement in statute of its purpose: "It is the purpose of KRS 65.210 to 65.300 to permit local governmental units and the sheriff upon approval of the fiscal court to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organizations that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities."

KRS 65.250 details specific provisions which each ILA must contain. ILAs entered into between cities, counties, charter counties, urban-county governments and sheriffs, or any combination thereof, must be submitted to the DLG for approval as to compliance with the Act. Any ILA in which at least one party is not one of those entities just named, shall instead be submitted to the Attorney General for approval.

ILAs have found quite extensive use in recent years. Beginning in 2000, DLG created an online database that houses all ILAs approved by DLG. From 2000 until now, 815 ILAs have been received DLG approval with over 2,500 entities participating in the ILAs. Every county in Kentucky participates in some form of ILA. The database-listed agreement with the most entities is the Google Fiber ILA, signed in Jefferson County, which has 76 participants.

The ILAs found in DLG's database cover a wide range of joint efforts including: law enforcement and police protection, drug task force, industrial development, animal control, parks and recreation, regional jails, recycling efforts, enhanced 911 services, Workforce Development Act, EMS, occupational license sharing, insurance premium revenue sharing, senior center operations, riverport authorities, solid waste boards, broadband infrastructure, farmers market, cemetery maintenance and 50 additional areas where local governments have determined to work jointly to provide services to their citizenry.

One of the primary reasons a greater use of ILAs has been seen is possibly due to the training and education efforts now afforded local officials. Newly elected officials' training, the Governor's Local Issues Conference, KACo, Kentucky League of Cities (KLC), KCJEA, and the Kentucky Magistrates and Commissioners Association conferences contain extensive training that detail the advantages afforded communities by working together and utilizing ILAs.

Judge Wilson provided some examples of ILAs that Garrard County has joined in which include occupational license taxes ILA with Boyle and Lincoln Counties which assisted in capturing the appropriate taxes owed in each jurisdiction; local emergency management ILA with the City of Lancaster; Run Park ILA with Lincoln County; merged solid waste ILA with Lincoln County which has saved the counties hundreds of thousands of dollars in the past few years; and Bluegrass 911 system ILA with Lincoln County. By combining the 911 dispatching service, there is only one system with one director, and $504,000 has been saved from just the shared phone service system that is used among several counties in Kentucky.

In response to a question from Representative Riggs, Judge Turner said that DLG, KCJEA, and KACo all have training for the officials who have been in office longer, in addition to the newly elected ones. The ADDs also assist with training and executing ILAs.

Representative Koenig commented that he would, at some point, like to discuss mandating ILAs.

Consideration of Referred Administrative Regulation

The committee considered 815 KAR 739 KAR 2:140 (Kentucky Fire Commission: volunteer fire department reporting requirements). Ms. Anne-Tyler Morgan represented the Kentucky Fire Commission and summarized the regulation.

Representative Denham cautioned the Fire Commission about using the denial of equipment for a non-compliance penalty.

In response to a question from Representative Meredith, Mr. Michael Kurtsinger, Legislative Director of the Kentucky Fire Commission, said that all but less than 25 of the "Chapter 273" fire departments would have revenues under $100,000.

Representative Riggs stated that a written report of the review will be submitted to LRC.

There being no further business, the meeting was adjourned at 12:05 p.m.

INTERIM JOINT COMMITTEE ON JUDICIARY

Minutes of the 4th Meeting of the 2016 Interim

September 23, 2016

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Judiciary was held on Friday, September 23, 2016, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senators Danny Carroll, Carroll Gibson, Ray S. Jones II, Alice Forgy Kerr, and Dan "Malano" Seum; Representatives Joseph M. Fischer, Jim Gooch Jr., Chris Harris, Mary Lou Marzian, Reginald Meeks, Lewis Nicholls, Tom Riner, and Brent Yonts.

Guests: Chief Justice John D. Minton Jr.; and Lee Rust, Founder and CEO of Freedom Forever Ministries.

LRC Staff: Katie Comstock, Alice Lyon, Matt Trebelhorn, Elishea Schweickart, and Brad Gordon.

State of the Judiciary

Chief Justice of Kentucky John D. Minton, who was elected for his third term this past June, presented the State of the Judiciary address. Chief Justice Minton thanked legislators for passing the Judicial Branch budget for fiscal years 2017 and 2018 and thanked Governor Bevin for his crucial veto of funds transfer language that provided much needed relief to the court system. Through the hard work of Kentucky's legislators, Kentucky's court system received the healthiest budget it has seen in the last 10 years. Chief Justice Minton thanked the Senate for inviting him to testify before the Appropriations and Revenue Committee during the 2016 regular session. He praised Kentucky judges, circuit court clerks, court employees, law enforcement agencies, and community agencies for their decisive and expert work.

Chief Justice Minton said that, after 2016 House Bill 40 passed, allowing expungement for certain class D felonies, the Administrative Office of the Courts (AOC) made sure it had its resources, website information, legal forms, and eFiling system current for the effective date in July. This included working with the Governor's Office, the Kentucky State Police, the Kentucky Justice and Public Safety Cabinet, and other criminal justice partners. AOC also helped provide training on implementing the law to Kentucky judges and circuit court clerks. So far in 2016, AOC has received 8,400 expungement request for misdemeanor and felony convictions. The turnaround time by the AOC Records Unit for expungements is less than 48 hours.

Chief Justice Minton discussed Senate Bill 200, which brought juvenile justice reform to Kentucky, stating that evidence shows that the reform is working as it was intended. The Family Accountability, Intervention, and Response (FAIR) Teams, who work with court designated workers on mending service gaps and coordinate access to services for juveniles and families, are a big key to its success. As of the end of August 2016, FAIR Teams had reviewed 2,507 cases. Of the cases that have been reviewed and closed, 46 percent were resolved outside of court and 54 percent were referred to the courts. Twenty-nine percent of cases referred to the FAIR Teams continue to progress through reviews and the diversion program. AOC is making it a priority to address the needs of minorities, and it is using the GAIN-Q3 assessment tool to more accurately identify the needs of youth in diversion programs. In October 2016, the Supreme Court will adopt the final version of the new Juvenile Court Rules Procedure and Practice.

The Judicial Branch played a major role in implementing Senate Bill 133, which is designed to reduce drunken driving by using ignition interlock devices. Chief Justice Minton noted that, in 2015, Kentucky district judges handled 26,000 cases involving people driving under the influence of alcohol and/or drugs. AOC has worked diligently with Kentucky judges and circuit court clerks since the Kentucky Transportation Cabinet finalized regulations, and the Supreme Court established a sliding scale of indigency to help determine device cost to defendants. AOC received a grant from the Kentucky Office of Highway Safety to provide SB 133 education at the annual District Judges College, which took place in September 2016. AOC continues to work with the Kentucky Transportation Cabinet to improve the ignition interlock process.

On January 1, 2016, House Bill 8, which extends civil protection to victims of dating violence, sexual assault and stalking, went into effect. AOC has carried out its responsibilities under that bill. Legal forms and protective order forms have been revised, and the Kentucky State Police online Law Enforcement Information Network in Kentucky (LINK) has been updated. Judges, clerks, and deputy clerks have also been trained on these changes. Also, a brochure that explains the protective order process to the public is available at local circuit clerk offices as well as on the Kentucky Court of Justice website. Since the bill went into effect, there have been roughly 70 cases filed statewide each month.

In 2014, the Judicial Branch budget bill required the AOC to develop a weighted caseload system to measure judicial caseloads across Kentucky for the purpose of judicial redistricting, and Chief Justice Minton noted that the AOC has made great progress in this area. Because of the high-quality workload analysis that was needed to complete this task, AOC sought help from the National Center for State Courts (NCSC). This process started by asking all circuit, district, and family judges to take part in a time study, which logged the time handling judicial duties outside of the court. There was 95 percent participation in this study among Kentucky's judges. This data was then used by NCSC to compile a time study report that included case weights and measured workloads. A Judicial Workload Assessment Committee (JWAC), made up of judges, circuit court clerks, prosecutors, and legislators, was also created to work closely with NCSC. After the time study was complete, NCSC staff met with judges on site visits in numerous jurisdictions to identify the challenges they face with each case type. The JWAC members met in November 2015 to examine results from all phases of the assessment, and the NCSC drafted a preliminary report that was extensively vetted before being presented to the legislature in February 2016. Since February, additional subcommittees have been created to work further on improving the plan. The comprehensive judicial redistricting plan will be presented to the General Assembly in 2017.

Chief Justice Minton said that AOC is making great strides to work on KYeCourts and overhaul Kentucky's court technology. As of October 2015, eFiling is available in all 120 Kentucky counties, which gives Kentucky attorneys the option to file criminal and civil court documents online. This is a large step toward the goal of a paperless court system. Development teams are expanding eFiling to other case types, which include juvenile cases, forcible detainer, probate, and appeals. Teams are also working to extend eFiling to non-attorney government filers. In January 2017, AOC will begin piloting an electronic court records project in Trimble County.

The AOC is in the initial stage of courthouse construction projects for Henry and Nicholas counties, as well as limited-scope repair projects in Mason and Simpson counties. When possible, AOC plans to renovate and preserve Kentucky court facilities instead of engaging in new construction. Chief Justice Minton stated that this was a significant departure from AOC's current capital construction program as most priority facilities are in smaller counties with limited population growth.

Chief Justice Minton asked the committee to keep in mind that, although budget requests will not be addressed again until 2018, salaries for Kentucky judges need improvement. The request for a salary increase in 2016's judicial budget was denied, leaving Kentucky judges among the lowest paid in the country. Since 2007, Kentucky judges have only received two years of one percent raises and two years of $400 raises. This lack of progress leaves current judges feeling undervalued and provides little incentive for gaining new judges. Chief Justice Minton stated that he looks forward to addressing the pay issue with the legislature further.

Chief Justice Minton stated that he wanted to go on record with the court system's commitment to partner with the legislature, law enforcement, executive branch, treatment providers, and other agencies that are instrumental in combating the opioid-addiction epidemic. The Judicial Branch is ready to help in any way during this drug crisis. Kentucky, Ohio, and West Virginia are among the top five states in the nation in per capita opioid overdose deaths.

Responding to a question from Representative Nicholls, Chief Justice Minton stated that that AOC plans to hold an educational seminar in January for all judges with the latest information pertaining to overseeing drug cases and family issues that can stem from them.

Responding to a question from Representative Yonts, Chief Justice Minton said that approximately 45 standalone judicial centers are needed in Kentucky.

Responding to a follow up question from Representative Yonts, Chief Justice Minton stated that he believes that the low pay for judges, and lack of raises, does hinder the efforts of the court system to get the best attorneys to take the bench. Kentucky needs diversity on the bench.

Responding to a question from Representative Fischer, Chief Justice Minton stated that he believes the legislature will get an up or down vote on the judicial redistricting plan that will be presented in January 2017.

Responding to a question from Representative Harris, Chief Justice Minton stated that online security is a big concern for the AOC, which has entered into a number of online security contracts and purchased online detection equipment systems.

Responding to a question from Senator Carroll, Chief Justice Minton stated that the pro se litigant function is coming soon to the eCourts systems.

Responding to a question from Representative Yonts, Chief Justice Minton state that eFiling is optional.

Women is Prison

Lee Rust, founder and CEO of Freedom

Forever Ministries, discussed issues related to female prisoners face and the program she runs. Ms. Rust has been working with female prisoners for 17 years, which includes multiple visits each week.

Ms. Rust stated that, years ago, she drafted a survey for these prisoners to get information because there is a lack of attention given to this target group. The survey revealed that the average age of female prisoners is 37, and their average ethnicity is Caucasian. The survey showed that, despite the female prisoners being non-violent offenders, they are likely to be incarcerated for about the same length of time for a violent male violent offender.

Ms. Rust discussed a concern with overmedication of female offenders. The cost to house a female prisoner is about $70 per day. Of this cost, about 75 percent is for medications that female prisoners are often prescribed. Not only is this harmful to these women while they are incarcerated, but upon release, they are only given about two weeks' worth of medication, which often leads to self-medication through heroin use once they run out. Many of these prescribed drugs are psychotropic drugs; Ms. Rust stated that there are better alternatives to medications, such as journaling, drama, music, and a safe zone to have alone time.

Ms. Rust spoke briefly about how these women's families are affected by their incarceration. Sixty-eight percent of women in prison were effectively sole parents of their children before they were incarcerated. Because of the extended periods of time these women are incarcerated, the high cost to care for their children is often paid for by the state. This is about $45,000 per child per year for foster care. Not only is this costly for Kentucky, but often foster care can be extremely hard for these children. Also, there is a 68 percent recidivism rate for these women, which can further affect their families and increase to the state.

Ms. Rust discussed Freedom Forever Ministries' program called "Good Grief," which is a 10 week program that helps female prisoners understand and cope with the stages of grief. This could pertain to many situations, including loss of freedom, loss of a job, being away from their families, and deaths. Many women have had success with this program while incarcerated and after release.

Responding to a question from Senator Jones, Ms. Rust stated that she believed there are some women who do need to be medicated. She believes that over-medicating is a very large problem in Kentucky prisons.

Responding to a question from Senator Carroll, Ms. Rust said that she believed that many times medication is used to control the women's prison population.

John Tilley, Secretary of the Justice and Public Safety Cabinet, said that the Department of Corrections (DOC) agrees that the pharmaceutical contracts need revision. He agreed the Kentucky's prison system is overwhelmed with the number of women prisoners, that there are cases of women being overmedicated, and that there are cases of women being imprisoned for abnormal long amounts of time for non-violent offenses. He believes this is an epidemic. Secretary Tilley said that a vast majority of women should be released from prison and that they need mental health help and drug treatment. The DOC appreciates the help it receives with these goals from various non-profit programs. Information such as population statistics and cost is readily available through an open records request to DOC.

There being no further business, the meeting was adjourned at 11:46 AM.

LEGISLATIVE RESEARCH COMMISSION

Minutes of the 554th Meeting

October 5, 2016

Call to Order and Roll Call

The 554th meeting of the Legislative Research Commission was held on Wednesday, October 5, 2016, at 1:30 PM, in Room 125 of the Capitol Annex. Representative Greg Stumbo, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Representative Greg Stumbo, Co-Chair; Senators Julian M. Carroll, David P. Givens, Ray S. Jones II, Gerald A. Neal, Dan "Malano" Seum, and Damon Thayer; Representatives Rocky Adkins, Johnny Bell, Jeff Hoover, Stan Lee, and Jody Richards.

LRC Staff: David Byerman and Christy Glass.

There being a quorum, Representative Greg Stumbo called for a motion to approve the minutes of the August 3, 2016, meeting, accept and refer as indicated items A. through D. under Staff and Committee reports, refer prefiled bills and administrative regulations as indicated and approve items A. though J. under New Business, and accept and refer as indicated items 1. through 53. under Communications.

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

The minutes of the August 3, 2016, meeting were approved.

STAFF AND COMMITTEE REPORTS

Information requests for July, August, and September 2016.

Committee Activity Reports for August and September 2016.

Report of the Administrative Regulation Review Subcommittee meetings of August 4 and September 13, 2016.

Committee review of the administrative regulations by the Interim Joint Committee on Health and Welfare during its meetings of August 17 and September 21, 2016.

NEW BUSINESS

Referral of prefiled bills to the following committees: **BR 166** (resolution urging the United States Environment Protection Agency to prioritize compliance assistance and environmental protection over economically ruinous regulatory enforcement practices) to **Agriculture**; **BR 74** (relating to promise zone tax incentives), **BR 95** (relating to a tax credit for volunteer firefighters), **BR 110** (proposing an amendment to Section 170 of the Constitution of Kentucky relating to exemptions from taxation), **BR 141** (relating to the property tax on unmined coal), **BR 142** (relating to coal severance revenues), **BR 143** (relating to sales and use tax holidays and declaring an emergency), **BR 148** (relating to legislative procedures for state fiscal measures), **BR 157** (relating to the Bowling Green Veterans Center, making an appropriation therefor, and declaring an emergency), **BR 179** (relating to the law enforcement and firefighters foundation programs and making an appropriation therefor), **BR 183** (relating to greater public awareness of taxes levied by school districts), **BR 184** (relating to the property tax on unmined coal), **BR 185** (relating to the use of local government economic assistance fund moneys), **BR 225** (relating to promise zone tax incentives) to **Appropriations and Revenue**; **BR 80** (relating to the Kentucky educational excellence scholarship), **BR 132** (relating to superintendent screening committee membership), **BR 145** (relating to a board of directors of a college within the Kentucky Community and Technical College System), **BR 150** (relating to school notification of persons authorized to contact or remove a child) to **Education**; **BR 176** (relating to nuclear power) to **Energy**; **BR 59** (relating to prescriptive authority for physician assistants), **BR 64** (resolution decrying the lack of services and specialized services for medically fragile young adults with intellectual and developmental disabilities and directing the establishment of the Task Force on Subacute Care for Medically Fragile Adults), **BR 134** (relating to kinship care), **BR 135** (relating to child abuse and neglect), **BR 180** (relating to the tracking of drug convictions) to **Health and Welfare**; **BR 97** (relating to general principles of justification), **BR 125** (relating to day reporting programs), **BR 147** (relating to sex offender registrants), **BR 149** (relating to foreign law), **BR 186** (relating to firearms), **BR 195** (relating to juries), **BR 196** (relating to juror pay), **BR 209** (relating to juries), **BR 210** (relating to promise zone tax incentives) to **Judiciary**; **BR 138** (relating to wages) to **Labor and Industry**; **BR 81** (relating to spas), **BR 152** (relating to pawnbrokers), to **Licensing and Occupations**; **BR 35** (relating to the filing deadline for candidates running for a seat in the General Assembly), **BR** 62 (relating to travel required for certain state employees), **BR** 63 (proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly), **BR 66** (relating to retirement benefits for legislators), **BR 86** (relating to the independence and transparency of the board of trustees of the Kentucky Retirement Systems and declaring an emergency), **BR 103** (proposing an amendment to Section 170 of the Constitution of Kentucky relating to exemptions from taxation), **BR 112** (proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly), **BR 124** (relating to public procurement), **BR 151** (proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly), **BR 191** (relating to retirement benefits for legislators) to **State Government**; **BR 111** (relating to operator's license testing), **BR 123** (relating to railroads) to **Transportation**.

Referral of administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): **103 KAR 15:180 & E** (Kentucky new markets development program tax credit) to **Appropriations and Revenue**; **808 KAR 1:081** (Repeal of 808 KAR 1:080 and 808 KAR 1:100), **808 KAR 1:160** (Fees for services rendered to banks and trust companies), **808 KAR 4:021** (Repeal of 808 KAR 4:020), **808 KAR 11:011** (Repeal of 808 KAR 11:010), **808 KAR 12:021** (Licensing and registration) and **808 KAR 12:055** (Uniform standards for mortgage loan processor applicant employee background checks) to **Banking and Insurance**; **11 KAR 15:090** (Kentucky Educational Excellence Scholarship (KEES) program), **102 KAR 1:165** (Surviving children's benefits), **102 KAR 1:290** (Disability retirement application, review, and examinations), **102 KAR 1:320 (**Qualified domestic relations orders), **702 KAR 7:065** (Designation of agent to manage middle and high school interscholastic athletics), **703 KAR 4:041** (Repeal of 703 KAR 4:040) and **704 KAR 3:342** (Repeal of 704 KAR 3:340) to **Education**; **201 KAR 22:045 (**Continued competency requirements and procedures), **201 KAR 32:030** (Fees), **910 KAR 1:210** (Kentucky long-term care ombudsman program) and **921 KAR 1:420** (Child support distribution) to **Health and Welfare**; **201 KAR 30:030** (Types of appraisers required in federally related transactions; certification and licensure), **201 KAR 45:110** (Supervision and work experience), **804 KAR 4:381** (Repeal of 804 KAR 4:380), **804 KAR 4:390** (License renewals), **804 KAR 4:400 & E** (ABC basic application and renewal form incorporated by reference) and **804 KAR 4:410 & E** (Special applications and registration forms incorporated by reference) to **Licensing and Occupations**; **301 KAR 1:015** (Boat and motor restrictions), **301 KAR 1:201** (Taking of fish by traditional fishing methods) and **301 KAR 2:132** (Elk quota hunts, elk depredation permits, landowner cooperator permits, and voucher cooperator permits) to **Natural Resources and Environment**; **30 KAR 7:010** (Standard form for occupational license fee return) to **State Government**.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing and appointing membership to the 2016 Free-Roaming Horse Task Force

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum updating the membership of the 2016 Free-Roaming Horse Task Force.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum updating the membership of the 2016 Free-Roaming Horse Task Force.

From Senator John Schickel and Representative Dennis Keene, Co-Chairs of the Interim Joint Committee on Licensing and Occupations: Memorandum requesting approval to meet on November 28, rather than the regularly scheduled meeting date of November 11, which is Veterans' Day. There are no apparent conflicts.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum updating the membership to the Government Nonprofit Contracting Task Force.

From Director David Byerman: Memorandum requesting approval of prefiling deadlines for the 2016 Regular Session.

From Senator Paul Hornback and Representative Tom McKee, Co-Chairs of the Interim Joint Committee on Agriculture: Memorandum reauthorizing the membership of the Subcommittee on Rural Issues and the Horse Farming Subcommittee.

From Senate President Robert Stivers and House Speaker Gregory D. Stumbo: Memorandum authorizing the appointment of Dr. Phoebe C. Winter and Dr. Marianne Perie to membership of the National Technical Advisory Panel on Assessment and Accountability (NTAPAA).

COMMUNICATIONS

From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of July and August 2016.

From the Office of the Attorney General: Constitutional Challenge Report for the months of June and July 2016.

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 1 and 2 of BFY 2017 and year-to-date activity for the period of July 1, 2016 through July 31, 2016.

From the Personnel Cabinet: Personnel Cabinet Quarterly Reports as of June 30, 2016.

From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarter ending June 30, 2016.

From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending June 30, 2016.

From Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and State of Solvency as of June 30, 2016.

From the Kentucky Judicial Form Retirement System: Operating Statements of the Judicial Retirement Fund and the Legislators Retirement Fund for FY16; list of investments held by the Fund as of June 30, 2015; and Portfolio Valuations of the Fund as of June 30, 2016.

From the Cabinet for Health and Family Services: SWIFT Adoption Teams Report for the second quarter of 2016.

From the Cabinet for Health and Family Services: FY16 Statewide Strategic Planning Committee for Children in Placement, Statewide Strategic Plan and Finding and Recommendations.

From the Department of Military Affairs, Adjutant General Stephen R. Hogan: Military Assistance Trust Fund State FY16 Annual Report.

From the Auditor of Public Accounts: Special Examination of the Buffalo Fire Department, Inc. for the period January 1, 2012, through December 31, 2015.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Big Sandy Community and Technical College's Administration of Floyd County's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Jessamine County Adult Education's Administration of Jessamine County's Kentucky Adult Education Grants.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Johnson County Adult Education-KCTCS' Administration of Johnson County's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Lawrence County Adult Education's Administration of Lawrence County's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Todd County Adult Education's Administration of Todd County's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Whitley County Adult Education's Administration of Whitley County's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Academy of Learning, Inc. 11189.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Caring Center Corporation DBA: MegaMinds Educare 12047.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Funshine Childcare 12040.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Kinderplay, Inc. 11285.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Little Learners, Inc. 12037.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Kings Kids, Inc. 11101.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Big Blue Bird, LLC 11387.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Excellence in Learning 11424.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Kidz Konnection 11099.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, OMB Circular A-133 Desk Reviews.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky

Department of Education, Let's Go Play Academy 11106.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Tot's LLC, DBA: Tot University 12059.

From the Cabinet for Health and Family Services, Office of the Inspector General: FY16 Medicaid Fraud and Abuse Report.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Russell County Adult Education's Administration of Russell County's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Elizabethtown Community and Technical College's Administration of Meade County's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the LaRue County Adult Education's Administration of LaRue County's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Carl D. Perkins Rehabilitation Center's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Newport Adult Learning Center's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Agreed-Upon Procedures Engagement of the Butler County Adult Education's Administration of Butler County's Kentucky Adult Education Grant.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, A Little Miracle Child Development Center 11553.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Mac's Childcare III, LLC 12103.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Nanny's House Daycare 11497.

From the Council on Postsecondary Education: FY16 Ovarian Cancer Screening Annual Report.

From the Council on Postsecondary Education: FY16 Annual Report of the Kentucky Lung Cancer Research Program.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Batten & Batten, Inc. 11384.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Crescent Hill Child Care, Inc. 11226.

From the Auditor of Public Accounts: Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Southside Christian Day Care 11524.

From the Finance and Administration Cabinet, Department of Revenue: 2016 Insurance Premiums Surcharge.

From the Cabinet for Health and Family Services: 2016 Annual Child Fatality and Near Fatality Report.

From the Cabinet for Health and Family Services: Family Resource and Youth Services Centers Report in which 70 percent or more of the funding level provided by the state is utilized to support the salary of the center director.

From the Kentucky Housing Corporation: Kentucky Affordable Housing Trust Fund FY16 Awards.

From the Kentucky Board of Medical Licensure: 2016 Annual Report.

From the Cabinet for Health and Family Services: 2015 Report of the Hospitalization of Kentucky Long-Term Care Facility Residents Due to Influenza Virus, Pneumococcal Disease, and Associated Complications.

From the Cabinet for Health and Family Services: Report of the Department for Community Based Services Tuition Waiver Program for Youth for the reporting period September 2015-August 2016.

From the Kentucky Association of Food Banks, Surplus Agricultural Commodities Advisory Committee: FY16 Annual Report of the Farms to Food Banks Program.

Representative Stumbo invited Director Byerman to present the LRC Visual Styling Manual.

Director Byerman said there have been many changes at LRC with communication practices and human resource policies in trying the change the culture at LRC. He stated that now seems the right time to rebrand LRC and change the way it presents itself to the public in its words and publications. LRC has started a new chapter as an agency.

Three months ago, Director Byerman asked Public Information Officer Rob Weber to pull together a multidisciplinary team within LRC representing a variety of different constituencies—OCIT, the print shop, including graphic designers, the research division, and members of the Public Information Office itself—to create a visual styling manual for the agency. He said the manual was based on a similar project that he had developed in Nevada that helped unify all of the communications to look and read consistently, using the same imagery, colors, and fonts.

Director Byerman thanked the following committee for putting together the LRC Visual Styling Manual: Rob Weber, Rebecca Hanchett, and Jeff Fossett from the Public Information Office, Robyn Kemper and Joel Redding from OCIT, Oreta O'Mara and Joe Cox from the Print Shop, and Teresa Arnold, Deputy Director for Research. He gave special recognition to Jenny Noran, who was the architect of the new seal for LRC.

The new seals were unveiled for the Commission to show the new fonts and color palettes, which evoke specific elements of life in Kentucky. Director Byerman indicated this was a three month process and was done at no cost to the taxpayer, was all produced in-house, and will be implemented at no cost. As letterhead, publications, and business cards are depleted, the new graphics and fonts will gradually be implemented within the next six to nine months.

Director Byerman asked for Commission approval of the LRC Visual Styling Manual.

Representative Stumbo thanked Director Byerman and asked for a motion to accept and approve as indicated Item 1. under Other Business, which is the official adoption of the new seal.

A motion was made by Representative Adkins and seconded by Senator Stivers. Representative Stumbo asked for discussion. Seeing none, a roll call vote was taken, and the motion passed unanimously.

Representative Stumbo asked if any other members wished to be recognized, and at that time, Senator Stivers thanked everyone for the well wishes and concerns regarding his back surgery. Senator Stivers asked for a moment of silence in remembrance of Ann Turner Lewis, who had worked at LRC for 20 years in the Senate offices as a non-partisan staff member. Mrs. Lewis, who was 92 years old, slipped and fell the previous weekend and subsequently passed away. A moment of silence was observed.

Senator Stivers distributed a document prepared by Senator Webb regarding the consistency and continuity of the interim joint calendar. He said many members have jobs outside of the General Assembly, and many jobs, trials, and appointments are scheduled three to four months in advance based on the interim committee schedule. Senator Stivers said that Senator Webb brings a very valid and legitimate concern that, when a schedule is proposed and adopted and then there is a change shortly before a scheduled meeting, it makes it very difficult to proceed with legislators' normal private business activities. Senator Stivers said it is a valid issue and that LRC needs to develop a methodology. He said he thinks the Director has looked at this issue. When LRC sets a schedule, it will try to adhere to it as closely as possible. Senator Stivers said that he believes Director Byerman has sent his proposals to the Speaker, and he does not believe there is any action for LRC to take at this meeting, but as the 2017 session concludes, he hopes that an Interim calendar can be adopted that would help maintain consistency and adherence to a set schedule.

Representative Stumbo said he thinks that is a very good point. He said he would hope that the LRC would be able to do that. He agrees it is becoming more difficult for members to maintain their part-time status and maintain professional obligations that they have in their real lives, and that would be a help.

There being no further business, the meeting was adjourned.

FREE-ROAMING HORSE TASK FORCE

Minutes of the 2nd Meeting of the 2016 Interim

September 20, 2016

Call to Order and Roll Call

The 2nd meeting of the Free-Roaming Horse Task Force was held on Tuesday, September 20, 2016, at 11:00 AM, at the Breathitt County Extension Office, in Jackson, Kentucky. Senator Jared Carpenter, Chair, called the meeting to order at 11:18, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Fitz Steele, Co-Chair; Senators Brandon Smith and Robin L. Webb; Representatives David Hale and John Short; Phillip Brown, Rusty Ford, Ginny Grulke, Steve Hohmann, J.L. Smith, and Karen Waldrop.

Guests: Dave Moss, Vice President and Director of Governmental Affairs, Kentucky Coal Association; Bill Landrum, Breathitt County Animal Control; James Holbrook, Breathitt County citizen and horse owner; Judge-Executive Ben Hale, Floyd County; Duncan Caldwell, Harlan County Animal Control Officer; Nelson Reynolds, Knott County Animal Control Officer and Police Officer; Tonya Conn, Dumas Rescue; Katy Ross, Executive Director, Kentucky Horse Council; Debby Spencer, President, We Make Things Happen (WMTH) Corporation; Ervine Allen, Breathitt County Property Value Administrator (PVA); Adam Beam, Statehouse Correspondent, Associated Press Kentucky; Vicki Deisner and Stacy Segal, American Society for the Prevention of Cruelty to Animals (ASPCA); Lowell Atchley; Jeff Allen; Clifton Hudson; and Ray Moore.

LRC Staff: John Ryan, Jasmine Williams, and Becky Lancaster.

Approval of the Minutes from the August 23, 2016 Meeting

A motion to approve the minutes of the August 23, 2016 meeting was made by Representative Steele, seconded by Representative Short, and approved by voice vote.

Discussion of Issues and Actions Relating to Free-Roaming Horses

Rusty Ford, Office of the State Veterinarian, stated he sees the free-roaming horses as an asset not as a problem. In 2008, he began to see growth in the free-roaming horse herds of eastern Kentucky. Communities are exasperated by the economic downturn and there is no other viable market for moving horses out the region. The population of the free-roaming horses are continuing to grow due to natural reproductive practices. In Knott County, he has seen a rise in attention towards the animals' welfare and public safety. Horses in the county roadways are a concern. It is challenging to identify the horses' owner and ownership of the property where the horses are roaming. In regards to free-roaming horses, the task force should determine the adequacy of current laws and recommend updating the laws if necessary.

Representative Short read statements prepared by Representative Denham in his absence. Out of 9.2 million horses in the United States, there are 170,000 unwanted horses. Kentucky is home to 242,000 horses, however, 60,000 are unwanted. The Kentucky equine industry produces 40,665 jobs and $1.4 billion in annual revenue. It costs an average of $2,300 per year to care for one horse. Since the economic downturn of 2008, many people no longer have the funds to care for their horses.

Local Government and Stakeholders' Concerns and Recommendations

Judge-Executive John Lester "J.L." Smith, Breathitt County, stated there are visitors from in and out of the state who visit for the purpose of viewing the free-roaming horses. As the coal industry diminishes, local citizens and government recognize that tourism is one opportunity that could help stabilize and rebuild the eastern Kentucky area. In Breathitt County, the majority of the free-roaming horses are at least 17 miles from roadways. Surrounding counties have more issues with horses in their roadways. Due to a harsh economy, people are dropping off horses in eastern Kentucky because they can no longer afford to care for their horses. Horses that can be rescued and rehabilitated are limited. Since the slaughter market has ceased to exist, it is hard to find an option for an older horse the owner can no longer maintain.

Debby Spencer, WMTH, works with small communities on economic development through tourism. She is working with Breathitt County and the Appalachian Horse Center. Since 2014, WMTH has taken photos and inventoried 500 horses from seven counties in Eastern Kentucky. When completed, the Appalachian Horse Center could house 50 horses at a time for the typical 15 day holding period to claim a horse. The county does not have a holding area for the 15 day hold. A group of horsemen that have volunteered to have a gelding clinic. She would like to see free-roaming colts and stallions gelded and released back into the area to help control the breeding of the herds.

Rusty Ford stated the horses would have to be classified as abandoned or running at large on private property to be gelded legally.

Senator Webb stated there could be legal issues reconciling ownership of the horses. The law should be reworked to allow the definition of abandoned horses to protect private property interests and not open the door for an agenda of sterilization. There are new stray and abandon laws that are in effect but not being followed.

Debby Spencer stated she is working with horseman in Breathitt County to identify the horses' owners and to notify them of gelding clinics available. Stallions are impregnating mares at a fast pace.

In response to a question from Dave Moss, Kentucky Coal Association, Debbie Spencer stated WMTH has counted, documented, and photographed 500 free-roaming horses in seven counties in eastern Kentucky. During the documentation process, she has been able to locate some of the horses' owners.

In response to a question from Senator Carpenter, Mr. Ford stated he has put microchips in horses to be able to identify the horses. The microchip is more difficult than an ear tag because a person be close to the horse for a hands-on scan. Another alternative is to freeze brand the horses for identification but that is a labor intensive option.

Senator Short commented that many thoroughbred horses are tattooed under their tongues for identification. After October trail rides are over, there will be at least another 100 horses dropped off to free-roam in eastern Kentucky.

In response to a question from Senator Carpenter, Ms. Spencer stated that her records show there are 23 herds of horses in the Plant Ridge area in Breathitt County. The horses were in good condition during her last visit.

Judge-Executive Ben Hale, Floyd County, stated Floyd County has problems relating to free-roaming horses. He believes tourism is one viable option to replace funds lost due to the diminishing proceeds from coal. Each fiscal court is having a problem making ends meet because tax dollars are not coming into the county. However, horses are coming into the roadways, destroying property, and looking for salt. The horses are breeding quickly, and the number of horses in the area is expected to grow rapidly. The horses roaming are not being cared for properly. Three stallions were recently shot in Johnson County; those horses had been free-roaming that area for at least 7 years.

Tonya Conn, Dumas Rescue, stated there are at least 1,000 horses on five strip mines that she frequently visits. There are at least five stallions on each site with mares that have foals at their sides. Dumas Rescue has taken horses out of roadways in the Big Sandy area. In 2014, a school bus hit horses in the roadway. Earlier that same day, Dumas Rescue had escorted the horses off the road with salt blocks and hay, but the horses returned to the roadway looking for salt. Starvation among horses on the strip mine sites is a problem in the winter. There are no funds to provide salt and hay for the horses in the winter months.

In response to a question from Senator Carpenter, Ms. Conn stated that she estimates there are at least 800 horses that people do not claim in Floyd County.

In response to questions from Representative Hale, Ms. Conn stated Floyd County has a higher concentration of free-roaming horses due to the vast amount of strip mine land. Some horses traverse into Pike County and Magoffin County. There have been several accidents due to horses being in the roadways but none with major injuries to the people involved. If a person has public liability insurance, the insurance company should pay for the claim.

Judge-Executive Hale added that, if the person has full collision coverage, the claim is covered. An accident involving hitting a free-roaming horse would be similar to a claim involving hitting a deer or elk in the roadway. If stallions are not gelded, herds will grow fast and the problems involving the free-roaming horses will quickly worsen.

Representative Short commented that a mare has a nine day heat after she gives birth to a foal. When bred, that mare will have another colt within a year. The mare could be pregnant as well as nursing the foal previously birthed. The free-roaming horse herds grow quickly in number.

Senator Smith commented that one of the biggest issues facing the task force is to define abandonment in regards to the free-roaming horses. The task force should discuss the timeframe when a horse goes from labeled as abandoned to free-roaming. The task force should review if the horses are roaming on the coal companies' lands.

Judge-Executive Hale said the task force should look at reasons why people are not taking care of their horses. The task force should review if people are turning out horses on private or public property. If a horse owner is not in control of the horse or otherwise know its location, and is not feeding, providing salt, or providing care for it, then the horse should be labeled as abandoned. The task force should take into consideration if the coal companies in the area still have a bond on the land that needs to be released.

Rusty Ford commented that a county official can post a picture of a free-roaming horse on the Department of Agriculture's website to have the horse identified by the owner. After 15 days, if no owner comes forward to claim the horse, the horse is considered abandoned.

In response to a question from Senator Smith, Senator Webb stated there are many factors that are involved when determining if a county is liable if someone is in a collision with a free-roaming horse while the county is hosting an event to promote free-roaming horse tourism. The county may or may not fall under sovereign immunity. Senator Webb recommended that county judge-executives engage the county attorneys when trying to formulate local protocol to handle free-roaming horse issues.

In response to a question from Judge-Executive Smith, Judge-Executive Hale stated there is a problem with the free-roaming horses in Floyd County.

Judge-Executive Smith commented that the task force should address the population explosion with gelding clinics. The task force should examine if it is up to the county to enforce the "taker-up" laws and declare all the horses abandoned if not claimed after 15 days. He also suggested that if action is taken, the task force should discuss who will bear the cost of care and housing for the horses. He also recommended the task force look into how to control the population of the horses first then address the issue of abandonment of the horses. He suggested reopening the horse slaughter market will help to elevate some of the issues. Kentucky Fish and Wildlife Department reintroduced elk to Kentucky several years ago. There are many elk that get in the roadways and cause accidents similar to the free-roaming horse.

Senator Carpenter commented that closing slaughter markets is a federal regulation and not a state regulation. The free-roaming horse issue is different than elk because the horses are or at one time were owned by someone. Elk and deer are native to the community; they are born in the wild and stay wild.

Judge-Executive Smith said that some of the free-roaming horses roaming have never been handled by a human.

Dave Moss stated the task force should bring someone to the meeting that is a reclamation expert to speak about the proponents of phases one, two and three of bond release for coal companies. There are unwanted animals on the strip mine property and coal companies cannot get bond release because the animals are at the sites. The coal companies spend millions of dollars to plant trees and vegetation only to have to replant the vegetation the next year due to the animals on the mine sites.

Nelson Reynolds, Knott County Animal Control Officer and Police Officer, testified that he has seen three accidents involving free-roaming horses in the roadways during winter. His experience is that people will use the horses for two weeks out of the year for trail rides and then return the horses to roam on the strip mine sites. He previously worked with the State Veterinarian Office in collecting 13 horses. The county had to keep the horses for 90 days but had to have assistance from the Equine Humane Society to feed and care for the horses. He stated there are many stud horses roaming loose in Knott County.

In response to questions from Senator Carpenter, Mr. Reynolds stated that he estimates there are less than 200 free-roaming horses in Knott County. He uses social media to search for the owner of horses that have been picked up. Since the downturn in the economy, he does not have anywhere to house the horses or a vehicle with a trailer to transport the horses. He recommends the task force search for a viable way to deal with older horses that people no longer want or cannot afford to care for permanently. Mr. Reynolds stated he could issue a ticket for horses roaming at large and abandonment if he saw someone releasing horses on a mine site. The fine for a horse roaming at large is $25, and on public land the fine is $50. Horse owners are responsible for all costs incurred by the veterinarian to geld a horse.

Duncan Caldwell, Harlan County Animal Control Officer, testified animal control officers need basic training on how to handle horses. Previous trainings given to animal control officers referenced how to investigate equine abuse only. Another challenge animal control officers face is how to round up feral horses. If horses are able to be picked up, vehicles with horse trailers and corral pens are needed. A goose-neck trailer that will haul twelve to fourteen horses costs approximately $10,000. The county does not have money to pay for the equipment. He questions how the county is supposed to pay for hay and veterinarian care for horses that are picked up. The Appalachian Horse Center could help to hold the horses until placement. Gelding programs are necessary to control the population of the free-roaming horses. With ten years of animal sheltering experience, he has seen that spay and neutering programs help reduce the numbers of unwanted litters every year.

Nelson Reynolds commented that funding is also an issue in Knott County. A new law states he must have a veterinarian check and clear a horse before he can post the horse's picture to the Department of Agriculture's website. He has trouble finding a veterinarian to come to his area. It is challenging to maintain funds to feed, house, and care for the horses while waiting for a veterinarian to check the animal.

Senator Webb commented the new law is to protect private property interests, the potential to deal with horse theft, or innocent wandering of horses. A county should be able to buy a microchip reader or scanner for approximately $250. An option is to the look at funding from a district standpoint, use a co-op concept so that equipment needed could be shared among a district.

James Holbrook, Breathitt County citizen, horse owner, testified that the kill markets should be reopened. He suggests if the state does not get rid of the horses, the issue of abandoned horses free-roaming will still exist. He stated the reclamation sites need to be examined. Some reclaimed mine sights only contain layers of coal and sand, not allowing vegetation to grow.

Katy Ross, Executive Director, Kentucky Horse Council (KHC), stated KHC is invested in the training of animal control officers across the state. KHC offers optional basic horse handling classes to animal control officers. The level one class covers haltering, feeding, grooming, and basic horse care. The level two class covers growling horses, rounding up horses, and getting them onto trailers. Trainings are typically offered at Morehead State University but KHC is willing to have trainings at another location in eastern Kentucky if an appropriate sight is available.

Ginny Grulke commented that the issues of safety for the free-roaming horses and the public varies geographically. Recommendations from the task force should not be across the board in the state. She suggested consideration of an equestrian land trust area, an area where landowners agree that horses are allowed to roam.

Senator Webb commented there have positive steps taken by task force members in regards to abandoned animals. She said the task force should review how best to educate horse owners about the value of gelding. Better advertising and easy access to the gelding clinics will help the success of the gelding clinics. The task force should hear solutions and ideas regarding free-roaming horses, from local veterinarians.

Adjournment

There being no further business, the meeting was adjourned at 12:37 p.m**.**

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

September 20, 2016

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, September 20, 2016, 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 Chris Harris, Co-Chair; Senators Chris Girdler, and Christian McDaniel; and Representatives Steven Rudy and Jim Wayne.

Guests: Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet; Mr. Janice Tomes, Deputy State Budget Director; Ms. Sandy Williams, Executive Director, Office of Financial Management; Ms. Sarah Aitken, Financial Analyst, Kentucky Infrastructure Authority; Dr. Gary Ransdell, President, Western Kentucky University; Mr. Bryan Russell, Chief Facilities Officer, Western Kentucky University; Ms. Deborah Wilkins, General Counsel, Western Kentucky University; Ms. Robin Taylor, Vice President for Public Affairs, Western Kentucky University; Mr. David Norman, Division Director, Kentucky Horse Park; Mr. Chuck Ammons, Facilities Director, Kentucky Horse Park; Mr. Jeremy Ratliff, Managing Director of Multifamily Programs, Kentucky Housing Corporation; Mr. Jim Statler, Chief Financial Officer, Kentucky Housing Corporation; Ms. Evelyn Smith, Claims Manager, State Risk and Insurance, Office of the Controller; Mr. Michael Hales, Chief Financial Officer, Northern Kentucky University; Mr. Michael Gross, Project Manager/Team Leader, LDG MultiFamily, LLC; Mr. Luis Diaz, Bond Counsel, Dinsmore and Shohl; Ms. Dana Fohl, Deputy General Counsel, Eastern Kentucky

University; Mr. Brad Compton, Executive Director of Accounting, Eastern Kentucky University; and Mr. Craig Turner, Chairman of the Board, Eastern Kentucky University.

LRC Staff: Josh Nacey, Committee Staff Administrator; Julia Wang, Analyst; and Jenny Wells, Committee Assistant.

Approval of Minutes

Representative Rudy moved to approve the minutes of the August 16, 2016 meeting. The motion was seconded by Senator McDaniel and approved by voice vote.

Correspondence Items

Mr. Nacey reported on two correspondence items. The first item was correspondence from the CPBO Committee to the Finance and Administration Cabinet regarding the committee's disapproval of the funding revision proposal for the Chiller Replacement project for the Kentucky Center for the Arts at its August 16, 2016 meeting. The second item was correspondence from the Finance and Administration Cabinet to the committee regarding its decision to approve and proceed with that project.

Information Items

Mr. Nacey reported on one informational item regarding the Kentucky Housing Corporation (KHC) Settlement with the Securities and Exchange Commission (SEC). On August 24, the SEC announced that it had settled enforcement actions against 71 municipal bond issuers across the county for violations of disclosure obligations. Of those 71 issues, two were in Kentucky; the Frankfort Plant Board and, more relevant to this committee, the Kentucky Housing Corporation (KHC). This was part of the nationwide effort known as the Municipalities Continuing Disclosure Corporation (MCDC) Initiative which is aimed at encouraging issuers and underwriters to self-report incidents in which they have made inaccurate statements in bond offerings about compliance with previous continuing disclosure agreements (CDAs). Under the MCDC initiative, the SEC will recommend standardized favorable settlement terms to those issuers who self-report such violations. In the action against KHC, the SEC said that, in the official statement for certain securities, KHC made material false and/or misleading statements about its prior compliance with previous CDAs. Those false and/or misleading statements involved six negotiated offerings between 2011 and 2013. In the agreement with the SEC, KHC neither admitted nor denied the findings therein. KHC was not subjected to a monetary penalty, but did agree to undertake certain remedial measures and to cease and desist from committing or causing any additional violations. KHC has adopted written disclosure procedures and has filed their 2014 audited financial statements and operating data.

In response to questions from Senator McDaniel, Mr. Jim Statler, Chief Financial Officer, Kentucky Housing Corporation (KHC) said that since KHC began issuing bonds, it agreed to supply continuing disclosure information to the secondary bond market which involves submitting KHC's auditor financial statements to a central repository, EMMA. This repository is similar to the SEC's EDGAR system. KHC posts on EMMA certain financial information that is in each one of KHC's Official Statements (OSs) when it issues bonds and within a certain amount of time. Mr. Statler said that this disclosure requirement was generally accomplished by subsequent bond issues and that information was in the next OS sent out. In 2009, KHC did not issue bonds; KHC issued bonds in 2010, but not on the same recurrent schedule. Mr. Statler said that KHC was issuing bonds every four to six months and met the required timelines by submitting that information in the next OS. As a result, KHC was not filing information on a timely basis because it did not have the bonds that it would normally report certain financial information. The issue with the SEC is that KHC not only failed to comply with its own continuing disclosure agreements but also in subsequent bond issues, primarily in 2011, 2012, and 2013. KHC reported that it had complied and that is the basis for the false statement language from the SEC. Further, Mr. Statler said that KHC became aware of this in late 2013 and corrected this information for the 2014 bond issue in June, 2014, which brought KHC into compliance. KHC has adopted and rigidly adhere to new procedures. No action was required.

Project Report from the Universities

Mr. Nacey reported on one purchase of medical equipment for the University of Kentucky (UK), in excess of $200,000. The equipment purchase is for a Radon Digital X-Ray which will be located at the Emergency Department at UK Good Samaritan Hospital. The new digital x-ray system will be utilized for all patient imaging as it provides sharper images and immediate results for the doctors, and more ergonomic positioning translating into less wait time for the patients. The cost is $288,879 and was paid in cash with restricted funds. No action was required.

Dr. Gary Ransdell, President, Western Kentucky University (WKU), reported on one project which is for the construction of the Medical Center Health Sports Medicine Complex. Dr. Ransdell was accompanied by WKU staff Mr. Bryan Russell, Chief Facilities Officer, WKU, Ms. Deborah Wilkins, General Counsel, WKU, and Ms. Robin Taylor, Vice President for Public Affairs, WKU.

Dr. Ransdell said that WKU was seeking authorization for a construction project to build by private sector: a healthcare provider in Bowling Green, on land on WKU's campus that the University would lease to that healthcare provider in order to build a $22 million dollar facility at their expense. There is no bond variable in this equation and the only expense to the university would be the expense of operation and maintenance of that facility going forward.

In response to questions from Senator McDaniel, Dr. Ransdell said that the Medical Center is going to build the $22 million facility on property owned by the Commonwealth. Dr. Ransdell further stated that the lease will cost the Medical Center $1 per year.

In response to another question by Senator McDaniel, Dr. Ransdell stated that the Medical Center will make money by having a sports medicine and an orthopedic presence on WKU's campus. The Medical Center will be the official healthcare provider of WKU. Dr. Ransdell also stated that the Medical Center will have branding rights as well.

In response to several questions from Senator McDaniel, Dr. Ransdell stated that WKU would locate its physical therapy program in the Center. WKU is currently paying a lease of $500,000 a year to the Medical Center for the physical therapy program at its existing health science center on the Medical Center campus. When that program is relocated to this new building, the lease rate will remain the same. Dr. Ransdell further stated that WKU is not negotiating any leases until this committee and the Council on Postsecondary Education approve the new construction project. In sum, Dr. Ransdell stated that there are four leases involved in this project; (1) lease of the land for 99 years at $1 per year to the Medical Center, (2) the university's Doctor of Physical Therapy program will lease space from the Center, (3) WKU will lease campus health center space to the Medical Center, and (4) the sublease to UK for the new medical school in the new Health Science Complex on the Medical Center campus.

In response to an additional question from Senator McDaniel, Dr. Ransdell stated that although the Medical Center will have an orthopedic presence, no surgeries will be performed in this facility.

In response to comments made by Senator McDaniel, Dr. Ransdell said the negative input received by the committee came from a competing, for-profit physicians group. The competing group, Western Kentucky Orthopedic & Neurological Association (WKONA) and their associates, have been providing the orthopedic care for WKU's student athletes, without any bidding or any personal services contracts. Dr. Ransdell said that WKONA has been making about 1 million dollars a year in related surgeries with student athletes. Their concern is that the work that would be performed in this building would be done by the Medical Center of Bowling Green.

In response to Senator McDaniel's comments about procurement code compliance, Dr. Ransdell further stated that compliance with the procurement code would not be required in this particular circumstance. This started out as a gift discussion and WKONA was approached first. Due to the expense, WKONA suggested that WKU approach two other healthcare providers in Bowling Green. These providers also declined. Ultimately, once the Medical School partnership was announced, the Medical Center agreed. Dr. Ransdell stated that WKU has followed, to the letter, every statute that pertained to the private construction of the project on state land.

In response to a question from Senator Humphries, Dr. Ransdell stated that the WKU Board of Regents approved the project by a 6-4 vote with one abstention. A physician on the WKU board who works for the Graves Gilbert Clinic in Bowling Green, which is a competitor of the Medical Center, abstained from the vote. The other dissenting board members were uneasy with a close partnership with one healthcare provider.

In response to questions from Senator Girdler, Dr. Randell said there had not been any legal action taken against the project and that, at this time, only a written dispute has been made on behalf of a potential competitor in the community lawsuit.

In response to another question from Senator Girdler, Dr. Ransdell said that WKU has the option of getting out of the lease and terminating the partnership if the university chooses to do so. At that point, WKU would have the option of coming back to this committee to acquire the facility at fair market value. If the Medical Center wants out, it would gift the asset to WKU at no costs or no terms. The Medical Center could continue to operate their portion of the space on one floor of the building, which is about 6,000 sq. ft. One option for the Medical Center would be to put another medical-related enterprise in there and terminate the relationship with WKU, which would continue to use the facility. Another option would be that the Medical Center would gift the entire asset to WKU which is preferable. If there is a dispute that may arise in 25 years or 50 years, the university would weigh those options and choose whatever will be in the best interest of WKU.

In response to several questions from Representative Harris, Dr. Ransdell stated that a formal protest has been filed with the Finance and Administration Cabinet.

In response to additional questions from Representative Harris, Ms. Deborah Wilkins, General Counsel, WKU, stated that WKU did not follow procurement code because it did not apply to this situation. Ms. Wilkins said that WKNOA has alleged that the Letter of Intent (LOI) violates Kentucky model procurement code because it contains commitments that constitute a contract for personal services. Ms. Wilkins stated that WKU is not contracting with the Medical Center for any personal services and is not paying the Medical Center for personal services; the procurement code is simply not applicable. Ms. Wilkins further said that the Medical Center would lease 2 acres from WKU on which to put a building and WKU is going to lease space in that building for the DPT program.

In response to another question from Representative Harris, Dr. Ransdell said that, as it pertains to sponsorships, WKU has never bid for those and it is not a personal services contract in that regard.

In response to Representative Harris's comment that this committee's function is to make sure that projects follow the mode procurement code and other laws, Dr. Ransdell said that the university had followed the law and that is why it sought the committee's authorization. Further, Dr. Ransdell said that the model procurement code is not a variable in the dynamics that are part of this agreement.

In response to additional questions from Representative Harris, Ms. Wilkins stated that the ground lease to the Medical Center was not bid and it was her position that the lease would not have to be bid. Ms. Wilkins further stated that the lease for WKU's DPT program would not be bid. Dr. Ransdell said that lease would not be bid because WKU was currently leasing space from the Medical Center for the DPT program in the building that the university currently occupies on the Medical Center campus. Dr. Ransdell said that the lease was not originally bid because the Health Science Complex on the Medical campus was a $20 million building that the Medical Center built and that WKU is leasing from them. That lease houses WKU's School of Nursing, the DPT program, and the Doctor of Nursing Practice program. WKU plans to vacate one floor of that building to sublease to UK in which they will place their medical school. Dr. Ransdell stated that a fourth lease involves a campus health clinic which WKU is going to lease to the Medical Center. Additionally, Dr. Ransdell said that this particular lease was bid originally and that WKU is discontinuing the services contract with the Grave Gilbert Clinic because WKU is going to lease the space. WKU will no longer contract for healthcare services, but will simply lease the building to the Medical Center, which will then provide for WKU's students.

In response to a question from Representative Wayne, Dr. Ransdell said that the project started out as a gift discussion and, accordingly, the bid process did not apply. Representative Wayne said that is not exactly what this is; the university received money to do a project but the project is a legal entity. There are some legal guidelines that must be followed and those guidelines were not followed. Representative Wayne further said that, in an email, Dr. Ransdell reminded members and other WKU staff who are working on the project, that absolute confidentiality is critical and to not engage any party in any discussion until the Medical Center Board acts and the WKU Board of Regents makes a decision; neither board can be placed in a position of public discussion until each has conducted its business. Representative Wayne said that this is a public university and all of its issues are transparent except when it goes behind closed doors for personnel issues. Additionally, Representative Wayne said he finds this appalling and does not understand the full context for this. Dr. Ransdell said that confidentiality was required because the university was dealing with a private board and that the private board had the right to discuss this project and determine whether it wanted to proceed. Representative Wayne said that the private board could discuss amongst themselves privately because it is not under state open records and meeting laws, but universities are. Dr. Ransdell said that as soon as the Medical Center Board acted, the university's board discussed this in open session.

In response to a question from Representative Wayne, Dr. Ransdell said that the decision not to seek written bids could have resulted in efforts to lobby the Medical Center Board and the Medical Center did not want to be lobbied. Representative Wayne said that WKU would not have had to lobby them and that the procurement code is written with a great deal of wisdom and is intended to protect the university as well as the public.

Representative Wayne suggested that this project be rejected and have WKU start over and proceed through the bid process and do it right. Representative Wayne said that he feels it is too controversial and it has not been transparent. Dr. Randell said the university disagrees that it is controversial. Representative Wayne said that a protest as strong as this one makes it controversial.

Senator McDaniel said that he must take exception to the idea that WKU is not entering into a personal services contract. Senator McDaniel said that, according to the LOI, the Medical Center will be given the exclusive right to operate a WKU on-campus healthcare clinic in a reasonable customary manner similar to current operation. Further, the operation of the clinic will transition to Medical Center no later than January 1, 2017. The LOI also states that WKU agrees it will not enter into a relationship with another medical services provider for the provisions of health services to its employees, students, or faculty without first offering the opportunity to provide said services to the Medical Center. Further, Senator McDaniel said the LOI also says WKU agrees that Medical Center orthopedics will serve as exclusive team physicians for WKU sports programs. Lastly, Senator McDaniel said that the LOI states that an employee cost structure will be maintained so that employees pay reduced co-payments, reduced co-insurance, or other incentives when using the referenced providers. Senator McDaniel said that is more of a statement of concern because it becomes a cost item for WKU.

In response to Senator McDaniel's questions about personal service contracts, Ms. Wilkins said that the Medical Center is going to lease space from WKU to operate a clinic. The Medical Center will not be managing WKU's healthcare services; the university disbanded healthcare services years ago. Ms. Wilkins said that she did not this is a personal services contract, but is instead a lease. Ms. Wilkins said that if the Finance Cabinet comes back and says that WKU needs to do a personal services contract, the University will comply.

In response to an additional questions from Senator McDaniel, Ms. Wilkins said that WKU will not subsidize co-pays and deductibles and that the current structure will be maintained so that employees pay reduced co-pays. Dr. Ransdell said that WKU pays 70 percent of all its employees' healthcare premiums and all employees pay the remaining 30 percent of premiums. Additionally, Dr. Ransdell said that WKU is self-insured with a health insurance program so all employees are treated the same. It is entirely up to the employee as to where the employee receives healthcare services.

Senator McDaniel made a motion that this project be tabled until the next month's meeting at which time it would be taken up for a vote, seconded by Representative Harris.

Senator Humphries said that a lot of information had been exchanged at the meeting today and it is not the intent of this committee to undo what WKU has already done with the work that is on-going and to have a great facility at the campus.

Senator Girdler asked to explain his aye vote to table the project until the next month's committee meeting. Senator Girdler thanked the people who came today from WKU and said he appreciated the passion of the members of the committee but did wish to remind everyone that is an oversight committee and members are here to scrutinize and to look over each and every item that comes in front of this committee. Further, Senator Girdler said that he did not want WKU to think this is anything directed at it specifically, but the project raised a lot of concerns and red flags.

The motion to table the construction of the WKU project until the October meeting passed by a roll call vote of 6 yeas, 0 nays.

Mr. Michael Hales, Chief Financial Officer, Northern Kentucky University (NKU), reported on one project which is for the purchase of Gateway Community College's Highland Heights Facility.

Mr. Hales gave background and an overview of the Gateway acquisition that occurred in July 2016. Mr. Hales said the land that the Gateway construction was part of used to be owned by NKU and was located at the northern portion of the university's campus. In 1975, the land was deeded to the Kentucky Department of Education at no consideration in order to allow the construction of the Northern Campbell Vocational Tech School. Mr. Hales said that in the spring 2008, Kentucky Community & Technical College System (KCTCS) approached NKU about acquiring the Gateway property. The University had interest in the property due to the need for space at that time and three appraisals were done. In the fall 2008, NKU came to an agreement for a lease with an option-to-purchase at a price of $3.4 million dollars. NKU presented it to the university's board and received approval. On November 15, 2008, under the 2008-2010 budget, NKU entered into the lease. At the time it was for one year, through July 1, 2009, at a prorated amount of $77,000 with automatic renewal for up to 10 years with annual payments of $123,000 per year. All lease payments accrued to the purchase price. NKU, at the time, occupied 14,000 sq. ft. of the total 46,000 sq. ft. In the fall of 2015, NKU discussed completing the purchase option with Gateway. The university tentatively agreed to a $2 million dollar purchase price. Further, Mr. Hales said that in July 2016, under the Authority for Acquisition, the Acquired Land Masterplan 2010-2012 Additional reauthorization, as approved by the 2016 GA, NKU entered into an agreement to purchase the Gateway property. Mr. Hale said that the actual purchase price was $1,938,000 which included the total payments and lease payments that had been made. The total purchase price was $2,877,000. NKU paid cash which was authorized for up to $4 million dollars. Lastly, Mr. Hales said that the university notified the committee of the acquisition in August 2016.

In response to questions from Representative Wayne, Mr. Hales said that the reason this purchase was made before bringing it in front of the committee was due to a misunderstanding in the spring of 2008 when the actual lease agreement was signed. The understanding at the time, under the definition of a capital lease, was anything over $200,000 a year. NKU's understanding was that because it was under that amount, the university was not required to report the project. Mr. Hales said that NKU thought that definition still applied and that notification was not received until after the acquisition was made, which is what NKU did in August.

Senator McDaniel said that, since this project has been brought up in the last two budget sessions and is part of the budget bill, no other discussions or retroactive vote is necessary by the committee for the Gateway project. No action was required.

Lease Reports from Finance and Administration Cabinet

Mr. Scott Aubrey, Director, Finance and Administration Cabinet, reported on four items. The first item is a lease modification, over $50,000 for the Unified Prosecutorial System, in Jefferson County. This modification includes an expansion of space by an additional 5,270 sq. ft. at a cost of $16.55 cents per sq. ft., an annual cost of $401,056, and the lease will expire June 30, 2018. The additional space will accommodate 15 agency employees funded by a grant initiative. This lease has been modified in the addendum to allow cancellation of the lease without terminating the entire lease. Representative Rudy moved to approve the lease modification, seconded by Representative Wayne. The motion passed by a roll call vote of 6 yeas, 0 nays.

The second item is a lease modification reduction, over $50,000, for the Energy & Environment Cabinet (EEC), in Franklin County. This lease is for a reduction in square footage by 141,900 sq. ft., keeping 3,401 sq. ft. under lease, and at an annual cost of $30,881. This lease will expire December 31, 2016.

In response to questions from Representatives Harris and Wayne, Mr. Aubrey said that the EEC vacated the 200 Fair Oaks to the 300 Building effective August 31, 2016, and is expected to relocate remaining staff at 150 Fair Oaks to the Central Laboratory Building by December 31, 2016. The lease agreement with Buffalo Trace Distillery for 150 and 200 Fair Oaks was amended to reflect this change and will expire at the end of the year.

Senator McDaniel moved to approve the lease modification, seconded by Representative Rudy. The motion passed by a roll call vote of 6 yeas, 0 nays.

The third item is a new lease, exceeding $100,000, for the Department of Education, in Franklin County. The agency is one of many located in the Capital Plaza Tower that will be relocating to a lease property which has been vacated by the Energy and Environment Cabinet. This lease is for 20,525 sq. ft., at a cost of $9.60 per sq. ft., and a total annual cost of $197,040. This lease is set to expire June 30, 2024. Senator McDaniel moved to approve the new lease, seconded by Representative Wayne. The motion passed by a roll call vote of 6 yeas, 0 nays.

The fourth item is a new lease, exceeding $100,000, for the Tourism, Arts, & Heritage Cabinet, Department of Parks, in Franklin County. The agency is located in the Capital Plaza Tower and will be relocating to a lease property which has been vacated by the Energy and Environment Cabinet. This lease is for 28,868 sq. ft., at a cost of $9.60 sq. ft., and a total annual cost of $277,133. This lease is set to expire June 30, 2024. Representative Harris moved to approve the new lease, seconded by Senator McDaniel. The motion passed by a roll call vote of 6 yeas, 0 nays.

Project Report from the Finance and Administration Cabinet

Ms. Janice Tomes, Deputy State Budget Director, reported on four items from the Finance and Administration Cabinet. The first item is a new project for Military Affairs, the Construct Bay Addition Field Maintenance Shop 4, located at the Bluegrass Army Depot, Richmond. The project appropriation is $1,103,700, using 100 percent federal funds from the Department of Defense cooperative agreement Army Operations and Maintenance 2016. This project will renovate and upgrade the existing facility, provide demolition for new restrooms and select demolition for the new addition and construction, and provide minor work related to plumbing, mechanical, and electrical work which will be done in the existing building. Senator McDaniel made a moved to approve the new project, seconded by Representative Rudy. The motion passed by a roll call vote of 6 yeas, 1 pass, and 0 nays.

The second item is for an appropriation increase for the Department of Highways, Traffic Response and Incident Management Assisting the River City (TRIMARC) Building Extension project. This project was originally reported in January 2016 in the amount of $955,500 to expand the existing TRIMARC building in Louisville due to increased workload related to the Louisville-Southern Indiana Ohio River Bridges project. The project will make improvements to the existing facility and add 1,634 sq. ft. of additional space. The addition will include electrical work, raised flooring, and specialized site work. The agency encountered unexpected costs increase of $25,100 due to additional architectural and structural engineering design work for unsuitable soil conditions and unforeseen underground obstacles. This project will be funded with two-thirds federal funds in the amount of $653,700, one-third Road Funds in the amount of $326,900, with a total appropriation of $980,600.

Senator McDaniel said that he had recently read a disturbing article in the Louisville Courier Journal regarding the placement of a tunnel, the purchase of historic property, and a multi-party arrangement which may have caused unnecessary boring and added approximately $35 million dollars to the overall scope of the project. Senators McDaniel and Humphries said they would like to hear more on this particular project and requested Ms. Tomes relay the message to the Transportation Cabinet and to work with staff to bring this to the attention of the committee.

Representative Wayne moved to approve the project, seconded by Senator McDaniel. The motion passed by a roll call vote of 6 yeas, 0 nays.

The third item is an Emergency, Repair, Maintenance or Replacement project for the Kentucky Horse Park, Alltech Boiler Replacement, in the amount of $711,400. This project will replace 10 boilers at the Alltech Arena and will be funded with insurance proceeds through the Fire and Tornado Fund.

In response to a question from Senator Humphries, Mr. Chuck Ammons, Facilities Director, Kentucky Horse Park (KHP), said that the 10 boilers are set up in a series that run through cycles and are identical. These boilers have been discontinued by Lochinvar. Mr. Ammons said that the Horse Park brought in a mechanical engineering firm, Staggs and Fisher Consulting Engineers, who noted that this particular boiler was problematic and prone to temperature surges and malfunctions that, over time, cause heat exchangers to fail. KHP had twelve, 2 of which are set up with domestic hot water, and 10 are set up for heating. A heat exchanger failed on one of the domestic hot water boilers and it was replaced. At that same time, KHP examined the other boilers. Two heat exchangers had already started to leak and, ultimately, all 10 are now leaking. Additionally, Mr. Ammons said that KHP will be using a different type of boiler as the previous ones were discontinued by Lochinvar in January 2012. They have gone through the bid process and the bid was awarded to Lagco, Inc., Lexington, KY.

In response to several more questions from Senator Humphries, Ms. Evelyn Smith, Claims Manager, State Risk and Insurance, Office of the Controller, said that her office implemented the boiler coverage within the Fire and Tornado Fund policy to be a part of the Alltech Arena building. Ms. Smith said that this amendment was added to the original policy, effective October 2015 and this (boiler claim) happened in December 2015.

In response to questions from Representative Wayne, Mr. Ammons said the boilers were installed in the 2008-2009 timeframe right before the World Equestrian Games (WEG) event. The maintenance agreements were with Water Chemical Controls, the former property managers. Mr. Ammons said that Staggs & Fisher Consulting Engineers, reported in their field report there was no neglect to be seen. The consulting firm reported that the problem was with the boilers themselves and noted similar problems with this particular type. Mr. Ammons said that the boilers are presently maintained on-site by employees of the Horse Park. Finally, Mr. Ammons said that the boilers should have lasted for many more years but had failed to do so.

Senator McDaniel commented that these boilers should have lasted at least 10 years. Ms. Smith said that she had the same question in the beginning. Out of 10, at least 6 boilers were replaceable. The others were repairable but, in the end, with the company going out of business, there was no place to get parts for those.

In response to several more questions from Senator McDaniel, Mr. Ammons said that the company discontinued this particular make and model of boilers. The Horse Park had already replaced multiple controls and three boilers had already had non-repairable heat exchangers with service parts. Mr. Ammons further said repairs of this nature should not have been necessary on boilers that were not very old. Ms. Smith made the comment that is probably why the manufacturer went out of business. No action was required.

The final item to report is a Pool Project in excess of $600,000, for the Department of Fish and Wildlife Resources for the Fees-in-Lieu of Stream Mitigation Pool (FILO), Myers Station in the amount of $2,900,000 and FILO, Big Farm in the amount of $4,290,000. The Myers Station project in Nicholas County will improve the stream habitat in the Clay Wildlife Management area by stabilizing 76,000 linear stream and tributaries to the Licking River that are currently experiencing erosion and instability. The Big Farm project in Bath County will restore several thousand feet of stream located in the Clay Wildlife Management Area-Indian Creek Tract on the Licking River and its tributaries. The project will involve constructing new stream channels, grade control structures, and reshaping the stream banks. It will also involve reforesting areas of one mile of the Licking River. The FILO program is administered by the Department of Fish and Wildlife. It is governed by an agreement with the US Army Corps of Engineers. The amount reported is the maximum amount the FILO credit rate will allow. No action is required.

Report from the Office of Financial Management

Ms. Sarah Aitken, Financial Analyst, Kentucky Infrastructure Authority (KIA), reported on five items. The first item was for a Fund A loan increase for the City of Morganfield in Union County. The request was for $425,000 for the Morganfield Combined Sewer Separation project, Phase II. The loan will have a 20 year term, an interest rate of 1.75 percent and an annual estimated debt service payment of $188,558.

The second item was for a Fund A loan for the Lexington-Fayette Urban County Government in Fayette County. The request was for $2,355,600 for the Lower Griffin Gate Trunk project. The loan will have a 20 year term, an interest rate of 1.75 percent and an annual estimated debt service payment of $144,812.

The third item was for a Fund A loan for the Lexington-Fayette Urban County Government in Fayette County. The request was for $16,888,634 for the Expansion Area Three Sanitary Sewer Infrastructure project. The loan will have a 20 year term, an interest rate of 1.75 percent and an estimated annual payment of $1,038,239.

The fourth item was for a Fund B loan to the City of Calvert City in Marshall County. The request was for $540,113 for the Calvert Heights Water Main Replacement project, Phase III. The loan will have a 20 year term, an interest rate of 2.75 percent and an annual payment of $36,370.

The final item was for a Fund C loan to the City of Mt. Washington in Bullitt County. The request was for $3,437,500 for the New Water Tower at Armstrong Lane project. The loan will have a 20 year term, an interest rate of 3.00 percent and an estimated annual payment of $236,686.

Representative Harris moved for all items to be considered as one vote, seconded by McDaniel. The motion was approved by voice vote.

Senator McDaniel moved to approve the items, seconded by Representative Wayne. The motion passed by a roll call vote of 6 yeas, 0 nays.

Report from the Office of Financial Management

Ms. Sandy Williams, Deputy Director, Office of Financial Management (OFM) reported on four items. The first item was the Kentucky Housing Corporation Tax-Exempt Multifamily Housing Revenue Bonds, Series 2016. Proceeds from this bond issue will finance the acquisition, rehabilitation, and equipping of the Bristol Bluffs Apartments project, a 216 unit property in Louisville. As a conduit issuer, the Commonwealth is not responsible for its repayment, which is explicitly stated in the offering documents. This bond issue will have a term of 16 years, an interest rate of 4.33 percent and par amount of $22,540,000. The final maturity date will be July 2032.

In response to questions from Representative Wayne, Mr. Jeremy Ratliff, Managing Director of Multifamily Programs, KHC, said that the concerns regarding Overlook LLC, a certified Female Business Enterprise (FBE), arose out of a development called Frontgate in Louisville. The developer was LDG MultiFamily, LLC, who is also the developer on this particular project. Frontgate was to be funded with 9 percent tax credits, not involved in bond issuance, and was a conduit bond transaction. LDG had applied for status as a female or minority owned business from the city of Louisville and the city of Louisville granted the certification. LDG utilized its certification in the application for the tax credits and KHC awarded the tax credits points to LDG. Further, Mr. Ratliff stated that LDG and the Frontgate project encountered some opposition in Louisville and KHC subsequently investigated LDG's FBE status. Mr. Ratliff said that it was determined that LDG should not have been awarded the status of an FBE. As a result, KHC and LDG came under some scrutiny. Additionally, Mr. Ratliff, stated that KHC took this matter into account in later funding rounds and explained that it is KHC's policy to deduct points for applications from any party that has had some past compliance problem with KHC. Under this policy, LDG received a point deduction for a three year period which has been applied and is set to expire in October 2016. Lastly, Mr. Ratliff said that there was no determination that any fraud was involved. In the application that LDG submitted to Louisville for FBE status, the city of Louisville granted that status erroneously based on the application. LDG used a certification that was improperly granted to them. As a result of having used a status that was not appropriate, LDG received a point deduction for a three year period.

In response to further questions from Representative Wayne, Mr. Michael Gross, Project Manager/Team Leader, LDG MultiFamily, LLC, said that Frontgate Development received a 9 percent credit in a tax-exempt bond issue which came to this committee twice. LDG had committed five deals prior to Frontgate with KHC using the FBE certification. Mr. Gross stated that LDG did not lose its certification but chose not to renew it with Louisville Metro Government. Mr. Gross said that this particular project is for 216 units and is located at 6203 Gellhaus Lane, Louisville. LDG received a 4 million dollar allocation from the City of Louisville through the Louisville Cares funding source which has a bond issue for 12 million dollars to promote affordable housing throughout the community. Twenty percent of the development will be set aside for working families at 80 percent of the Area Medium Income (AMI); the remainder of the development will be set aside for families whose incomes are 60 percent AMI.

In response to another question from Representative Wayne, Mr. Ratliff and Mr. Gross both said that all the legislators in the district had been given written and telephone notifications of the project. Mr. Ratliff said that KHC possesses signed receipt acknowledgements from the legislators.

In response to several questions from Senator McDaniel, Mr. Gross said that LDG certification was coming up for renewal with the Human Relations Commission at the time it was going through the issues with Frontgate. LDG decided not to renew it or use the FBE on any future projects after Frontgate became such an issue. Further, Mr. Gross said that LDG was not found to be non-compliant in this instance because it did not renew the certification. Additionally, Mr. Gross said that KHC determined, since LDG was no longer a FBE, it no longer qualified for those points and took the points away which cause its tax credits get recaptured.

In response to several more question from Senator McDaniel, Mr. Gross said that when LDG applied and stated it was an FBE, there was no issue whatsoever. LDG had a female minority who owned 51 percent and who actively managed LDG. Mr. Gross said there was never a finding of LDG being a "shell" company and was in full compliance at the time. Mr. Luis Diaz, Dinsmore and Shohl, Bond Counsel for KHC, said that at the time, the development was a partnership between a husband and a wife and there was an allegation of impropriety but it was never evaluated. Mr. Diaz stated that it was his understanding that the city of Louisville felt it best to allow the Finance Cabinet to take care of the issue which is why the developer stopped seeking the designation from the city of Louisville.

Representative Wayne commented that he felt it should be mentioned as to how low income people gets their support for housing with lower rent as opposed to people who have a private mortgage on their residence and receive a tax break on the interest paid. There are a lot of ways that the government supports housing to create jobs and to have decent homes for the population. Lastly, Representative Wayne said that LDG is making a major contribution to affordable housing and thanked LDG for appearing today.

Senator McDaniel moved to approve the project, seconded by Representative Rudy. The motion passed by a roll call vote of 6 yeas, 0 nays.

The second item was the Western Kentucky University General Receipts Bonds, 2016 Series B and General Receipts Bonds, 2016 Series C. Proceeds from the 2016 Series B bonds will finance the "Construct Parking Structure III" as authorized in the 2016-2018 budget. Proceeds from Series C will be used to partially advance refund Western Kentucky University General Receipts Bonds, 2009 Series A at a net present value savings of 10.306 percent. Senator McDaniel moved to approve the bond issue, seconded by Representative Rudy. The motion passed by a roll call vote of 6 yeas, 0 nays.

The third item was the Northern Kentucky University General Receipts Refunding Bonds, 2016 Series B, dated August 25, 2016 which resulted in a net present value savings of $15,225,000, and a true interest cost of 10.2569 percent. No action was required.

The final item was the Annual Report of Bonds outstanding 2016. No action was required.

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

Ms. Sandy Williams reported on seventeen (17) school bond issues with SFCC debt service participation. Fifteen issues will refund previous bond issues, one issue will be for district wide energy improvements, and the remaining issue will construct a new high school. There were no local tax increases associated with 16 (sixteen) of these projects. Morgan County enacted a recallable nickel tax increase which was passed by the Morgan County Schools Board of Education in 2015 to finance the proposed bond and other projects. Representative Rudy moved to approve the school bond issues, seconded by Senator McDaniel. The motion passed by a roll call vote of 6 yeas, 0 nays.

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

Mr. Nacey said that one local school bond issue was reported to the committee. The bonds issued by the Lee County District will be used to refund the Series 2008 bonds. No tax increases were involved. No action was required on this item.

Debt Issuance Calendar

Mr. Nacey said that the updated debt issuance calendar was included in the members' folders.

Discussion Item

Senator Humphries said the last item on the agenda would be a discussion on the Eastern Kentucky University (EKU) Grand Campus Housing property lease.

Senator Humphries said this project has been placed on today's agenda for the members to better understand how this project evolved. Additionally, Senator Humphries said that today's discussion would help clarify whether, and to what extent, this committee has an oversight role in projects when bonds are issued by out-of-state authorities for the benefit of a state agency when an authorized lease undergoes restructuring.

Ms. Dana Fohl, Deputy General Counsel, Eastern Kentucky University (EKU) said that the Grand Campus Apartment Complex is adjacent to the university. The university originally acquired the complex through a lease to bring it into EKU's residential housing portfolio. Ms. Fohl stated that the lease was approved by the Legislature in the 2014 budget and, through the university's Public/Private Partnership Request for Proposal (RFP) process, one of the bidders offered to refinance that lease. Ms. Fohl said that the term of the lease was extended from 20 years to 31 years and the payments did not change. Ultimately, the university became the land holder of the property which the Grand Campus Apartments were situated upon. Additionally, Ms. Fohl stated that EKU worked with the Finance Cabinet over several months as the university worked to restructure the deal and the Finance Cabinet had originally approved the lease. Ms. Fohl stated that the university has a letter from the Finance Cabinet, who had also worked with the State Budget Office. Ms. Fohl said that, with approvals in place for the university to proceed with the project and with the understanding that no additional approvals were required from the legislature or this body, EKU moved forward. The lease project was closed on March 17, 2016. Lastly, Ms. Fohl stated that the bonds were sold by one Phoenix Industrial Development Authority.

In response to a question from Senator McDaniel, Mr. Brad Compton, Executive Director of Accounting, EKU, said the bonds issued by Phoenix IDA were issued tax-free. The issuance of these bonds were how the private developer brought the capital to the project to purchase the Grand Campus Apartments from the original land owners and then to offer that deal to the university to restructure the lease. Ms. Fohl said that EKU was not involved in the issue of those bonds.

In response to questions from Representative Harris, Ms. Fohl said that EKU extended the term of the lease with the same lease payments and became record land owner as of March 17, 2016. Ms. Fohl said this deal also helped resolve a local property tax issue which had been ongoing between the university and local entities that receive property tax dollars regarding who was to pay the property taxes on that particular piece of land. Mr. Compton said that Grand Campus Properties was refinanced as part of the university's on- campus P-3 Dormitory project and the new lease is with Municipal Acquisitions, a third party. Mr. Compton said that Municipal Acquisitions, as part of its proposal and response to the RFP for the P-3, stated that it would sell Grand Campus Apartments to the university. However, the university does not yet retain the property as owners on the original lease. Mr. Compton said the bonds issued by Phoenix IDA were issued by Municipal Acquisitions to purchase Grand Campus from the original developer and the bond issue by Phoenix IDA is still the responsibility of the private developer.

In response to two questions from Representative Rudy, Ms. Fohl said by the recorded deed, Municipal Acquisitions paid $46,125,100 for the property. Mr. Compton said that, at the end of the 31 year lease, that number will be approximately $115,000,000. Mr. Compton said that the university does not have the lease yet and it is now a lease purchase; before it was simply a 20 year lease.

In response to questions from Senator Humphries, Ms. Fohl said that in conversations between the university and the developer, there were attempts made to try and use some type of Kentucky entity to issue the bonds. Ms. Fohl said that the third party entity went with Phoenix IDA due to the financial complexity of the deal and this third party had completed deals in other states and had prior dealings with Phoenix IDA. Ms. Fohl further stated that, given the timeline the university had requested and the fact that the two groups had worked so well together previously, this also played a key role in the decision to work with Phoenix IDA.

Mr. Craig Turner, Chairman of the Board, EKU, said that Municipal Acquisitions has done a structure that is unique. In order to extend EKU's lease from 20 years to 31 years, the incentive for EKU was that the university would own the property at the end of the 31 years. Mr. Turner said the discussions eventually turned into a deal to give the university title to the property now which is an asset to the university and also to the Commonwealth of Kentucky. Mr. Turner said that, in turn, EKU did an internal lease for 31 years with the same conditions prior to the deal. Further, Mr. Turner stated that it costs the university no more money on an annual basis.

In response to a question from Representative Harris, Mr. Turner said that the university did not bring the project before the committee since the lease was already on the books as a capital lease. Mr. Turner said that the university resubmitted it to the Finance Cabinet as a change to the term of the lease and received its approval to move forward with the transaction.

Representative Harris said that, in order to understand the complexity of what is going on in state-supported universities, this lease and all leases should be brought to the attention of the committee.

In response to questions from Representative Wayne concerning where approval was given in the budget for this purchase and as to what legal authority the university stands on to proceed with this transaction, Mr. Compton said that his information states this as being in the budget as being approved for a lease.

Representative Wayne said that, according to KRS 45.763, this transaction has to be specifically authorized in the budget as a line item. Representative Wayne said that the committee's role in this transaction is to follow the laws which are written to protect the public as well as the universities. Further, Representative Wayne said that modern universities' financial transactions are very complicated and the more the guidelines are followed the better off everyone is. Ms. Fohl said that the university had looked at KRS 45.763 in its discussions between the university and the Finance Cabinet and it is the understanding of EKU that the line item in the 2014 budget for a lease was the same for the lease going forward. Representative Wayne said that this is a lease purchase and he is not being picky but trying to follow the law. Mr. Compton said this transaction was part of a P-3 Dormitory deal which was authorized in the 2014-2016 and authorized under KRS 45.763. Lastly, Mr. Compton said that the university was under the impression that was part of the authorization for this project, as well, and is using the current line item authorization for the RFP for the project. Representative Wayne said that this is a good project and would like to move on.

Senator Humphries said that there have been concerns and questions in the last several months with projects. Senator Humphries said that some of the discussions could have been eliminated by bringing these projects and items to the committee with full disclosure and discussions on such transactions. Senator Humphries said that the committee cannot ignore projects brought to its attention and asked that projects be brought to the table ahead of time. Lastly, Senator Humphries expressed his appreciation to the universities for appearing today.

Representative Harris moved to adjourn the meeting, seconded by Senator McDaniel. The motion was approved by voice vote, and the meeting was adjourned at 3:15 p.m.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE

September 20, 2016

Call to Order and Roll Call

The September meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, September 20, 2016, at 10:08 a.m., in Room 129 of the Capitol Annex. Representative James Kay, Chair, called the meeting to order, and the secretary called the roll.

Present were:

<u>Members:</u> Senator Mike Wilson, Co-Chair; Representative James Kay, Co-Chair; Senator Gerald A. Neal; and Representative Mary Lou Marzian.

<u>Legislative Guests:</u> Representative Derrick Graham.

<u>Guests:</u> Bob Rowland, Kentucky Association of School Administrators; Mike Sunseri, Executive Advisor, Kentucky Office of Homeland Security; Jarred Ball, Executive Advisor, Kentucky Office of Homeland Security.

<u>LRC Staff:</u> Joshua Collins, Yvette Perry, Avery Young, Janet Stevens, and Maurya Allen.

Approval of minutes of the August 16, 2016 meeting was tabled until the next meeting due to lack of quorum.

2015 District Data Profiles

Mr. Albert Alexander, Analyst, Office of Education Accountability (OEA) presented the 2015 District Data Profile. This publication was awarded a Notable Documents award in 2012. This is the ninth year the publication has been produced by OEA. The report provides easy access to commonly used educational data and allows comparison of school districts to each other and to the state as a whole. The Kentucky Department of Education (KDE) provided the data for the report from Infinite Campus (IC), the system used by all school systems to record student data and MUNIS, the repository for district staffing and financial data.

The report included a data dictionary, district profiles for all 173 districts, an overall state profile, and rankings on selected measures. Mr. Alexander highlighted key features such as the "Overview and Trends" section of each profile which shows the number of students in each district and the number of A1 schools in the district. The "Demographic Profile" section shows a demographic breakdown for each district in the 2015 year as well as the previous three years. This makes recent trends, such as the percentage of students on Free/Reduced Price Lunch (FRPL), more evident. Another section shows data on "Attainment and Discipline." Mr. Alexander noted that graduation rate data is not available for comparison in year 2012 because of changes to the approach for calculating graduation rates in that year. Because adult GED rates were not available in 2012 or 2013, comparative data was not provided for those years.

The "Staffing Data" section includes the number of classified personnel, certified personnel, full-term equivalent (FTE) teachers, pupil/teacher ratio, teacher pay, teacher experience and teacher rank. The data on FTE teachers only included classroom teachers. The "Salary Schedule" table reports data by rank and years of experience for each district and an average for the state profile. This is the first year that teacher contract days have been shown on the schedule. Contract teaching days are the number of base days a board of education has adopted to pay certified staff each year. The minimum number of contract days for any district is 185, and 86 districts were at that level. The maximum number of days for any district in 2015 was 188, represented by only one district.

Student Performance is also provided in the report, showing data for Advanced Placement (AP), EXPLORE, PLAN, ACT (11th Grade), kindergarten readiness, dual credit, and Next-Generation learners. This is the first year that data for dual credit, which allows students to earn high school and college credit for the same coursework simultaneously, was captured. A rich array of financial data is also illustrated in the report, starting with per-pupil expenditures and revenues as well as tax rates and SEEK distribution. Mr. Alexander pointed out that the state profile reports the number of districts with various types of taxes while each district profile shows rates and dollar amounts. The end-of-year fund balance and expenditures by function as a percentage of all fund expenditures were also available in the "Finance" section of the report. State current expenditures are listed in the finance section and show that 58 percent of expenditures were on instruction in 2015. Mr. Alexander showed a district profile with higher than average expenditure on instruction (64 percent) and noted that this same district also had a 1 percent fund balance in 2014, lower than the state-mandated 2 percent minimum. He said some districts were found to have negative fund balance percentages.

Mr. Alexander discussed potential uses for the data in the report include tracking trends in student population and characteristics, staffing, or finance. It is possible to follow the data back as far as 2007 using previous editions of the report available online. The report can also assist in the assessment of the impact of new initiatives and provide a context for other information. Senator Wilson said that he always looked forward to receiving the report. He said that it would be very useful while working on the revisions to the state's accountability system next year.

Chairman Kay echoed the sentiments voiced by Senator Wilson and said it was a gold mine of information that not many legislators were aware existed. Mr. Alexander said that the individual district data was sent to legislators so they were aware of their own districts, but the entire report and statewide profile were available online or upon request.

Kentucky Safe Schools Report

Mr. Logan Rupard, Analyst, OEA, and Mr. Bart Liguori, Division Director of Research, OEA, were present to discuss the Kentucky Safe Schools Report and provide recommendations to the committee. Mr. Rupard thanked staff of the Kentucky Center for School Safety (KCSS), KDE, and the district and school administrators who provided data and other information for the study. The data sources used for the study included Safe Schools Discipline Data; Teaching, Empowering, Leading, and Learning (TELL) Survey responses; the annual Indicators of School Crime and Safety report from the National Center for Education Statistics (NCES); interviews with KCSS and KDE staff; findings from the KCSS Safe School Assessments; MUNIS annual financial reports; and site visits to seven district offices and 11 schools.

Mr. Rupard discussed strengths of the Safe Schools Program. Most importantly, according to TELL survey data, almost all teachers perceived their work environments as safe. During OEA site visits, administrators reported that they valued KCSS information and services. Districts and schools appear to be compliant with most school safety requirements. Kentucky mirrors the nation with respect to teacher and student safety issues. The only notable exception being that fewer Kentucky students report using marijuana than the national average.

Some issues with the program were also noted by category, beginning with budgetary and financial issues. General Assembly allocations for the Safe Schools grant have fluctuated since inception in 1998. Historically, KCSS has retained 12 percent of allocations for operating expenses. A majority of districts are utilizing the opportunity to move revenue within Flexible Focus Funds. In the 2015 fiscal year, districts spent five times as much on school safety as they received from the Safe Schools grant with providing alternative programs as the largest expense for districts.

Data integrity and outcome issues included significant discrepancies between discipline data recorded in IC compared to the School-wide Information System (SWIS) and paper forms. Also, educator perception of safety is lower in schools with above-average percentages of minority students. This was combined with data showing male, special education, and black students are more likely to have a behavioral violation and are more likely to be suspended for committing a violation. There was also evidence showing variations in Codes of Acceptable Behavior and Discipline between schools within the same district. Additionally, in most instances, statutorily required consequences are not being enforced for weapons violations.

Structural issues with the program were also discussed. Mr. Rupard noted the overlapping roles of KCSS and KDE assigned within statute and KDE's relatively limited role in ensuring compliance with school safety assurances being self-reported and unverified by KDE. During site visits, administrators also voiced concerns with Senate Bill 200 from the 2014 Regular Session, known as the Juvenile Justice Reform Bill.

Mr. Rupard spoke more specifically about Kentucky educators' perceptions and student behavior events that were apparent in the data. More than 90 percent of educators work in an environment that they perceive as safe. However, in most schools, at least one educator reported not working in a safe environment. Educators in alternative schools were more likely to disagree that their school environment was safe. Educators' perception of school safety was lower in schools with above-average percentages of minority students. NCES survey data for students in grades 9-12 was used for state level analysis of school safety and displayed as a graph comparing Kentucky students with the national average in several areas. This illustrated that Kentucky is generally lower than the U.S. for most metrics, but the only metric with statistical significance was that pertaining to marijuana use.

For Safe School Reporting, KDE reports if the incident involves assault or violence; drugs, alcohol, or tobacco; weapons; bullying or harassment; or if an incident results in an in-school/out-of-school suspension, expulsion, corporal punishment, restraint, or seclusion. KDE further categorizes events into either board or law violations, both of which include incident types which must be reported including bullying and harassment; threatening and verbal abuse; or use of drugs, alcohol, or tobacco. Other incident types which may be reported only if they result in an in-school/out-of-school suspension, expulsion, corporal punishment, restraint or seclusion are fighting, disrespectful behavior, cheating, and skipping class. OEA is unable to determine the total number of fights occurring in the state because of this reporting policy.

During the 2014-15 school year, 290 schools had no board violations reported while 195 schools had more than 100 violations per 1,000 students. Of the schools with no violations there were 180 elementary schools and four middle schools. No high schools had zero board violations reported. The total number of board violations has increased by 56 percent since 2013, and the board violations for special education students doubled from 2013 to 2015. Bullying violations have decreased slightly, but reports of harassment have slightly increased. Of all reported board violations, 70 percent occurred within the classroom setting.

Some of the more notable observations from the board violation data include a significantly higher number of violations for male students compared to female students, FRPL students compared to paid students, special education students compared to non-special education students, and black students compared to students of other ethnicities. The violations for each grade level were also illustrated. There was a notable increase in the number of violations at the beginning of middle school, and another increase at the beginning of high school with the highest total number of board violations committed by ninth grade students.

Mr. Rupard discussed reports of law violations including robbery, possession of drugs, destruction of property, weapons, assault, and terroristic threatening. During the 2014-15 school year, 776 schools had no law violations reported in the Safe Schools report while 60 schools had more than 60 violations per 1,000 students enrolled, this resulted in an overall 2 percent increase from 2013. Male students are more than twice as likely to have a reported law violation as female students and FRPL students are also twice as likely to have a law violation as non-FRPL students. In 2013, law violations for special education and non-special education students were identical, but in 2014 law violations increased dramatically for special education students compared to their non-special education peers. Black students commit more than three times the number of reported law violations relative to enrollment. Black students make up 11 percent of student population, however, they account for more than 28 percent of reported law violations. As with board violations, ninth grade students are also responsible for the largest number of law violations.

The outcomes for weapons violations were illustrated in a graph for members. Most weapon violations resulted in suspension, but in-school removal and outcomes not tied to a state code (reported as blank) are increasing. Numbers of expulsions are decreasing and led to the first OEA recommendation. KRS 158.150 requires the expulsion from school of a student who is determined by the board to have brought a weapon to school, however, the data shows that students who bring a weapon to school are not likely to be expelled. Based on statute and data provided, KDE may wish to further explore how KRS 158.150 is implemented by schools and local boards of education.

Suspension rates for students committing an assault or violent incident were shown in a table comparing lunch status (FRPL/non-FRPL) and ethnicity. Black students, both FRPL and non-FRPL, are more likely to receive a suspension compared to their peers. Hispanic students as a whole are the least likely group to receive a suspension. Similar findings were made for other categories of law violations. This prompted another recommendation that KDE should consider visiting schools with very high or disproportionate rates of violations, suspensions, and expulsions to understand the factors contributing to these rates.

Mr. Bart Liguori reviewed the General Assembly appropriations for the Safe Schools grant, including how much of the grant goes to KCSS, a separate entity created by the General Assembly in 1998, and to local school districts. Over the last 17 years, the General Assembly has appropriated a total of $144.2 million to the Safe Schools Program. In the 1999 fiscal year, $5 million was appropriated and increased to $10 million in 2000. Allocations were highest in 2001 and 2002 with $12 million appropriated each year. Due to the economic recession, between 2009 and 2014, funds dropped to below the initial allocation. In 2016, appropriations came to $10.3 million. KRS 158.446 requires that 10 percent of funds shall be used for operation of KCSS and grants to be distributed by KCSS to support exemplary programs and local school districts. The remainder should be distributed on a per-pupil basis.

Since 2000, budget language has overridden statute and requires KCSS to develop and implement allotment policies for all monies received. KCSS has been retaining 8-12 percent of the total funds for operating expenses, of which $7,000 was spent on exemplary programs. In the 2015 fiscal year, KCSS's portion of the Safe Schools grant was $915,000 or 12 percent of the total appropriation. In 2016, the operating budget for KCSS was $1.1 million or 10.7 percent of the total appropriation. While the budget language overrides KRS 158.446, governing the use of appropriated funds, it does not override KRS 158.443 which discusses the duties of the KCSS board. Section 6 of the statute requires that the board make recommendations for grants to local school districts and schools to assist with the development of programs and individualized approaches to work with violent, destructive, or academically at-risk students, consistent with provisions of KRS 158.445. Because of the differing statute and budgetary language, OEA recommends that the General Assembly may wish to revise KRS 158.446 to address how Safe School grant funds are to be allocated to KCSS and local school districts. Additionally, it may be necessary to clarify whether KCSS should be required to fund exemplary programs.

Mr. Liguori said that KCSS partners with Murray State University and the Kentucky School Boards Association (KSBA) to provide some services. KSBA provides training, assistance, alternative education sites, and sponsors workshops and conferences. They also help with school safety assessments. Murray State University hosts the KCSS website, serves as the resource center for information regarding safe schools, and provides safe school curricula for state colleges and universities. He referenced a table illustrating the 2016 allocation for KCSS divided among KCSS, KSBA, and Murray State University for salaries and benefits, service dollars, EKU indirect cost, operating costs, and travel expenses. Of the $1.1 million retained by KCSS, approximately 71 percent was spent on operating expenses. KSBA received approximately 17 percent, and Murray State received the remainder, approximately 12 percent. The majority of the funds retained by KCSS was spent on salaries and benefits and service dollars. Service dollars includes per diem fees paid to contractors who conduct safe schools assessments, making them free of charge to districts. These assessors took a pay cut from $300 per day to $200 per day when funds were limited, but these payments were restored when KCSS received additional appropriations. Most of the increase in KCSS's operating budget in 2016 reflects this fee restoration.

KRS 158.443(5) mandates that KCSS be administered through a university, and since inception, KCSS has been housed at Eastern Kentucky University (EKU). EKU has charged an 8 percent indirect cost rate to KCSS to cover general management activities such as payroll, purchasing, building space, and utilities. EKU has raised the indirect cost rates to 15 percent for the 2017 fiscal year, and will raise the costs again in 2018 to 20 percent. Due to the increase, KCSS considered posting a request for proposal for services. However, the dean of the College of Justice and Safety at EKU, a strong advocate for keeping KCSS at EKU, expressed a willingness to pay the balance of the indirect costs out of his department's budget. OEA recommends that, because of the increase in the indirect cost rate and the uncertainty that the dean of the College of Justice and Safety can continue to cover increases above 8 percent, the General Assembly may want to consider changes to KRS 158.443 to eliminate the mandate that KCSS be administered through a university.

Mr. Liguori showed data regarding the district allocations of Safe School grant funds for the past six years. Districts receive a flat base amount each year, after which, the remaining funds are allocated on a per-pupil basis. In 2011, each district received a $9,000 base with a per-pupil amount of $3.60. In 2016, each district received a $20,000 base and a per-pupil amount of $9.52. The General Assembly authorized the use of Flexible Focus Funds, which allow districts the flexibility to move funds between five state grants to better address local needs, in the 2003 Biennial Budget and this language has continued to be included in subsequent budgets. The funding shifts are permitted among the Safe Schools, Preschool, Professional Development, Textbooks, and Extended School Services allocations. The only caveats are that no preschool funds can be shifted out of that program, program funds must still comply with the governing statutes, and funds must serve the needs of the intended student populations. In the 2011 fiscal year, 44 districts moved Flexible Focus Funds into the Safe Schools grant and 26 moved funds out, netting an increase over one million dollars. Between 2011 and 2014, the number of districts moving funds into the Safe Schools grant was larger than the number moving funds out of the Safe Schools grant. In 2015, the number of districts moving funds into the Safe Schools grant was reduced, but the dollar amount was larger, resulting in a positive net effect.

School safety expenditures include not only the Safe Schools grant but also funds from the General Fund, local and state grants, extended school services, professional development, and federal grants. School districts spent more than $34 million on school safety expenditures in the 2015 fiscal year. This was approximately $4.5 million more than the previous year, but less than the $35.5 million in 2012. Of the total spending in 2012, 10 percent came from the Safe Schools grant, but 18 percent came from the Safe Schools grant in 2015. Mr. Liguori lastly pointed out 2015 expenditures by expense object code. Approximately $29 million, or 84 percent, of funds spent on school safety were spent on salaries and benefits. Approximately $2.3 million (7 percent) was spent on professional and technical services, including the amounts paid to individuals or firms with specialized skills such as school resources officers, mental health specialists, and social workers. Other expenses classified in this section included professional development and drug testing. Mr. Liguori said the published report breaks down expenditures more specifically by program codes.

The final portion of the report covered school safety compliance and programs of distinction. Mr. Liguori said that KCSS provides a free safety tip-line to all schools, where students, parents, and community members can report information regarding school safety anonymously using a basic email format. KCSS provides free safe school assessments, which 166 districts took advantage of to date, resulting in 841 assessments. Additionally, KDE offers training in the Olweus Bullying Prevention Program (OBPP) and supports the use of Positive Behavioral Interventions and Supports (PBIS). Information about school safety services are available on the websites of both KCSS and KDE.

In regards to state compliance, KRS 158.148 requires KDE to collaborate with many parties, including members of the General Assembly's Interim Joint Committee on Education (IJCE) and KCSS, to develop and update as needed statewide student discipline guidelines that include a definition of "serious incident," improve the learning environment and school climate (including parental and community involvement in schools and student achievement), and identify successful strategies currently being used in Kentucky and other states. Although KDE has recently begun the process of updating the statewide student discipline guidelines, the current guidelines have not been updated since 2003. Current guidelines do not define a "serious incident" or bullying, include recommendations designed to improve the learning environment in schools, or identify successful strategies. Also some statutory roles seem to overlap between KCSS and KDE in regards to reporting and technical assistance. One example of this was the requirement of both organizations to issue annual school safety reports yet neither report meets all statutory requirements and the data from KDE is not in the required format. Furthermore, statutory language requires districts and schools to assess safety and discipline, and for that information to be included in the KDE system. However, KDE and KCSS interpreted that requirement as a one-time assessment in the 1998-99 school year. To remedy these issues, OEA staff recommends that the General Assembly consider revising KRS 158.442 through KRS 158.449, along with KRS 158.148, to avoid confusion and clarify the roles and responsibilities assigned to KDE, KCSS, districts, and schools.

Mr. Liguori discussed alternative programs of distinction, which KDE began highlighting in 2009. It was found that seven programs deserved that title in 2016. KCSS also recognizes five model resource officer programs. A brief description of these programs is included in the report. During the course of the study, OEA staff asked KCSS school safety assessors if they knew of exemplary practices that were noted during their assessments. One such practice was a high school with an on-site medical and mental health clinic providing services to students, staff, and parents on a daily basis.

To illustrate district and school data compliance, randomly selected discipline referral forms from 2015 were copied during site visits and compared to data sent to KDE for school safety reporting purposes. Schools that were using the SWIS system were also asked to print out detailed reports so that the data could be compared to that reported in the IC system. Of the 11 schools visited, eight had data discrepancies including dates of the offense, behavior offense, deleted records, and one case where a sibling was recorded as offender rather than the student committing the offense. From such a small sample, it is not possible to determine how big this problem may be, but it does raise concerns about the accuracy of the reporting systems. It was noted by site visit schools that SWIS provides more accurate reports than the IC system. To address this issue, OEA recommends that KDE write ad hoc reports in IC that mirror the SWIS system. This would avoid double-keying of data saving time, increasing accuracy, and saving money for districts who may choose not to continue using SWIS.

Not only does KRS 158.148 have requirements for KDE, but it also requires local boards of education to adopt district codes of acceptable behavior and discipline to apply to the students in each school operated by the board. These codes are to be updated no less than every two years. It was found during site visits, however, that one district had not updated their code of acceptable behavior since 2007 and that district codes are often very broadly defined, resulting in school councils adopting their own discipline guidelines that varied from school to school within a district. Also, school codes often did not align with district codes. OEA staff recommends that the General Assembly may wish to clarify whether schools may institute codes of acceptable behavior and discipline that differ from their district's code of acceptable behavior and discipline.

To ensure districts and schools are in compliance with Senate Bill 8 and House Bill 35 of the 2013 Regular Session regarding emergency management plans, KDE requires that the district superintendents approve various assurances during the comprehensive district improvement plan submission process. One such assurance asks if each school has developed and adhered to practices designed to ensure control of access to the school. Last year, all but one district indicated that their school met this requirement. However, during assessments, KCSS found that 66 percent of schools lack staff/visitor badges or used them inconsistently and 54 percent had security and building accessibility issues. During site visits, OEA also noted instances of schools not having evacuation routes posted in all rooms as well as evacuation routes only showing a primary route with no secondary route. As far as drill requirements, only one district had reported on its assurance that each school had not practiced earthquake drills, however 27 percent of KCSS school safety assessments reviewed did not provide the required emergency drills. Mr. Liguori said that no agency does school safety audits on a non-voluntary basis and no organization ensures that deficiencies on the voluntary audits are corrected. To address this, OEA recommends that KDE should consider adding safety compliance measures to the Statewide Consolidated Monitoring process.

Other observations of note were that five of the seven visited districts reported that one or more of their schools had received a bomb threat and an administrator expressed concern that a would-be shooter might make a bomb threat report in order to force evacuation of the building making everyone more vulnerable to a shooting attack. Administrators also had concerns with definition of bullying in Senate Bill 228 of the 2016 Regular Session that the phrases "perceived power imbalance" and "potential to be repeated" are broad and ambiguous. Schools are already struggling to educate students and parents on what bullying is and this definition was felt to make this even more difficult. Prescription drugs, illicit drugs, and synthetic marijuana were all noted as emerging issues of concern. Drugs are creating problems ranging from developmental issues to situations where students' home conditions are affected either through the loss or imprisonment of parents or other family members. An increase in student mental health and behavior problems as a result of drugs were found during the majority of site visits. Many districts reported being ill equipped to address these issues, particularly rural and isolated districts. Finally, some urban districts reported difficulty accommodating an influx of refugee students who have little or no educational history.

Mr. Liguori also wanted to address questions raised at the safe schools update provided at the October 2015 subcommittee meeting. Regarding blank resolution codes, it was found that many reportable behavior violations resulted in a discipline code that was not mandated by the state. For example, there were 7,300 board violations with blank resolution codes, but 1,500 were due to the student receiving a form of detention which is not a state recognized resolution code. There were 365 blank resolution codes where students were removed during the regular instructional day which should have received the KDE resolution code "in school removal" and the report provided shows a complete list of blank resolution codes.

In response to questions about the transfer of special education and discipline records, administrators responded that IC was not the source of difficulty. Most small districts indicated that they maintained a cordial relationship with neighboring districts and simply phoned for further information when an issue arose. Others expressed difficulty in receiving records from large districts, however, some mentioned small districts' lack of staff as an obstacle. While experiences varied, personnel issues posed the greatest difficulty rather than technical issues. KDE is currently working on documentation to outline the transfer of records process and this will include special education and discipline records.

A majority of schools indicated at least some concerns about the Juvenile Justice Bill (Senate Bill 200 of the 2014 Regular Session). It has increased the difficulty of handling student behavior issues. Interviewees stated that students had quickly become aware that it is unlikely they will face a judge or court ordered consequences for violations at school and this empowers them to have little respect for school officials. One district highlighted the difficulty of keeping truant students in school because the law has changed the date of court appearance for truancy to March or April, after most of the school year has been completed. Another concern was that students were not learning about consequences of rules violations. A specific example of this was a school with a student known to be dealing drugs where the strongest intervention the school could take was recommending to parents that the student be drug tested.

Cyberbullying was also a point of concern last year. Nearly every school visited had at least some issues with cyberbullying, the majority of which occurred when students were not in school. Administrators expressed concern about the large time commitment in investigating claims of cyberbullying and most agree that social media made it harder to investigate. During the 2014-15 school year, there were 73 harassing communication violations reported, of which only nine resulted in charges filed.

Chairman Kay asked to return to the section comparing Kentucky to nationwide averages and why it was that only the data regarding marijuana use was statistically significant, specifically why there was not greater confidence in the other metrics. Mr. Rupard answered that the data was drawn from samples of students from different surveys and there is a margin of error on those surveys which is greater than the difference between the Kentucky students and U.S. students.

Chairman Kay asked for further information about the assault or violence incident suspension rates and race data in Table 3.2 on page 42 of the report. Mr. Rupard responded that the table shows the assault and violence related incidents which can include assault, robbery, and similar incidents. When a student is entered into IC for a violation of that kind, the resolution must also be indicated. Looking at race as well as lunch status, OEA staff compared the students committing an assault or violence incident and their likelihood of suspension. The table shows those percentages. Chairman Kay responded that KDE should strongly consider the OEA recommendation to visit schools with very high or disproportionate rates of suspensions to understand this issue further, especially how it relates to race and economic status. He also encouraged legislators to visit these schools to understand what the legislature might be able to do to assist.

Chairman Kay commented that the concerns about substance abuse and mental health issues affecting the safety of schools was a valuable finding. The heroin and opioid epidemic sweeping the nation, particularly affecting Kentucky, Ohio, and West Virginia, is not only killing people on the streets and destroying families, but it is penetrating into schools and reducing the safety and productivity of the learning environment. He stated that no problem is as important or has higher priority than the drug issue based on the results of this study.

Senator Wilson asked if the safety data was available by district in the report, rather than as a statewide assessment. Mr. Rupard answered that the report only includes the state level analysis, but that OEA does have data available for each district individually, but aggregation of the data provides for a more complete picture of school safety. Senator Wilson said that he agreed with that decision, but perhaps having information on individual districts would highlight specific trouble spots in need of additional investigation or support. Senator Wilson also recognized Mr. Jon Akers, director of KCSS, present in the audience and asked him if he had seen the report. Mr. Akers said he had seen the draft report, but had only received this copy of the report in the meeting. He had not had an opportunity to address any of the recommendations yet. Senator Wilson said he would appreciate hearing Mr. Akers' response to the recommendations at a later meeting, specifically the recommendations concerning school building access and security.

Senator Wilson asked about the difference between school actions and other legal actions, specifically when a student arrest at school is not being recorded as an arrest within the reporting systems. Mr. David Wickersham, director, OEA, answered that there is some data on the number of arrests from the Juvenile Justice Oversight Council meeting where the Administrative Office of the Courts (AOC) reported on the total number of school complaints and issues arising from the Juvenile Justice Bill. There were approximately 52,000 out-of-school suspensions during the study period. During the 2015-16 school year, there were a total of 1,771 school based complaints filed through AOC, so approximately 2 percent of students suspended for a violation entered the court system from the violation. Additionally, regarding truancy, there were a total of 685 truancy complaints in the 2015-16 school year reported to AOC. However, there were just under 34,000 students who had more than 15 days of unexcused absences, and approximately 30,000 between 10 and 15 unexcused absences. The cut-off for truancy is only six, so there is a substantial difference between the number of cases filed and processed and the number of truant students. Mr. Wickersham stated that this probably represents a heroic effort by schools to avoid juvenile court involvement and attempt to address discipline problems within the school. Schools are likely trying to protect students from their own actions, attempting to maintain them in an academic setting, and this results in the under reporting of incidents to the police.

Representative Graham asked about the number of guns brought to school and if it was possible to know how many of these represented rural students inadvertently arriving at school with hunting related weapons in their vehicles. He also asked how many of the accidental incidents resulted in an expulsion, and if there was any information on weapons related expulsions in terms of race. Mr. Wickersham said the data had not been assembled to show a relationship between race and weapons violations. He did want to assure that the scope of the problem of weapons in schools may not be as dramatic as is portrayed in news media reports. There were only 406 weapons violations among the approximately 660,000 students attending Kentucky schools in the 2014-15 school year. While it would be hoped that there were zero violations, this is a very small percentage of total safety violations. He did say he would look into the data to see if he could provide further specifics to members.

Representative Graham also commented on how many of the problems in schools arise from students' lack of good role models and leaders. He emphasized how this particularly affected minority students and called on hiring committees to ensure that staff and administrators at schools were representative of greater diversity, or minimally reflective of the diversity of the school population.

There being no further questions or comments, Chairman Kay announced that the next meeting of the committee will be October 18, 2016, when the committee anticipates hearing a report on the achievement gap. The committee will also be adopting the 2017 OEA research agenda at the November meeting. He encouraged members to respond to requests for research topics from staff. The meeting was adjourned at 11:08 a.m.

MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

Minutes

September 21, 2016

Call to Order and Roll Call

The Medicaid Oversight and Advisory Committee meeting was held on Wednesday, September 21, 2016, at 1:00 PM, in Room 129 of the Capitol Annex. Representative David Watkins, Chair, called the meeting to order at 1:15 p.m.

Present were:

Members: Representative David Watkins, Co-Chair; Senator Dan Seum; Representatives Robert Benvenuti III and Joni L. Jenkins.

Guests: Stephen P. Miller, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Eric Clark, Legislative Director, Cabinet for Health & Family Services; Deborah Anderson, Commissioner, Department for Aging and Independent Living, Cabinet for Health and Family Services; Michelle Blevins, Assistant Director, Division Of Behavioral Health, Department For Behavioral Health, Developmental & Intellectual; Sarah Nicholson; and Sarah Cawthon.

LRC Staff: Jonathan Scott and Becky Lancaster.

Kentucky HEALTH Waiver

Stephen P. Miller, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services (CHFS), stated the cabinet held three public hearings to discuss comments regarding the Section 1115 Kentucky HEALTH Waiver. The original comment period ended on July 22, 2015. CHFS extended the comment period until August 14, 2016 to allow for extra comments from the public. CHFS received over 1,400 written and verbal comments. CHFS gathered comments about non-emergency transportation, premiums, retroactivity in regards to coverage, and Substance Use Disorder (SUD) issues. CHFS received over 400 comments to preserve allergy testing. Consequently, during the revision process no changes were made to the Medicaid state plan regarding allergy testing. Private duty nursing was also maintained. Vision and dental benefits are a part of the My Rewards account to incentivize individuals to become more involved in their healthcare plan. The cabinet decided to delay the transition of eliminating vision and dental benefits for three months. The delay is to allow individuals to use the benefit and to provide time to accrue rewards.

The cabinet added GED testing costs as an additional covered benefit for members and expanded My Rewards account activities to include: caretaking responsibilities, passing the GED, completion of child preventive services (including dental and vision services), and an incentive for keeping healthcare appointments. Commissioner Miller clarified that primary caretakers of minor children as well as disabled adult dependents are exempt from the community engagement and employment initiative. Other caregiving services for non-dependent relatives or other persons with a disabling health condition will count as a qualifying activity.

The cabinet added descriptions of the groups of people not included in the waiver: former foster children up to age 26; individuals on a 1915(c) waiver; individuals in an institution; and individuals eligible for Medicaid on the basis of age, blindness, or disability, including individuals eligible for social security income (SSI). Certain populations will be automatically determined as medically frail including: individuals receiving hospice care; persons with HIV/AIDS; and individuals receiving Social Security Disability Insurance (SSDI). The cabinet's revisions to the Kentucky HEALTH waiver stated that individuals determined as medically frail will be exempt from copayments. Premiums are only required for the medically frail as a condition of receiving a My Rewards account. Premiums will be collected on a household basis, not applied individually.

The cabinet submitted the application to Centers for Medicare and Medicaid Services (CMS) on August 9, 2016. CHFS has reached out to CMS and Health and Human Services (HSS) to set up meetings to continue the dialogue regarding the waiver. Meetings should begin in two weeks, as the 30 day federal comment period comes to an end. CHFS believes the HHS Secretary has full authority to approve this waiver as written.

Most of the Kentucky HEALTH waiver policies have been approved in other states including premiums and non-payment penalties. Kentucky would be breaking new ground on community engagement and employment initiative, open enrollment period, and increasing premiums for individuals above the 100 percent Federal Poverty Level (FPL). The new policies are consistent with general marketplace policies, as well as the underlying goals of Medicaid set forth in the Social Security Act. CHFS believes this process will better educate and prepare recipients for the transition to qualified health plans.

In response to a question from Representative Watkins, Commissioner Miller stated the three month waiting period for the vision and dental plan benefits would start when the implementation of the Kentucky HEALTH waiver goes into effect.

In response to questions from Representative Benvenuti, Commissioner Miller stated the budget projected revenue funds of $585 million in new state funds. The Medicaid budget also went up $587 million in the same two year timeframe. Additional funding will need to come from other areas of CHFS, pension plan funding, or education. The Medicaid budget went up almost 20 percent, as others' budgets were decreased. There is a continued concern that Medicaid funding crowds out other areas of service that need attention. Commissioner Miller stated the federal guidelines do not allow CHFS to penalize or take benefits away from members that do not show up for their appointments. CHFS is trying to change behaviors and help outcomes by incentivizing Medicaid recipients to show up at their primary care provider's office instead of going to the emergency room for non-emergency circumstances. Commissioner Miller stated the number of emergency room visits had gone up slightly from December 2013 (pre-expansion) to December 2015 (post-expansion). CHFS is trying to use incentives in the waiver to shape and steer individuals for better compliance when using an emergency room.

In response to questions from Representative Jenkins, Commissioner Miller stated CHFS is working with Managed Care Organizations (MCOs) to incentivize and stop individuals using the emergency room for primary care. The cabinet is also trying to educate members in larger cities that there are other choices; family practitioners and urgent care centers that usually have longer hours. Many people are accustomed to going to emergency rooms because they are open 24 hours a day and easily located. CHFS hopes to educate everyone to use the less expensive options. Commissioner Miller stated the cabinet could look at implementing a differing payment scale for emergency room usage for non-emergency visits.

Update on the 1915(c) Home and Community Based Waiver

Deborah Anderson, Commissioner, Department for Aging and Independent Living, Cabinet for Health and Family Services, stated the Department for Medicaid Services (DMS) operates six types of Home and Community Based Services (HCBS) waivers. The Michelle P. waiver (MPW) and the Supports for Community Living (SCL) waivers support individuals with intellectual or developmental disabilities and meet the ICF/IID level of care. The SCL waiver includes residential services, the MPW does not. There are two brain injury waivers; Acquired Brain Injury (ABI) and Acquired Brain Injury-Long Term Care (ABI-LTC). Both, ABI and ABI-LTC waivers are for adults with an acquired brain injury who meet nursing facility level of care including residential support, but ABI-LTC also supports long term care. The Model II (MIIW) waiver covers individuals who are ventilator-dependent and meet nursing facility level of care. The Home and Community Based (HCB) waiver covers individuals who are elderly or disabled who meet nursing facility level of care with primarily physical disabilities.

Waiver slots are unduplicated which means if a participant uses one service in a year, the slot cannot be reused or refilled until the following year. The ABI waiver has 383 slots, HCB waiver has 17,050 slots, and MIIW has 42 slots, all with no waiting lists. The ABI-LTC waiver has 320 slots with 176 on a waiting list. The MPW has 10,500 slots with 5,424 on a waiting list and 300 slots released in September. The SCL waiver has 4,701 slots with 2,334 on a waiting list and 240 additional slots to be added pending CMS approval. The waivers progress in different cycles, and four of the waivers are up for renewal. HCB and MIIW are not in the process to be updated. Ms. Anderson is meeting with participants, families, advocates, and provider agencies throughout the Commonwealth to assess the waivers and discuss changes that may improve the waivers. After the assessment, a workgroup made up of family members, participants, providers, and staff will provide waiver recommendations to Medicaid.

The workgroup hopes to implement short-term fixes to allow providers to better serve the participants. They are considering changing daily notes into monthly notes in some of the waivers. The SCL waiver requires daily notes and staff feel that all of their time and energy is spent writing daily notes. The exceptional rate process will be will be streamlined to allow for a less cumbersome approach to requesting an exceptional rate. Provide education so that all staff are working on a clear, concise, and consistent process for the recoupment audits.

In response to a question from Representative Watkins, Ms. Anderson stated that 11,000 to 12,000 of the 17,050 slots are filled in the HCB waiver. The cabinet is trying to build a middle level of care so the participants can stay in their homes longer and not be forced to transfer to a nursing home facility.

In response to questions from Representative Benvenuti, Ms. Anderson stated typical services provided under the MPW are personal care services, home making services, companion services, community support services, and behavioral support services. Individuals serviced by the MPW could be a person with intellectual or developmental needs, for example, someone that has down-syndrome, cerebral palsy, or autism. The cabinet is tracking the age and diagnosis of MPW participants to better understand the demographic and needs of the waiver participants.

Representative Jenkins commented that the MPW was started for adults to decrease the waiting list on the SCL waiver, it was thought that children were served in other capacities. Representative Jenkins is interested in finding out the ages of the participants to make sure that appropriate people are put into the correct waivers. She suggested that a super waiver, similar to other states, could be created to better serve people who are waiver eligible.

In response to questions from Senator Seum, Ms. Anderson stated that in regards to the MPW 300 slots to be released, released means that slots will become available in the new year. The 300 slots are a part of the initial 10,500 MPW slots. A waiver slot is only allowed to be used once a year. However, when a person leaves the waiver the slot becomes available to be released the following year. The 240 additional slots in the SCL waiver will be added to the initial 4,701 slots, those slots were funded by the legislature but are waiting on approval from CMS.

In response to a question from Representative Jenkins, Ms. Anderson stated the new payment rate under the HCB waiver is $24.00 an hour on the traditional side and $11.52 an hour on the participant-directed side. Some participants were using personal service agencies under another agency to hire someone to take care of their loved one. The participant-directed rate is not built around an agency costs. The participant-directed side is used to hire a family member or neighbor to provide care, they do not have the overhead costs of an agency. The average rate of pay for professional direct support providers is $8.00 to $10.00 an hour. Ms. Anderson stated everyone on the HCB waiver has to be at a nursing home level of care.

Roll Call

The secretary called the roll.

Adjournment

There being no further business, the meeting was adjourned at 2:07 p.m.

2016 KENTUCKY WORKERS' COMPENSATION TASK FORCE

Minutes of the 2nd Meeting of the 2016 Interim

September 16, 2016

Call to Order and Roll Call

The 2nd meeting of the 2016 Kentucky Workers' Compensation Task Force was held on Friday, September 16, 2016, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Chris Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Chris Harris, Co-Chair; Senator Dennis Parrett, Representative Adam Koenig; Steve Barger, Chris Bartley, John Bolton, Carl Breeding, Ray Daniels, Joe Dawahare, Larry Gardner, Ched Jennings, Michelle Landers, Bill Londrigan, Dwight Lovan, Derrick Ramsey, Jeff Roberts, Melissa Stevens, Tim Sturgill, and Tim Wilson.

Guests: Attorneys, Scott Miller and Terri Smith Walters, and Donna H. Terry, former Workers' Compensation Administrative Law Judge

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

Approval of Minutes

A motion to approve the minutes of the August 19, 2016 meeting was made by Representative Adam Koenig, seconded by Senator Dennis Parrett, and approved by voice vote.

Introductions

Co-Chair Chris Harris gave an overview of the progress of the task force and introduced the panel of speakers to the members with their biographies.

Scott Miller

Mr. Miller offered his insight from a plaintiffs' attorney perspective. He expressed that workers' compensation is not a partisan issue or a business and labor issue, but rather an issue concerning Kentucky families and injured workers. The workers' compensation system in Kentucky is a social system that should cover everyone and offer indemnity and medical benefits in a timely manner. The challenge is serving the interests of injured workers while also balancing the competing interests. The last time any changes were made to the system was in 2000, which was supposed to balance out the harsh changes that were made in 1996, but things have been stagnant since that time.

With the last changes being made 16 years ago, Mr. Miller mentioned several areas that he believes need to be changed in Kentucky's workers' compensation system. One area of concern was the current number of administrative law judges (ALJ). There is a 40 percent shortage of ALJs, which puts a larger workload on the current judges, does not allow for each case to be carefully examined, and may lead to more appeals. He recommended that the current open positions be filled with persons experienced in workers' compensation or administrative law. However, filling the positions with smart and capable individuals is the most important thing.

Mr. Miller suggested a change to KRS 342.730(4) to increase the age upon which income benefits terminate. People are working longer, well past social security age, according to recent statistics. Therefore, the age at which benefits can be terminated should be moved to 70 years of age or a minimum of five years after the work related injury. That would cost the system less than a half percent.

Attorneys' fees were also an area of concern for Mr. Miller. There has not been an increase in attorneys' fees in 20 years. On the low cases you may have to advance costs that are a third of the recovery. On the higher cases an attorney can expect a one to two percent fee due to the $12,000 maximum. An attorney can also expect a one to two year period before receiving a fee. Mr. Miller proposed that attorneys' fees be increased as an incentive to current and future attorneys to 20 percent of the first $50,000 and 15 percent of the next $50,000, with cost of living being taken into account when it comes to the attorney fee maximum. If cost of living were taken into consideration over the last 20 years, then the current cap would be approximately $22,000.

Mr. Miller suggested that a provision is needed to allow lump sum payments for small weekly awards. He believes that the interest rate for past due benefits should be lowered to 6 percent or tied to the federal rate. The current rate is 12 percent. Temporary partial disability (TTD) benefits should be considered. Kentucky needs to get injured workers back to work, but if TTD benefits are paid, then workers would still get the TTD amount for light duty plus temporary partial disability (TPD). Mr. Miller also suggested a better way to handle complex medical issues in post award medial disputes for pro se claimants. A university evaluator could be picked to handle complex medical issues, especially involving opioids or pain medicines.

Terri Smith Walters

Ms. Walters stated that the task force members are the people with the ability to collectively balance the interests of workers and employers in Kentucky and formulate some sound recommendations for the delivery of income, medical, and vocation benefits. She also said that she was speaking on the state of the workers' compensation system in the Commonwealth from a defense standpoint. She indicated that of all the recent cases she has seen, one third to 40 percent are being filed by laid off workers. Two recent decisions that are influencing the opinions of many defense attorneys are *Hale v. CDR Operations Inc.* and *CONSOL of Kentucky Inc. v. Goodgame.* Both decisions have to do with cumulative traumatic injuries and effect employers. Members of the defense community think that legislative changes need to be made due to these two decisions.

The *Hale v. CDR Operations Inc.* decision has been interpreted to hold that the employer where the injured worker last worked is responsible for the payment of a cumulative traumatic award in its entirety. In this case, the employee had worked for an employer for 10 years, then went to work for a new employer for three months, with a similar nature of work as to what the employee had done for the previous employer. The court determined that, in the absence of any type of apportionment provision in the statute, it had no other choice than to rule that the last employer had to be responsible for the entire award. This issue can be addressed with some type of minimum employee requirements or some apportionment.

The *CONSOL of Kentucky Inc. v. Goodgame* takes the rule of discovery in Kentucky as the manifestation date for cumulative trauma, meaning that the injury manifests when the employee is first advised by a physician that the condition is work related. The statute of limitations and repose both run from that date in a cumulative trauma and a hearing loss claim. When considering a specific injury in Kentucky, a person has two years from the date of the accident to file a claim unless the person has been paid TTD benefits, in which the person would have two years from the last TTD payment. Due to the decision made in *CONSOL of Kentucky Inc. v. Goodgame* a cumulative traumatic injury is inconsistent with the rule in occupational disease cases, such as black lung, which states that a person has three years to file a claim from the last date of exposure to the occupational hazard or three years from the date that the person has symptoms that are sufficient to reasonably apprise that the person has the condition.

Ms. Walters also suggested that the percentage amount on interest payable should be reduced from 12 percent to 6 percent and a provision regarding relief from interest when a claim is delayed due to unreasonable failure of an employee to participate should be added. Ms. Walters feels that drug screens should be done in accordance with the requirements of the Kentucky Board of Medical Licensure requirements. In addition, if a claim is determined to be compensable, then medical records should be given to the employer within 15 or 30 days of the request.

Ms. Walters stated that vocational rehabilitation should be used more frequently and encouraged by putting timelines on vocational rehab requests at the beginning of the claim. Improvements of vocational benefits paid would include adding language to KRS 342.700 to provide for the request for vocational retraining to be filed by either party within 45 days of the filing of the claim so that the issue is litigated fully. If the ALJ orders a referral for evaluation in his award, then that particular ALJ retains jurisdiction over the claim until the report is received. A vocational conference is then scheduled with mandatory attendance by the parties. Ms. Walters proposed more restrictions on the use of schedule two narcotics in workers' compensation claims. She suggested that an employer would not be responsible for paying for narcotics once a claimant reached medical maximum improvement unless a claimant proves by clear and convincing evidence that it is necessary.

Ms. Walters suggested that if an award is valued at $25,000 or less, then the claimant can elect a lump sum for indemnity benefits. If a lump sum of income benefits is elected, then a lump sum of the medical benefits in the amount of 2 percent of the indemnity value of the award would be given. Ms. Walters suggested an amendment to KR 342.730 (4) to add an offset provision regarding wages paid during a period of TTD. She also suggested an amendment to KRS 342.125 (3) regarding the timeline for reopening a claim and an amendment to the subrogation statute to include medical benefits.

Ms. Walters provided a handout spelling out suggested changes to the workers' comp system.

Donna H. Terry

Ms. Terry informed the task force members that they could reach out to her for information and to ask questions, being an objective observer of the workers' compensation system as a retired administrative law judge and current mediator. She gave an overview of the state's workers' compensation system history, including the 1987 decision to go from a part time board to an ALJ system with live hearings. Over time the number of administrative law judges went from 10, 15, and the current number of 17. She said that injured workers deserve a quick delivery of benefits while the employers deserve to quickly be informed of their liability for benefits. The system should stay as bipartisan and professional as possible in an effort to attract the best ALJs.

One topic Ms. Terry addressed was the possibility of a summary judgement system. In this type of system, cases that seemed to initially lack merit would be dismissed. The problem with this type of system would be providing proper due process. Every person is constitutionally entitled to due process in an administrative proceeding and present his or her case. In a workers' compensation case, every application for benefits has to be accompanied by a medical report that says an injury occurred and that there is some type of causal relationship between that injury and whatever is going on in the worker's condition. Any attempt to have a summary judgement system at the very beginning of handling a case would be overturned.

Another area addressed is the idea of mediation. Ms. Terry pointed out that there is already a Kentucky Revised Statute pertaining to mediation. KRS 342.276 states "The commissioner shall establish a program to provide an opportunity for mediation of disputes as to the entitlement to benefits under this chapter. The commissioner shall promulgate administrative regulations necessary to establish and implement the mediation program, which shall prescribe the qualifications and duties of mediators; a process for the designation of mediators; procedures for the conduct of mediation proceedings; and the issues which shall be subject to mediation. Recommendations by mediators are without administrative or judicial authority and are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations. Administrative law judges may participate in the mediation process but shall not issue findings or orders as a result of the process unless agreed to by the parties." Ms. Terry said there have been several attempts by the current and past commissioners to set up mediation programs but most have been discontinued. ALJs do some form of mediation by doing benefit review conferences that are essentially settlement conferences. Her recommendation would be to have one or two ALJs be trained as mediators, only if the current open ALJ positions are filled, and handle complex workers' compensation cases that may involve multiple injuries, multiple employers, or extraterritorial jurisdiction.

In response to several inquiries from Mr. Jeff Roberts, Ms. Donna Terry said that workers' compensation is a very specialized area of law with its own statutes, but the rules of evidence still apply. Although it is requested that each ALJ have five years of experience in workers' compensation law or a comparable area, there have been many excellent judges who did not have a workers' compensation background and were able to learn the area and process quickly. She stated that the time frame from when the initial claim is filed until the decision by the judge is 60 days proof for a plaintiff, 30 days proof for a defendant, and a rebuttal poof period. All periods can be extended. This makes the total time about six months, which is a short amount of time compared to other litigation systems.

Answering a series of questions from Mr. Jeff Roberts, Ms. Terri Smith Walters said that prior to the *Hale v. CDR Operations Inc.* decision, the courts relied on referring to an older case when the state still had a special fund. In the case of *Hale v. CDR Operations Inc.*, there are several unknown variables including insurance carrier changes when the employee went to a new employer. She said she believes some type of apportionment should be addressed or minimum employment because a person could work for a company for three weeks and that employer can be responsible for benefits. Ms. Walters also stated there is not any other area that has a provision that identifies an exact rating of impairment in order to qualify for benefits besides hearing loss, which is eight percent.

Addressing Mr. Jeff Roberts, Mr. Scott Miller said that the structure of attorney fees in Kentucky can make it difficult for plaintiffs with claims that may have a low impairment rating to obtain representation, but that could be fixed by addressing attorney fees. After Mr. Roberts gave Mr. Miller a brief scenario, Mr. Miller said an employee making an hourly wage of $10 with a 40 hour work week would receive a TTD rating of $266.67. If that person had a five percent permanent impairment rating and they were unable to return to work, then they would receive $27 a week. He also addressed lump sum payments saying a person should not have to give up their medical benefits in order to obtain a lump sum. He said that there are very few states that have a cap on attorney fees, and he agrees with Mr. Roberts' comment that an attorney begins to work for free when a settlement of at least $145,000 is reached. He said he does not see certain issues arise in larger Kentucky cities that he sees in smaller towns across the state.

In response to Mr. Joe Dawahare, Mr. Miller said although the workers' compensation system is a social system, there are issues that come up that require a person to obtain legal representation such as preexisting issues or impairment ratings. There are times that a person needs an attorney to explain the process and possible outcomes, but there is a vast amount of people who do not seek legal representation. Ms. Donna Terry said there are people who file without legal representation, however, certain legal issues arise that require a person to obtain an attorney. Commissioner Dwight Lovan added that most people do not start with an attorney when benefits are voluntarily paid but seek legal representation later in the process. Many people who lack legal counsel in post-award medical disputes. Mr. Miller pointed out there are not any unrepresented insurance companies or employers. Ms. Terri Smith Walters said that medical providers are often a party to a suit, and although plaintiff attorneys are not representing them, they try to work to get the medical provider compensated. Ms. Melissa Stevens pointed out that with medical fee disputes the employer or carrier cannot represent themselves and are required to obtain an attorney.

Replying to a sequence of queries from Mr. Ched Jennings, Mr. Scott Miller said he did not think it was necessary to make it mandatory for ALJs and board members to have at least five years of experience with exclusively workers' compensation law because although it would help for a person to know the system, it is something that can be taught. Ms. Terri Smith Walters agreed with Mr. Miller. She added that because an ALJ has the same salary as a circuit court judge, then it would be better for an ALJ to serve a six year term, as a circuit court judge does, instead of a four year appointment. All guest speakers indicated that attorney fees could be raised, although Ms. Terri Smith Walters said she did not think that they should be raised as high as Mr. Scott Miller suggested. When asked if the increase in injured workers' benefits should be considered before the increase in attorney fees, Mr. Scott Miller said he is in favor of addressing workers' benefits but thinks raising attorney fees is imperative. Ms. Donna Terry stated, as a private citizen, she believes injured workers' benefits should be addressed before attorney fees. Ms. Terri Smith Walters expressed there may not be a correlation between the two, but she can understand the dilemma that plaintiff attorneys face when determining if they should take on a case that may have a low impairment rating. All guest speakers agreed that the workers' compensation bar is a very specialized area. Ms. Terri Smith Walters agreed with Mr. Jennings when he stated there are few counties in Kentucky that have workers' compensation practitioners. After Mr. Jennings posed a scenario, which included a claimant from the Ashland area of Kentucky, Ms. Walters said she has not been told that traveling to a benefit review conference or a hearing is a barrier to those claimants seeking benefits. Mr. Scott Miller said that he can see how it would be difficult for a person, specifically in the Ashland area, to travel to the hearing locations for that particular area of the state. He said it all goes back to needing more attorneys that practice workers' compensation. Ms. Donna Terry made the point that there cannot be a hearing site in every city of the state. Mr. Miller said that although he takes on about 50 new cases a year, there is always a possibility for a previous client to request his representation for a medical dispute, which he usually will not refuse to take on. His main focus is to get his clients their necessary medical care. Obtaining medical records to support his client's case is difficult. Mr. Jennings asked Ms. Terri Smith Walters a series of questions regarding medical disputes. She said she does not personally request utilization reviews or peer reviews, as those requests come from and are paid by her clients. She stated the average cost of an independent medical exam could be between $300 and $3500. Her firm handles no more than five medical dispute cases per month. Some of the disputes do not require a brief or a hearing. She stated the average attorney fees for medical disputes in the case of her firm are around $600 due to limited involvement and she is required to file motions for approval of attorney fees with the Department of Workers' Claims. Very few of the medical disputes have an appeal, but most of those cases involve an actively practicing workers' compensation attorney. Normally, attorneys representing claimants will tell their clients to go to their physician to obtain a medical report, but there are times doctors participate in conferences telephonically.

Answering a question regarding occupational disease, hearing loss, and cumulative trauma claims from Mr. Tim Wilson, Ms. Terri Smith Walters stated that there should be some type of universal statute of limitations and she agrees with the decision made in the *Manalapan Mining Company Inc. v. Lunsford* case. She also said she supports a minimum period of employment concerning cumulative trauma. Responding to another question from Mr. Wilson, Mr. Scott Miller said that age related claims under the present law allow injured workers to receive a maximum of either two years of benefits or benefits are capped at the normal retirement age. Mr. Miller and Ms. Terry agreed that employees in the workforce are working longer and working to older ages compared to 25 years ago. Mr. Miller agreed that there is value in keeping older workers in the workforce. Mr. Miller said as a plaintiff attorney there is always a risk of loss in any case taken, and there is a contingent nature. Ms. Terri Smith Walters agreed with Mr. Wilson when he said that as a defense attorney, her firm gets paid for every case handled, unlike Mr. Miller. Ms. Donna Terry said over the years, with amendments and additional case law, the complexity of litigation has substantially increased. Mr. Miller agreed with Mr. Wilson when he stated the litigation costs for complex cases involving occupational diseases have increased over the years. Mr. Miller said Mr. Wilson was correct when he said for a person with a zero to five percent impairment, they only receive 0.65 percent of the value of their impairment. Mr. Miller noted there was not always a correlation between impairment ratings and the degree of occupational disability or limitations. Mr. Miller noted this is a fundamental problem with the system. The ALJ has no discretion to determine occupational disability based on the injury and its effect on the claimant.

A discussion took place regarding the cost to the insurance carrier of issuing a benefit check. Ms. Walters indicated there were not many low awards where this issue would come into play. Mr. Wilson indicated he had heard the cost of issuing the check may often be more than the amount of the check. Michelle Landers indicated the cost of issuing the check was nowhere near the $28 figure cited by Mr. Wilson. Melissa Stevens noted most payments are direct deposit so the cost is minimal. Ms. Landers indicated most payments are automated.

Mr. Bill Londrigan questioned Mr. Miller on the issue of capping average weekly wage. He stated such a cap unduly affects high wage earners as it causes a loss of income. Mr. Miller noted most high wage earners want to return to work as soon as possible. Those claimants also do not understand why they are making much less while on TTD.

Addressing a statement from Mr. Carl Breeding about the value of vocational retraining, Mr. Scott Miller said that vocational training is a great idea and he always discusses it with his clients. He noted that vocational benefits are limited to one year.

Responding to Ms. Melissa Stevens, Ms. Donna Terry said there would be a violation of due process with a summary judgement implementation in workers' compensation. A discussion was held regarding an insufficient Form 101 being returned to the filer. Ms. Terry noted there are already steps in place to ensure that the Form 101 has all required information and to return the Form 101 if necessary and to allow the filer to correct deficiencies. Answering another question from Ms. Stevens, Ms. Terri Smith Walters reiterated that her suggestion that a claimant can elect a lump sum for indemnity benefits if the award were less than $25,000.00 and have a buyout of medical expenses tied to the settlement. Ms. Donna Terry said there may be some constitutional issue with Ms. Walters' suggestion. Ms. Stevens brought up the issue as to whether vocational rehabilitation can be mandated. She noted that many states mandate vocational retraining. She questioned whether penalties can be assessed if the claimant refuses to undergo recommended vocational training. Ms. Walters noted a breakdown in the vocational process after the award is final. She suggested leaving the case in the jurisdiction of the ALJ until the vocational evaluation is completed and recommendations are made and followed.

Mr. Jeff Roberts stated that the current statute addresses the penalty for refusal to complete vocational retraining. A discussion was held regarding whether the penalty relates to refusal to complete a vocational evaluation or actually undergo training.

Commissioner Lovan explained the different aspects of enforcing vocational rehabilitation and indicated that often times vocational rehabilitation is seen as a throw away item during settlement discussions and is not seriously considered. He stated that the ALJ can order benefits upon presentation of a vocational plan by either party. Mr. Jennings indicated that the resources are not available to provide meaningful services.

Mr. Joe Dawahare asked Mr. Miller if an increase in attorney fees would necessarily result in a reduction in benefits to the claimant since the claimant pays the attorney fee. Mr. Miller said he did not necessarily agree with the statement that an increase in attorney fees would necessarily result in a decrease in the injured workers' benefits.

Steve Barger commented that the task force should aim to eliminate any adversarial aspects of the system and referred to the mandate set forth in HCR 185. He requested more discussion within the group. Co-chair Harris encouraged all members of the task force to discuss the issues with each other and come to any consensus on ways to improve the workers' compensation system for all parties.

There being no further business, the meeting was adjourned at 12:26 p.m.

GOVERNMENT NONPROFIT CONTRACTING TASK FORCE

Minutes of the 4th Meeting
Of the 2016 Interim

September 26, 2016

Call to Order and Roll Call

The 4th meeting of the Government Nonprofit Contracting Task Force was held on Monday, September 26, 2016, at 11:00 AM, in Room 131 of the Capitol Annex. Representative Russ A. Meyer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Russ A. Meyer, Chair; Senator Max Wise, Co-Chair; Senators Danny Carroll, Denise Harper Angel, and Stephen West; Representatives Arnold Simpson, and Addia Wuchner; Cyndee Burton, Danielle Clore, Andrew English, Robert Jones, Robin Kinney, Mardi Montgomery, Judy Piazza, and Michelle Sanborn.

Guests: Heather French Henry, Department of Veterans Affairs, Lisa Cooper, Northern Kentucky Area Development District, Nikki James, Department of Corrections, Stacy Phillips, Cabinet for Health and Family Services, Michael Dossett, Department of Emergency Management, Stephanie Robey, Department of Emergency Management, and Bradley Stevenson, Child Care Council of Kentucky.

LRC Staff: Judy Fritz, Daniel Carter, Van Knowles, and Jay Jacobs.

Senator Wise moved to approve the September 7, 2016 meeting minutes. Andrew English seconded the motion. The motion carried with a voice vote.

Nonprofit Government Contracting

Lisa Cooper, Executive Director of the Northern Kentucky Area Development District gave an overview of how indirect costs and cost allocation plans affect Kentucky Area Development Districts.

The Northern Kentucky Area Development District (NKADD) operates on a $17 million dollar budget from multiple funding sources. Most of NKADD's budget comes from federal funds or pass-thru dollars. NKADD's indirect costs account for $577,000.

Program staff must account for all of their time and it must be applied to specific programs as direct costs. Agency costs that are difficult to assign to a specific program are calculated into an indirect cost pool, which is used in a formula to calculate the indirect cost rate. Examples of indirect costs are rent, utilities, audit fees, legal fees, and insurance.

The indirect cost rate is calculated by dividing the total amount of indirect costs by the total amount of salaries and benefits. Once the indirect cost rate is calculated, it is applied to each program through a cost allocation plan. Pursuant to OMB Guidelines, NKADD establishes a cost allocation plan every fiscal year, approved by their board of directors, and sent to the Department of Local Government. Cost allocation plans are developed with standard accounting practices and financial management software so the rates cannot be artificially created.

NKADD utilizes a cost allocation plan because of the nature of and the way the federal awards are received, and because cost centers and funding streams change throughout the year.

Continuing costs may also be discontinued during the year which impacts the indirect cost rate and rate allocation.

Ms. Cooper stated that cost allocation plans are developed, documented, and maintained for audit or submitted and appropriated to a cognizant agency for review, negotiation and approval. An agency must receive a certain amount of federal funding to submit to a cognizant agency. Because NKADD does not receive the requisite amount of federal funding, its cost allocation plan cannot be submitted to a cognizant agency, and is therefore maintained on-site for audit.

Depending on the cabinet or agency and its interpretation of the federal Office of Management and Budget (OMB) guidelines, NKADD has received inconsistent responses on indirect cost reimbursement. NKADD has been told that the agency will not reimburse its indirect costs, it must have a negotiated rate, or it could use the 10 percent di minimus rate. The 10 percent di minimus rate does not apply to agencies like NKADD. The differing interpretations have caused NKADD at times to be out of compliance with OMB guidelines.

In response to a question by Ms. Montgomery, Ms. Cooper stated NKADD receives different responses from different cabinets, and the inconsistencies have caused NKADD to be inconsistent and not compliant with its own plan.

In response to a question by Representative Wuchner, Ms. Cooper stated that consistency among agencies, training, and for Kentucky to adopt the OMB guidelines would improve compliance.

Contract Negotiation, Prompt Payment, and Indirect Costs

Nikki James, Internal Policy Analyst with the Department of Corrections (DOC), gave an overview of the cabinet's negotiation process, prompt payment procedures, and payment of indirect costs.

Federal grant dollars must be spent by the agency, as directed by the federal government, with little room for negotiation. The agency has some room for limited negotiation when funding sources are mixed federal and state funds, but grant applications that utilize federal funds are specific. The agency has the most room to negotiate when dealing with solely state funds. No matter the funding source, the agency tries to get the most for the Commonwealth's money. There are no differences between nonprofits and other vendors in the negotiation and invoice process.

KRS 45.453 is adhered to as best as possible and all invoices are date stamped upon receipt to monitor the amount of time taken to pay. Discrepancies with invoices are typically the only reason a payment would be delayed.

Indirect and administrative costs are watched very closely, and DOC tries to negotiate the lowest amount possible, with a maximum rate goal of 8 percent.

In response to questions by Ms. Clore, Ms. James stated that it is tough to negotiate contracts with a low indirect cost reimbursement rate but DOC has been able to do business with vendors who will accept contracts at the low rate. Reimbursement rates may be higher with contracts that contain flow through federal dollars.

In response to a question by Mr. Jones, Ms. James stated she has seen contracts with the state di minimus rate of 10 percent and has seen contracts using both state and federal funds with differing state and federal reimbursement rates. When dealing with those types of contracts, Ms. James indicated that DOC is flexible.

In response to a question by Ms. Montgomery, Ms. James stated that DOC has outcome data for its programs but no outcome data directly related to indirect costs.

Stacy Phillips, Procurement Director with the Cabinet for Health and Family Services (CHFS), gave an overview of the cabinet's negotiation process, prompt payment procedures, and payment of indirect costs.

CHFS contracts are mostly federally funded and most of the contracts have multiple streaming funds. Negotiations between vendor and cabinet are handled similarly, but the procurement processes may differ between the departments within CHFS. Each CHFS department carries a unique mission within the cabinet and the internal negotiation process for projects are dependent upon the circumstances for each program. If the cabinet has multiple vendors, it may be able to provide the services by allowing for a Request for Proposal (RFP) to allow all vendors to bid.

Prompt payment is followed according to statute and CHFS always tries to submit payments within the 30 day requirement. Lack of supporting documentation and lack of detail on invoices may cause a delay in payment. Agreements have a clause that allow the contract to be terminated if there is a budget shortfall, and the cabinet may review each contract for targeted reductions, if necessary.

Indirect cost reimbursements for CHFS is 10 percent for state general fund dollars. With federal funds, CHFS uses the cost allocation plan or a 10 percent di minimus rate as recognized by OMB guidelines.

In response to questions by Ms. Clore, Ms. Phillips stated that payment of indirect costs with mixed funding is usually 10 percent within CHFS. The cabinet tries to communicate with the nonprofit upfront about contract terms and information needed.

In response to a question by Ms. Burton, Ms. Phillips stated that, when there are budget cuts, the agency is not given much notice.

In response to questions by Mr. Jones, Ms. Phillips stated that she encourages a direct relationship with the payment specialist and nonprofit agency to avoid payment delays and issues. Communication is the key to a successful relationship between the nonprofit and the cabinet. CHFS has an expectation of good customer service.

In response to questions by Representative Wuchner, Ms. Phillips stated that non-competitive contracts are renewed on a yearly basis if program staff is satisfied with the services. Contracts are reviewed on a case by case basis, and cabinet staff are trying to help vendors understand expectations. Cabinet staff work closely with legal staff to ensure contract expectations are clear.

In response to a question by Ms. Clore, Ms. Phillips stated that the change in the bidding process for nonprofits in 2010 was positive because the cabinet no longer had to submit contracts with nonprofits that have a 501(c)3 status and are performing a government function for bid.

In response to a question by Ms. Clore, Ms. Phillips stated that universities receive 10 percent for indirect costs unless the funding comes solely from federal dollars.

Michael Dossett, Director of Emergency Management (KYEM) and Stephanie Robey, Assistant Director of Emergency Management with the Department of Military Affairs gave an overview of the division's negotiation process, prompt payment procedures, and payment of indirect costs.

Director Dossett stated that KYEM has implemented a sophisticated reimbursement system, including a transparency tracker that covers approximately $70 million in grants per year. Objectives of KYEM are to maximize available federal funding, provide general guidance to the recipients of federal grants, and ensure reimbursements are documented properly. KYEM has an audit trail that accounts for APA audits, FEMA site visits, OIG audits, Internal Audits, and sub-recipient monitoring. In 2014, KYEM began a process to retool the grants management process. The solutions being sought were customer service, transparency, efficiency of reimbursement, and accountability.

There are five federal grants that KYEM manages. Over the past eight years, KYEM has had 17 presidential declarations and has pushed through $830 million to sub-recipients. Currently, KYEM has three thousand projects with sub-recipients. KYEM grant recipients include county and city governments, quasi-government entities, state agencies, and nonprofit entities.

Assistant Director Robey stated that, based on its programs and funding streams, KYEM is not procuring services of private nonprofits. Private nonprofits receive funding like governmental entities, receiving funds associated with work completed during, before, or after disasters. KYEM was the recipient of numerous audit findings, which revealed that a large number of applicants were not receiving all funding associated with their programs. The audit findings prompted KYEM to establish a new and improved reimbursement system, with an intensive effort to become compliant with federal requirements and to educate applicants in order to obtain the maximum amount of available funding.

Many problems encountered by KYEM sub-recipients have dealt with federal procurement requirements. Sub-recipients do not always understand many of the federal procurement requirements. Federal regulations require agencies to perform risk assessments of some contract sub-recipients. The federal government also requires agencies to perform intensive monitoring of sub-recipients to ensure they have properly used federal dollars for a program. Any entity that spends more than $750,000 in federal funding in a fiscal year must undergo a single audit.

If a sub-recipient receives federal funds from multiple state agencies, multiple risk assessments will be performed by each state agency. Ms. Robey proposed allowing one agency in state government to perform risk assessments for all agencies, and have one agency receive single audits from all sub-recipients, review the findings, request corrective action plans, and determine sufficiency of corrective actions.

Beginning in 2014, KYEM intensified monitoring of federal grants, developed and implemented online applications to simplify processes and increase transparency, and developed and delivered numerous grant management courses and workshops. These courses and workshops focused on federal program requirements, accounting, contracting, documentation, alternative funding opportunities, and 2 CFR 200. Grant specific training was conducted statewide, attended by approximately 3,500 people and recognized by FEMA as a best practice. KYEM will start conducting webinars in the next couple of months to make it easier and more affordable to train and educate.

KYEM developed the EMPG tracker and two other trackers which have online and mobile access for all entities. The trackers illustrate different payment stages, granting entities the ability to see when they will receive payment after they make a reimbursement request. If there is an issue, the tracker shows a red signal and the reason why payment is stopped. If mediation is required, the process begins with an email and is followed up with a phone call. Payments can be made a day after a request is made. The tracker shows all of the required forms that are necessary for payment reimbursement and shows purchase orders and receipts. All boxes must be green to get a reimbursement. All submissions are electronic. The program resides on WEB EOC, which is the disaster management software the entire nation uses.

In response to questions by Ms. Clore, Mr. Dossett stated that KYEM is trying to integrate its system with eMars. Other agencies could use the trackers, but it is not easily adapted by agency programmers.

In response to a question by Representative Wuchner, Mr. Dossett stated that KYEM stays in constant communication with the Auditor's office and is trying to ensure that compliance when submitting annual audits to the Auditor's office.

In response to a question by Mr. Jones, Mr. Dossett stated that the biggest issues during his initial visits are communication and accountability.

Contract Negotiation, Prompt Payment, and Indirect Costs - Nonprofit Perspective

Bradley Stevenson, Executive Director of Child Care Council of Kentucky (Child Care Council), gave an overview and history of how the council interacts with state government and how late payments and indirect costs affect their operating budget.

Child Care Council manages multiple state contracts dealing with child care services throughout the Commonwealth, the largest being the child care assistance program (CCAP). The council works with the University of Kentucky to administer some programs dealing with technical assistance, training, mentoring, and coaching. The relationship between the council and CHFS has allowed it to grow from an agency with four staff to the current staff of over 150. The council started in 1984 to help IBM employees find child care while they worked. In 1997, Child Care Council was awarded a $1 million grant to administer CCAP in 22 counties in central Kentucky. In 2008, it was able to bid on multiple regions and was awarded two additional contracts, adding 49 more counties. In 2012, the council was able to bid on all five regions, expanding services to the entire state. The council manages eight contracts consisting of nearly $8 million for child care services. Three of those contracts pass through the University of Kentucky.

As Child Care Council expanded its contractual services, generating cash flow became difficult. To meet its obligations, the council had to establish a line of credit with a banking partner. The crux of cash flow problems stemmed from the award of block grants for childcare and development that required service delivery before payment. The council would then be reimbursed for services provided. Child Care Council has an $800,000 line of credit with its banking partner, and $93,000 in interest has accrued over the last five years. Taking a line of credit is necessary to meet the $600,000 to $700,000 in services provided each month. While the council understands that it agreed to provide services before receiving payment, it would like to have open dialogue with CHFS to develop ways to offset the interest owed and reinvest the money into providing services.

Reimbursement for indirect costs has also been problematic for Child Care Council. It does not understand what kinds of indirect costs are reimbursable and has struggled with discrepancies on purchases that are approved to be reimbursed but are in fact not reimbursed. One example includes legal fees. The council has not been reimbursed for legal services even though billing for legal services is permissible in the contract.

There have also been instances where the council has had indirect cost reimbursement rates as low as 3-4 percent. It is now able to charge a rate up to 10 percent, which has increased funding available to provide more child care services.

In response to questions by Representative Simpson about a headset purchase, Mr. Stevenson stated that if the council purchased the headsets without approval, it would risk not getting reimbursed because a headset is considered a technology purchase, which would pre-approval by the cabinet. The state should also be more flexible in considering interest from loans or lines of credit as part of administrative costs, and there should be a dialogue discussing reimbursement for such costs.

In response to a question by Ms. Burton, Mr. Stevenson stated he hopes to be a part of Benefind when it rolls out for child care.

In response to a question by Representative Wuchner, Mr. Stevenson stated that the council does not participate in the state pension system, and that it has its own healthcare and retirement.

In response to questions by Ms. Clore, Mr. Stevenson stated that it is necessary to have the line of credit to deliver services and then be reimbursed at a later date. It usually takes about 75 days to receive payment after services are rendered. The line of credit allows the council to operate while waiting on payment.

In response to additional questions by Ms. Clore, Mr. Stevenson stated that he does not understand why money funnels through the University of Kentucky when implementing University of Kentucky pass through contracts, but it has been that way since 2005. In regards to OMB indirect cost reimbursement, Mr. Stevenson stated that the council does not have a federally approved rate.

In response to questions by Ms. Sanborn, Mr. Stevenson stated that the University of Kentucky is a pass through agency to administer child care provider training, mentoring, coaching, trainer credentials for training child care providers, and Race to the Top grants. The University of Kentucky acts as the research facility, guiding policy decisions and implementation of various programs throughout the Commonwealth that positively impacts families. Mr. Stevenson stated that the Commonwealth does not reimburse the council for interest.

In response to a question by Ms. Clore, Senator Carroll stated that a non-profit agency that he is affiliated with has a line of credit but has not used it in four years. Ms. Burton stated her organization has a line of credit and utilizes it sporadically based on cash flow. Mr. Jones stated his organization has one but has not needed to use it. Ms. Burton stated that depending on when the contract is signed can delay when payment is made. Mr. Stevenson stated that his organization is waiting on a contract with the University of Kentucky to be signed and that the council has been providing services for three months but is not able to bill. Ms. Sanborn stated that most of her agencies have lines of credit. Mr. Stevenson said it is common to have a delay while waiting on a contract to be signed and then billed for multiple months of service.

In response to a question by Senator Carroll, Mr. Stevenson said that a small percentage of the operating budget is from fundraising and training and membership fees.

Discussion of ways to improve contract negotiation, prompt payment, and indirect cost reimbursement in Kentucky

Representative Wuchner said she would like clarification of definitions and to explore streamlining the layers of processes in contracting.

Ms. Clore stated that Kentucky should adopt OMB guidelines, learn more about how Emergency Management retooled its reimbursement system, mirror some of its best practices, and provide training for both nonprofits and state government.

Mr. Jones stated that there needs to be a lower tech option for communication in the contract process and a billing rejection appeals process.

Senator Carroll stated there is a huge issue with reimbursements for MCOs and would like to know if the task force will be addressing the issue.

Mr. English would like clearer terms regarding billing requirements.

Ms. Montgomery would like to see collaboration between cabinets for consistency and expectations.

Representative Meyer stated that the next task force meeting will be Monday, October 24, 2016, at 11 a.m.

A copy of the PowerPoint presentation and other meeting materials are a part of official record in the Legislative Research Commission Library. There being no further business, the meeting was adjourned at 1:08 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 7th Meeting of the 2016 Interim

September 26, 2016

Call to Order and Roll Call

The seventh meeting of the Public Pension Oversight Board was held on Monday, September 26, 2016, at 12:00 PM, in Room 169 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 Brent Yonts, Co-Chair; Senators Jimmy Higdon and Gerald A. Neal; Representatives Brian Linder and Tommy Thompson; John Chilton, Mitchel Denham, Timothy Fyffe, Mike Harmon, James M. “Mac” Jefferson, and Sharon Mattingly.

Guests: Thomas B. Stephens, Secretary, Kentucky Personnel Cabinet; Jenny Goins, SPHR, Commissioner, Department of Employee Insurance, Kentucky Personnel Cabinet; Beau Barnes, Deputy Executive Director, Kentucky Teachers’ Retirement System, Donna Early, Executive Director, Judicial Form Retirement System; and David Eager, Interim Executive Director, Kentucky Retirement Systems.

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes.

Approval of Minutes

Representative Yonts moved that the minutes of the August 22, 2016, meeting be approved. Mac Jefferson seconded the motion, and the minutes were approved without objection.

Semi-Annual Investment Review

Bo Cracraft stated that the investment review is required by statute to be reviewed twice a year. Mr. Cracraft discussed asset allocation and the seven major asset classes that the retirement plans utilize. Historically, about 90 percent of a plan’s performance or portfolio performance is based on how the systems allocate assets. There are traditional assets, which include U.S. equity, non-U.S. equity and fixed income, and there are alternative assets, which include absolute return (hedge funds), real return, real estate and private equity.

Mr. Cracraft went on to explain that a hedge fund is a fund that tries to hedge some level of risk and is a strategy that is largely trying to provide a positive absolute return regardless of the overall market. When looking at hedge funds as an asset class or as a whole, managers are more focused on capital preservation and uncorrelated return stream mostly to equity markets. One of the key differences between a hedge fund is how it is structured and if it is regulated. Hedge funds are largely not regulated by the Securities Exchange Commission (SEC) and it gives flexibility that other managers do not have, such as, investing in a wide range of securities. Hedge funds will invest in traditional stocks and bonds and use more specific techniques.

In response to a question from Senator Bowen, Mr. Cracraft said that there are similarities between a hedge fund and a mutual fund, such as in deferred comp. If investing with a life cycle fund where it is contracted with Vanguard, Vanguard then would reallocate the assets across multiple asset classes. Deferred Comp is not choosing how much is in equity or fixed income; the life cycle manager is entrusted with that duty.

Mr. Cracraft continued with two ways public pension plans are utilizing hedge funds. First, some plans have created an allocation to what Mr. Cracraft calls absolute return. Around 7 to 10 percent of the portfolio is a targeted allocation to that asset class. Even though there is a dedicated allocation, fund of funds or a direct relationship may be utilized. Looking at the LRC peer group, 14 out of the reporting 34 states have a dedicated allocation to absolute return. Secondly, instead of having a dedicated allocation, a plan could utilize hedge funds by allocating to a hedge fund within one of their existing asset classes. For instance, a public equity portfolio may hire an equity long short manager that is within that asset class, and it serves to preserve some diversification or some level of reduction of volatility. Out of the 34 states in the LRC peer group, there are an additional five states that have some level of hedge funds. Also, out of the 34 peers, roughly 19 are utilizing hedge funds in some form or fashion either through a dedicated allocation or through a component of their existing asset allocation. The long-term expectations range from 3.5 to 6 percent, risk ranges from mid-4 to 9 percent with the equity hedge, which is clearly the more volatile strategies. Proponents of utilizing hedge funds say it provides attractive risk-adjusted returns, or it can be utilized as a fixed income replacement. Opponents will argue it does not diversify or provide adequate protection.

Hedge funds performance market review in the one year did not provide the protection anticipated, and looking at the total market it was a difficult year to meet actuarial targets. In fiscal year 2016 returns, there were only a couple of line items that exceeded 6 percent. Real Estate is not a very significant allocation to any of these specific portfolios. When looking at long bonds (bonds that have a maturity greater than 10-plus years), almost no one is really looking at long term allocations given what is expected with interest rates. It was a difficult period for any plan to get close to the 6.5 to 7 percent return hurdle. When investing, where and when the investment was made mattered a lot in this fiscal year. For instance, when looking at equity, large cap stocks were up 4 percent, but small cap stocks were down 6.7 percent, which is a difference of 1,000 basis points. Also, there was a lot of difference between the first and second half of the year for certain asset classes. The first half of the year U.S. high yield was down 7 percent, and the second half it was up 9 percent.

With asset classes' performance versus expectations and looking at the one, five and 10 year returns for the indexes, there really is no good real return index. In market assumptions for calendar year 2016, some areas have performed both above peers and above expectation. When looking at real estate, it is up over 12 percent over the last five years relative to the expectation of four percent. The Large Cap U.S. equity was up 12 percent the last five years. When looking at the 10 year number, it is above what is expected and is in line with market assumptions.

Responding to a question from Senator Bowen, Mr. Cracraft said that the good fixed income returns were based on Brexit pushing assets up, and the market assumption was lower due to U.S. government bonds and corporate bonds.

Mr. Cracraft discussed fiscal year investment returns by system and looking at periods of time where things were either underperforming expectations or underperforming other asset classes. He calculated a trailing five year number as of a specific date period. He discussed December 2002, which was right after the dot.com bubble and stated there was a flight to safety and that core fixed income had benefited from what was going on in the U.S. market. The U.S. market was largely the only underperformer, and that was due to the underlying tech companies that were located in the United States. Non-U.S. equity was not as affected, and the return for this asset class was still in the 7.5 percent target for actuarial returns. Looking five years forward, the U.S. equity was up just under 13 percent. The fixed income returns were reduced and in the 4.5 to 5 percent range. Non-U.S. equity performed better for that period; thus, the plans that had more non-U.S. equity would probably be expected to perform better than plans that have more U.S. equity because the returns were about double. Looking at 2011, there was a strong negative return within the equity markets and then a strong bounce out of most of those markets. Looking at the end of calendar year 2015, U.S. equities large cap have been on a good run. Real estate has continued to provide outsized returns and asset classes moved up and down.

Mr. Cracraft continued with the asset allocation update and historical review. Over the last decade to 15 years, alternatives have grown but have plateaued around 24 percent. The most recent Cliffwater study reported a median of 22 percent and an average of 24 percent, which is what was reported last year.

Responding to a question from Senator Bowen, Mr. Cracraft said that with the total pension plan universe, about 5 percent out of 20 percent of alternatives would be hedge funds. Looking at the Kentucky Employees Retirement System (KERS) plan, there is about 10.2 percent invested in hedge funds.

Mr. Cracraft discussed current asset allocations and that when looking at the underlying KRS plans, hedge funds ranged from just under 10 to 10.4 percent. KERS looked to be higher due to the assets in that portfolio declined faster than the private equity. For KRS, real return was about 8.5 percent and real estate about five percent of the portfolio. When looking at industry versus KRS, there are more alternatives, which are predominately coming out of the real return bucket and the absolute return bucket. Looking at the KRS plans, two plans are more financially constrained. The KERS and State Police Retirement System (SPRS) are starting to look different than the other plans due to KRS having recently implemented its asset allocation. KERS and SPRS have held a heavier weight in fixed income. Kentucky Teachers' Retirement System (KTRS) and the two Judicial Form Retirement System (JFRS) plans are effectively unchanged from last year.

Mr. Cracraft discussed asset allocation when looking at the four plans versus the LRC peer group. KRS has increased its equity exposure and has a higher allocation to alternatives. KTRS and JFRS are similar in that they have a little more equity than the larger peer group and not as much alternatives, which is where the overweight in equity is coming from.

With investment performance and looking at the actuarial study and valuations over a five year period, three out of the five plans reached a 7.5 percent return target. When looking 10 and 20 year time frames, that number drops to two out of the four plans. The average median return for one year is in the .6 to 1 percent return, and a lot of plans are looking at 10 and 20 year numbers that are near or below actuarial assumed targets.

Responding to a question from Senator Bowen, Mr. Cracraft stated that the percentage of funding is only produced in each plan on an annual basis with the valuations.

Mr. Cracraft discussed the three major areas where fees are accounted—management fees, incentive or performance fees, and other/fund of fund fees. There is clearly a desire for transparency, and new emerging standards have been seen, such as a template that was produced by the Institutional Limited Partner Association (ILPA). The Public Pension Oversight Board has heard multiple presentations from CEM Benchmarking, which within the fee discussion, is really trying to lead into more transparency. Even within Kentucky, both of the large plans have endorsed the ILPA template, although everyone is not reporting the same information, but there is a growing trend for more transparency. Mr. Cracraft explained what the Kentucky plans report in fees versus the emerging standards. He also discussed preliminary actual fees for the plans for fiscal year 2016. The KRS pension is reporting the carried interest and portfolio level fees that are associated with their private equity and hedge funds. KRS is not reporting fund of fund fees. KTRS incorporates management fees only.

Mr. Cracraft discussed key questions regarding fees need to be answered: 1) definition of fee. Management fees, incentive or performance, and other/fund of funds are the three types of fees to consider in developing standard. There has been some recent legislation that has been passed in California, which is identifying carried interest and portfolio level fees as reportable items that need to be reported going forward. Illinois is another state that has introduced proposed legislation that has not been passed but that is very similar to the California language; 2) mandatory or voluntary disclosure. California is making new investments mandatory, and with existing relationships the plan has to make a best effort to report the fees. Kentucky had various proposals that included mandatory or best effort requirements on the plans to go out and get information from partners and report it; and 3) level of transparency desired. This is the detail, such as knowing the total fee dollar amount and the amount of management fee versus performance fee.

Responding to a question from Representative Yonts, Mr. Cracraft stated that ILPA is a third party association made up of limited partners that work with general partners to develop a template for disclosure of fees. If Kentucky adopted the ILPA standard across the board, it would be up to multiple parties involved on the issue of whether the standard would be mandatory.

Responding to a question from Senator Higdon, Mr. Cracraft said most plans' salaries of individuals are considered an administrative expense and are reported as a separate line item with the financial statements. Other plans separate their investment staff sand report their salaries within their investment expense. Some plans utilize internal management. KRS and KTRS have assets that are managed in house.

Mr. Cracraft said that not much has changed from last year with current portfolio allocations along with targets. KRS had some slight changes with its fixed income and U.S. equity around its asset liability modeling study that was implemented around the first of the year. KTRS is effectively unchanged; its equity dropped one percent and its alternative investments increased one percent.

Senator Bowen introduced David Eager. Mr. Eager stated he was put on the Kentucky Retirement Systems Board at the end of April and is the Interim Executive Director for Kentucky Retirement Systems. His background is primarily based around the institutional investment management business, consulting to retirement and endowment funds. He managed Mercer's Investment Consulting Group for a period of time and has consulted to investment management companies.

Responding to questions from Senator Higdon, Mr. Eager said at this time there is no plan to help with underfunding but that there will be a plan. He stated that the KRS investment committee has four institutionally qualified people for the first time and is looking at ways to develop a plan.

Responding to questions from Senator Higdon, Beau Barnes, Deputy Executive Director, Kentucky Teachers' Retirement System, stated that in regard to the component of the medical insurance program called the non-single subsidy, which is within the Kentucky Employees' Health Plan (KEHP), individuals under age 65 that choose parent-plus, couple, or family coverage and members that retired prior to July 1, 2010 will not receive additional funding to help cover dependent costs. Over 900 individuals across the Commonwealth will pay more for their medical insurance starting January 1, 2017. The amount could vary significantly, depending on which plan has been selected. KTRS sent a letter in July 2016 notifying members and stating that staff are available to members to help find other options in the market.

Responding to a question from Representative Yonts in regard to the returns, the KERS employment factor, and that the system is down several thousand employees paying into the system, Mr. Eager said the actuarial process has a lot of factors with the unrealistic four percent assumed increase of salary and that the interest, salary, and mortality assumptions will be reviewed.

Responding to a question from Senator Bowen, Mr. Eager said KRS would be meeting with outside counsel in regard to determining an appeal of the recent decision by the Court of Appeals in the Fort Wright case.

In response to questions from Representative Thompson, Mr. Eager said he was impressed with the audit scope and the consultants performing the comprehensive audit. Mr. Barnes said he was impressed with the professionalism and that KTRS has already submitted documents to Director Chilton's office.

2017 Kentucky Employees' Health Plan Update

Thomas Stephens, Secretary, and Jenny Goins, Commissioner, Kentucky Personnel Cabinet, discussed the overview of the health insurance plan. Mr. Stephens said that the plan is the largest self-insured plan in Kentucky and has been self-funded since 2006. There is approximately a $1.7 billion annual spend. There are 178,000 eligible active employees and a total of 290,000 insured, including dependents. The school board members make up the largest part of the plan at 54 percent, and retirees make up about 20 percent of the plan.

Ms. Goins discussed membership and claims. Since 2004, the KRS non-Medicare eligible retiree membership in the plan averaged 27,000 retirees excluding dependents. The lowest population was 25,000 in 2015, so the numbers are dropping. The highest was in 2009, which was almost 30,000 retirees. The retiree population lags behind the active population in trend reduction.

Ms. Goins said that the retirees cost about 20 percent of the overall medical spend and 24 percent overall pharmacy.

Ms. Goins discussed the KEHP vendor partners. She said that, before being self-insured, there was an RFP process, which included primarily two major vendors, a medical TPA and a pharmacy TPA and other vendors subcontracted within those. In 2014. an RFP allowed the Personnel Cabinet to select the actual experts in each of those fields, and now there are five vendors that help manage the self-insured plan. Anthem is the medical TPA, CVS/Caremark is the pharmacy TPA, WageWorks is the flexible spending TPA, HumanaVitality—which will be transitioning to a new name, Go 365—is the wellness vendor, and Vitals SmartShopper is the transparency vendor.

Mr. Stephens discussed the breakdown of the covered lives by agency. KTRS represents about 7 percent, and KRS represents 13 percent. By plan, LivingWell Consumer Driven Health Plan (CDHP) is 42 percent, LivingWell Preferred Provider Organization (PPO) is 35 percent, Standard CDHP is 7 percent, Standard PPO is 5 percent, and waive coverage is 11 percent. With coverage level, which is one of the key elements of cost control, single members in the plan make up the largest component of 31 percent, family at 29 percent, parent plus at 22 percent, couple at 7 percent, and waive coverage at 11 percent. Approximately 7,000 couples take advantage of the cross reference coverage, which is included in the family percentages.

Mr. Stephens discussed the 2017 open enrollment. Everyone who participates in the system will have to actively re-select coverage on October 10 – 24, 2016. He stated there are 13 statewide benefit fairs.

Ms. Goins discussed the 2017 plan highlights that included no premium increase for the LivingWell plans if members completed their 2016 LivingWell promise. If a standard plan is selected, there will be one percent premium increase for 2017. The single plan selection is offered at a low-cost of $13.10 per month, the non-smoker premium with the standard CDHP option. There is a slight change for the deductible and maximum out-of-pocket. The deductible is increased for the LivingWell PPO by $250 for single level and $500 for family level, and the maximum out-of-pocket is increased by $250 for single level and $500 for family. With the pharmacy benefits, Ms. Goins said a continued focus is how to make sure members are adhering to their medications, especially the preventive medications. The more the member adheres to the medications the less expensive it is for the member and the health plan. A new benefit for 2017 is that CVS has developed a prevention therapy drug list for members with LivingWell or Standard CDHP and who are taking a preventive prescription to bypass the deductible and only pay the percentage co-insurance amount. Also, the Diabetes Value Benefit will continue allowing members to pay a reduced co-pay and co-insurance with no deductibles for most of their maintenance diabetes prescriptions and $0 for diabetic supplies. The positive result from this program is nine percent increased utilization of those diabetic drugs. Twenty-two percent of members in a CDHP have started taking the diabetes medicines. Mr. Stephens added that the supplies that are included with the diabetes prescriptions are all covered under the plan without meeting a deductible. Ms. Goins continued with Telehealth, which gives online access to a doctor 24 hours a day/7 days a week with a wait time of a few minutes. The program was started in July 2015 with the LiveHealth Online Medical, and there are more than 10,000 people that have enrolled and about 3,500 that have actually taken advantage of the program. From July 2015 to July 2016, there has already been a savings of $700,000. With the difficulty of finding in-network providers for behavioral health issues, LiveHealth Online Psychology will start January 1, 2017.

Ms. Goins discussed there would be no change with the health plans, but there will be a change to the LivingWell promise. The EEOC issued a federal ruling that prohibits use of a gatekeeper concept, meaning if a LivingWell promise was not completed the member would have to opt for a standard plan option. In 2017, there is access to all four plans, but if the LivingWell promise was not completed in 2016, a surcharge of $40 will be added to the monthly premium if a LivingWell plan is selected for 2017.

Responding to a question from Auditor Harmon, Ms. Goins stated that KEHP has not received any comments or concerns regarding the Epi-pen, and that basically the cost is $600, even with a benefit card or a manufactured discount card, and is still a $300 cost to the plan. KEHP Is working closely with CVS/Caremark, the Pharmacy Benefit Manager.

2017 Retiree Health Plan Update – Kentucky Teachers' Retirement System

Mr. Beau Barnes, Deputy Executive Director, Kentucky Teachers' Retirement System, discussed the medical insurance program for KTRS that consists of two plans. The first plan is KEHP, which provides coverage for members under age 65 that are otherwise ineligible for Medicare, which consists of about 15,000 enrolled members. The second plan is the Medicare Eligible Health Plan (MEHP) which provides coverage for members age 65 or older and which consists of about 31,000 enrolled members. The MEHP is a self-funded drug plan that is administered by Express Scripts and is a fully insured Medicare Advantage plan through United Health Care.

Health insurance was first offered in 1964, the same year Medicare was first offered. It was established on a pay-as-you-go basis and was not established as a pre-funded plan like the pension fund. The cost of coverage at that time was so inexpensive that spouses could be added on the members' coverage at no cost. Today, spouses are eligible for coverage under the member for full cost.

Mr. Barnes discussed the significant changes to the plan through the years. The changes were promoted by the KTRS board, and the General Assembly to help control costs. KTRS nationally has been at the forefront in taking advantage of any federal subsidies. In 2001, adverse selection was reduced by making permanent any election by surviving spouses to terminate KTRS coverage. In 2002, an increase from 20 to 27 years of service was required to receive the maximum supplement, and return-to-work retirees were required to obtain insurance with an active employer if that coverage is as good or better as KTRS offered. In 2006, a positioned MEHP drug plan took advantage of Medicare Part D subsidies. In 2007, a positioned MEHP drug plan managed to secure federal Medicare Advantage subsidies. In 2008, the pension reform legislation that impacted all retirement systems required new members to have a minimum 15 years for retiree insurance. In 2010, landmark legislation passed that fully addressed challenges in funding for retired teacher's medical insurance, requiring active teachers, retired teachers under the age 65, and school districts to contribute more to medical insurance funding. This enactment changed the pay-as-you-go plan as it had been since 1964 and put it on track to becoming a prefunded plan. From 2006 to 2009, there was never more than a 3.5 percent funded status. In 2010, the first year of shared responsibility, the funded status went from 3.5 to 7.5 percent and in 2015 has grown to 18.1 percent. Also in 2010, the MEHP drug plan was moved from Medicare Part D subsidy to an employer group waiver prescription drug plan obtaining greater federal subsidies. In 2012, KTRS was one of the first members of the Know Your Rx Coalition, and that positioned the MEHP drug plan to take advantage of private drug manufacturers' 50 percent subsidy in Medicare Part D's coverage gap. In 2013, KTRS further reduced adverse selection with a "Spousal Shared Risk Waiver" that made permanent any election by living members' spouses to terminate KTRS Medicare coverage. In 2014, KTRS implemented a Medicare High Performance Formulary that has a 50 percent coinsurance level for a brand-name, non-preferred drug tier.

2017 Retiree Health Plan Update – Judicial Form Retirement System

Donna Early, Executive Director, Judicial Form Retirement System, said that health insurance has been provided to members, retirees, and dependents in the Legislative Retirement Plan (LRP) since 1982. In 1988, the same health insurance coverage was provided to members of the Judicial Retirement Plan (JRP) plan. The health insurance subsidy that is provided is based on years of service by the retiree. There are two separate plans by statutory requirement. Coverage is provided to the non-Medicare eligible retirees and the Medicare eligible retirees.

The Medicare eligible retiree's coverage since 2014 has been through a Medicare advantage PPO plan that has been provided by Humana. There are 158 policyholders in LRP and 253 policyholders in JRP. Ms. Early noted that the increases over the past ten years have fallen with the actuarial assumptions.

Ms. Early said that non-Medicare eligible retirees are covered under KEHP, which includes 97 policyholders in JRP and 21 policyholders in LRP.

The medical actuarial funded status is over 100 percent funded in both LRP and JRP.

The health insurance subsidies anticipated for 2017 for LRP will be approximately $745,000 and for JRP will be approximately $2 million.

Responding to a question from Senator Bowen, Ms. Early said there has been discussion of merging with either KRS or KTRS. She believes the LRP and JRP plans are unique and should be kept separate.

2017 Retiree Health Plan Update – Kentucky Retirement Systems

David Eager, Interim Executive Director, Kentucky Retirement Systems, said about 10 years ago KRS was about 20 percent funded for health care and now is in the 60 percent range. There is one plan that is over funded and only one that is below 60 percent. Costs have decreased in the last five years using Humana, and KRS is in a great position to serve the members. There are 90,000 people who will complete open enrollment, and KRS expects to have about 20,000 people on campus.

KRS retirees began receiving health benefits following passage of legislation in 1978. In 2003, KRS removed health care from the inviolable contract for members that began participating on or after July 1, 2003, and these retirees must have 10 years of service to be eligible to participate in KRS' health insurance program. In 2008, the required years to be eligible to participate in KRS' health insurance program increased to 15 years of service. There are currently 25,000 individuals in the Medicare eligible plans and 51,000 in the KEHP plans.

Mr. Eager discussed the Medicare eligible premiums from 2006 and how the cost was in an upward trend until 2013, when KRS took on Humana and the premiums dropped. The KRS Medicare Advantage Plans began in 2013 with a huge savings. For those not eligible for Medicare, the LivingWell PPO Single Premium is paid fully for non-hazardous retirees with 20 years or greater service credit. LivingWell PPO Parent Plus, Couple and Family premium is paid fully for hazardous duty retirees with 20 years or greater hazardous duty service credit.

KERS non-hazardous has experienced positive cash flow since 2012 and improved funding levels from 7.8 percent in 2006 to 28.8 percent in 2015. KERS hazardous has historically experienced positive cash flows, leading to increased funding levels from 34.3 percent in 2006 to 120.4 percent in 2015. SPRS has experienced stable cash flows, and funding levels increased from 18.1 percent in 2006 to 65.8 percent in 2015. County Employees Retirement System (CERS) non-hazardous has historically experienced positive cash flows, and funding levels improved from 16.9 percent in 2006 to 68.7 percent in 2015. CERS hazardous also historically experienced positive cash flows, and funding levels improved from 21.9 percent in 2006 to 72.3 percent in 2015.

With no further business to come before the board, the meeting was adjourned. The next regularly scheduled meeting is Monday, October 24, 2016.

CAPITAL PLANNING ADVISORY BOARD

Minutes of the 2nd Meeting of the 2016 Calendar

September 20, 2016

Call to Order and Roll Call

The second meeting of the Capital Planning Advisory Board was held on Tuesday, September 20, 2016, at 10:00 AM, at The 300 Building in Frankfort, Kentucky. Representative Terry Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair; Representative Terry Mills, Co-Chair; Senator Whitney Westerfield, Representative Tom Riner; Scott Brinkman, John Chilton, Jane Driskell, Carole Henderson, William Landrum, Mark Overstreet, Kaelin Reed, and Katie Shepherd.

Guests: Mike Burnside, Commissioner, Department for Facilities and Support Services; Andy Casebier, Director, Division of Engineering and Contract Administration; Scott Aubrey, Director, Division of Real Properties; and Sherron Jackson, former member of the Capital Planning Advisory Board.

LRC Staff: Shawn Bowen, Julia Wang, and Jennifer Luttrell.

Welcome and Comments

Representative Mills welcomed Mr. Brinkman to his first meeting as a member of the board and acknowledged Sherron Jackson, a former member of the board, who was in the audience.

Approval of Minutes (October 20, 2015 and July 19, 2016)

A motion to approve the minutes of the October 20, 2015 and July 19, 2016 meetings was made by Mr. Landrum, seconded by Ms. Driskell, and approved by voice vote.

Information Item

Shawn Bowen, Committee Staff Administrator, said there was one information item included in members' folders regarding the University of Kentucky (UK) Facilities Renewal and Modernization Pool Project. In August, committee staff sent correspondence to UK requesting that the individual project scopes be shared with the board upon finalization. The university anticipates that the project scopes will be finalized by mid to late October. At that time, the information will be shared with the board. [At the board's July 19 meeting, UK provided a list of seven primary buildings and eight alternative buildings to be included in the pool project. Because the dollar amounts for each project were not finalized at the time, they were not included in the list.]

Representative Mills stated that he and Senator Humphries met with university officials last year regarding this project. The purpose of the meeting was to clarify the board's expectations in regards to the type and amount of information being submitted in UK's capital plan. Projects submitted during the capital planning period with incomplete or scant details are not acceptable to the board, and the board does not want to set a precedent by not questioning projects, pool or otherwise, that are submitted with insufficient or inadequate details. The board gives equal consideration to all agency submissions and pool projects submitted in agency capital plans are carefully reviewed for details as to the individual projects included in the pool.

Senator Humphries added that although the university has been working hard to answer the board's questions, it is hard to know what is needed before a renovation project is started.

Instructions for the 2018-2024 capital plans

There was a motion made by Mr. Overstreet, seconded by Ms. Henderson, and adopted by roll call vote to approve the 2018-2024 capital planning instructions. The motion also included the authorization for staff to make the necessary editing changes in finalizing the instructions for publication.

In response to a question from Senator Westerfield, Ms. Bowen stated that the only changes to the instructions are the inclusion of two additional pages of narrative regarding the role of the Commonwealth Office of Technology and the role of the Council on Postsecondary Education in the capital planning process. Representative Mills recommended that each member review those changes thoroughly.

Presentation – Long-range plan for housing

state agencies in Frankfort

Mike Burnside, Commissioner, Department for Facilities and Support Services; Andy Casebier, Director, Division of Engineering and Contract Administration; and Scott Aubrey, Director, Division of Real Properties, gave a brief overview of The 300 Building, which is the new state office building in Frankfort. The presenters also discussed the long-range plan for housing state agencies in Frankfort.

The new state office building, known as The 300 Building, is located at 300 Sower Boulevard off the East-West Connector in Frankfort. The building replaces the Capital Plaza Tower (Tower) which was built in 1967. The 300 Building is situated on 34 acres of state-owned property. Construction started in March 2015 after the Finance and Administration Cabinet signed a build-to-suit agreement with CRM/DW Wilburn of Lexington. Under the terms of the agreement, the property was conveyed to CRM/DW Wilburn, and is being leased to the Commonwealth. The lease term is 35 years, and the annual payment is $4,525,574. At the end of the lease term, ownership of the property will revert to the Commonwealth. CRM/DW Wilburn is responsible for maintaining and managing the building as a term of the lease agreement.

The Finance and Administration Cabinet is now evaluating the future usage of the Tower. A Request for Expressions of Interest was issued by the cabinet in October 2015, and no responses were received. In July 2016, the cabinet issued a Request for Proposal (RFP) for sale or lease of the property. The RFP received one response, however, after reviewing the overall project, the cabinet made the decision to cancel the solicitation.

In response to questions from Senator Westerfield and Representative Mills, Mr. Aubrey and Mr. Casebier stated that the Tower in its current state is not suitable for use. Part of the façade is falling off the building, the mechanical systems are old, and the building contains asbestos and other hazardous materials. The cost to demolish the building is estimated at $21 million, and the estimated cost to renovate the building is $68 million. Mr. Casebier added that the building's facade continues to grow weaker over time and eventually will turn to sand. They have placed shelters over all the doors to protect people from softball-size pieces of concrete that are falling off the building. There are approximately 200 people in the Tourism, Arts, and Heritage Cabinet and the Department of Agriculture left in the Tower, and they should be relocated to other office space by December 2016. After the Tower is empty, the utilities will remain on to protect the building from mold and other deterioration.

Senator Humphries commented that during the capital planning process, the board needs to be conscious in recommending new construction that may not be a good return on the Commonwealth's investment. Mr. Casebier stated that they try to construct buildings that last at least 50 years before significant work is needed. The new building will house up to 1,500 employees, and utilizes 255 gross square feet (gsf) per person rather than 310 gsf per person that was typically used in past Kentucky buildings. Currently, there are 1,457 employees housed in the building, including 1,339 employees from the Energy and Environment Cabinet, 95 from the Education and Workforce Development Cabinet, 21 from the Commonwealth Office of Technology, and two Kentucky State Police employees situated at the front entrance.

In response to questions from Representative Mills, Mr. Casebier stated that the Department for the Blind will manage the food service area and the vending machines. This will be the first time the Department for the Blind has run a cafeteria. The food service area, which will seat 200 indoors and 45 outdoors, is under construction, and should be ready in 2017.

In response to questions from Mr. Overstreet and Representative Riner about the increased traffic on the East-West Connector and the lack of available spaces in the parking lot, Mr. Casebier stated that two traffic studies were done and both studies determined that the current traffic flow patterns are acceptable for the amount of traffic. The developer established a $50,000 fund to pay for any additional ingress or egress changes that may be needed in the future. A 200-car parking lot has been built between The 300 Building and the Central Lab to hold all the fleet vehicles and this lot can be expanded in the future.

Other Business

Representative Mills expressed appreciation to the board's staff for their guidance and to the members for their participation. Senator Humphries and Representative Mills acknowledged two retiring members of the board, Mr. Sherron Jackson and Representative Tom Riner, with the reading of resolutions in their honor. Resolutions were also presented for three retired members that were not in attendance: Mr. John Hicks, Ms. Mary Lassiter, and Mr. Jamie Link. Representative Mills announced that the next meeting will be held in May or June of 2017.

Adjournment

With there being no further business, the meeting was adjourned at 11:00 AM. A tour of the building commenced upon adjournment of the meeting.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes of the 9th Meeting of the 2016 Interim

October 5, 2016

Call to Order and Roll Call

The 9th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, October 5, 2016, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Wilson Stone, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Dennis Parrett, Robin L. Webb, and Whitney Westerfield; Representatives Mike Denham, Tom McKee, Terry Mills, Jonathan Shell, and James Tipton.

Guests: Dr. Donald Miller, Director of the Brown Cancer Center, University of Louisville; Dr. B. Mark Evers, Director of the Markey Cancer Center, University of Kentucky Albert B. Chandler Hospital; Warren Beeler, Executive Director, Governor's Office of Agricultural Policy; Stefanie Osterman, Project Manager, Governor's Office of Agricultural Policy; and Tammy Miller, Director of KADF Programs, Governor's Office of Agricultural Policy.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Marielle Manning.

Upon motion by Senator Embry and second by Representative Mills, the September 7, 2016 minutes were approved by voice vote and without objection.

Upon motion by Representative Denham and second by Representative McKee, the Resolution honoring Karen M. Curtis for her service on the Agricultural Development Board was approved by voice vote and without objection.

Kentucky Lung Cancer Research Program Presentations

Dr. Donald Miller, Director of the Brown Cancer Center, gave a report on the Kentucky Lung Cancer Research Program at the University of Louisville Hospital. Dr. Miller explained improvements in cancer treatments and therapy that have resulted in decreasing numbers of cancer deaths in Kentucky. Dr. Miller explained a few of the new treatment drugs developed at the Brown Cancer Center.

Responding to Senator Parrett, Dr. Miller said Kentucky is number one in the U.S. for cancer-related deaths, but the state has made improvements.

Responding to Representative Tipton, Dr. Miller explained that electric cigarettes are probably safer than real cigarettes; however, no nicotine in any form would be the best approach to reduce cancer rates.

In response to Representative Mills, Dr. Miller said he has worked on advanced melanoma cases for the past 40 years. He has only seen significant success in the past two or three years.

Responding to Representative Denham, Dr. Miller further described the new drug development, AS1411. Dr. Miller said AS1411 was used as a control drug and led to a third generation drug, non-toxic, synthetic DNA that turns off a gene that is present in all cells.

Responding to Representative McKee, Dr. Miller explained the plant-based pharmaceuticals developed as a partnership between the Owensboro Medical System and the University of Louisville in conjunction with Kentucky Bioprocessing, LLC plant. It is the only pharmaceutical plant in the world that can make drugs out of tobacco. There are three vaccines that are close to testing.

In response to Senator Westerfield, Dr. Miller said that the teenage smoking rate in Kentucky is 16.9 percent. The national average is 10.5 percent, and there are rates as low as five percent.

Responding to Representative Stone, Dr. Miller explained that Kentucky is closely ranked to North Carolina and Virginia, but Kentucky's drop in smoking rates is positive.

Dr. B. Mark Evers, Director of the Markey Cancer Center, discussed the Kentucky Lung Cancer Research Program at the University of Kentucky Albert B. Chandler Hospital. Dr. Evers said annual health care costs caused by tobacco use in Kentucky are $1.92 billion. Lung cancer accounts for 35 percent of total cancer deaths in Kentucky. He discussed the Markey Cancer Center's mission and its path to the National Cancer Institute designation. Dr. Evers explained the increase in cancer research funding since 2011 and Markey Cancer Center's new recruitments in staff.

In response to Senator Embry, Dr. Miller said AS1411 was very successful on animal and tissue cultures. AS1411 will probably not be a replacement for prostate cancer.

Responding to Representative Stone, Dr. Miller said the center has made great progress in understanding the genome and genes involved in lung cancers. Dr. Evers said the center is looking for genetic mutations in cancers in eastern Kentucky with funding from Kentucky Lung Cancer Research Programs.

Governor's Office of Agricultural Policy

Mr. Warren Beeler, Executive Director, Stefanie Osterman, Project Manager, and Tammy Miller, Director of KADF Programs, Governor's Office of Agricultural Policy, presented projects receiving the Agricultural Development Board approval at its September 2016 meeting. Those included facility upgrades, farmers market, Youth Ham Project, on-farm investments, environmental stewardship, shared-use equipment, on-farm energy efficiency incentives, and major statewide or regional projects.

Responding to a question from Representative Tipton, Mr. Beeler confirmed that $497 million of tobacco settlement funds have been given to cancer research.

Responding to Representative McKee, Mr. Beeler stated that the hemp farm of Brian Furnish has the most uniform hemp fiber crop he had seen. The crop production will be six tons per acre and $100 per ton of hemp fibers. Compared to the Winchester hemp plant which processes seed, Brian Furnish's farm processes fiber.

In response to Senator Parrett, Mr. Beeler said the hemp was kept clean by using Roundup weed killer in the early stages of growth and then burning the hemp down and allowing it to regrow.

The committee received reports on three regional projects: (1) Franklin County Fair and Horseshow Association, Inc., approved by the board for $6,000 in Franklin County funds to upgrade the public address system for its livestock facilities; (2) Hickman County Fiscal Court, approved by the board for $19,000 in Hickman $90,450 in State funds to construct a 60' x 40' farmers market pavilion in Clinton, KY; (3) Metcalfe County 4-H Council, Inc., approved by the board for $3,800 in Metcalfe County funds to purchase country hams for its youth country ham project.

GOAP officials described one funding denial: (1) Veering, LLC, turned down for $24,500 in State funds to purchase a hops harvester, drying floor with heater and a baler. Lack of producer impact was mentioned as reason for denial.

GOAP officials answered questions about the three regional projects received by the board in September.

Representative Stone commented on ham projects and how they help to prolong the art of curing ham practiced in Kentucky.

Responding to Representative Mills, GOAP representatives explained that Russell County does not have its own composting facility.

In response to Senator Webb, GOAP officials explained that, for the energy program, a score sheet is based on energy savings.

Documents distributed during the meeting are available with meeting materials in the LRC Library.

There being no further business, the meeting was adjourned.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

October 11, 2016

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, October 11, 2016, at 10:15 AM, in Room 129 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Dennis Horlander, Co-Chair; Senators Julie Raque Adams, Julian M. Carroll, and Paul Hornback; Representatives Lewis Nicholls, and Brent Yonts.

Guests: Deaidra Douglas, John Chilton, Andrew McNeill, Stacey Shane, Stewart Ditto, Joe Mattingly, Ken Marks, Carey Johnson, and Kristi Graham.

LRC Staff: Kim Eisner, Daniel Carter, and Jarrod Schmidt.

DEFERRED ITEM:

WESTERN KENTUCKY UNIVERSITY:

Jackson Lewis, P.C.; 161832. A motion was made by Representative Yonts to defer the contract to the November 2016 meeting of the committee. Senator Carroll seconded the motion, which passed.

A motion was made by Representative Yonts to approve Minutes of the September 2016, meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Nicholls seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Nicholls seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Nicholls seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Nicholls seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Correction List. Representative Nicholls seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

DENTISTRY, BOARD OF:

George Ted Georgacopoulos, 1700000407.

DEPARTMENT FOR INCOME SUPPORT:

Andres C. O. Crame, 1700000356; Drive Timothy Gregg, 1700000357; Lisa Pfitzer, M.D., 1700000359; Angelita Luz-Tobias, 1700000361.

DEPARTMENT FOR PUBLIC HEALTH:

Thomas Joseph Hickey, 1700000375.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL:

Frankie J. Carroll, 1700000208.

DEPARTMENT OF HOUSING, BUILDING, AND CONSTRUCTION:

Code Administrative Associates of Kentucky, 1700000341.

DEPARTMENT OF INSURANCE:

Janice S. Hickerson LLC, 1700000536.

EASTERN KENTUCKY UNIVERSITY:

Integrity Architecture, 18-093; The NCHERM Group, LLC, 18-095.

EDUCATION, DEPARTMENT OF:

Kathy Cox, 1700000327.

FISH & WILDLIFE, DEPARTMENT OF:

Stream Mechanics, PLLC, 1700000445.

JUSTICE CABINET:

Anthony P. Vilardo, 1600003842; Richard Wright, 1600003843.

KENTUCKY APPLIED BEHAVIOR ANALYST LICENSING BOARD:

Marisa Neal, 1700000426.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

SCATE Inc., 696; Ivy Tech Community College of Indiana Bloomington, 697; Johnson Family Chiropractic, 700.

KENTUCKY LOTTERY CORPORATION:

The Oliver Group, Inc., 17-001; Bandy Carroll Hellige, 17-16-044-1.

KENTUCKY STATE UNIVERSITY:

Academic Search, KSU-17-12.

MARRIAGE AND FAMILY THERAPISTS, BOARD OF LICENSURE FOR:

Marisa Neal, 1700000340.

MURRAY STATE UNIVERSITY:

Hodgkins Beckley Consulting, LLC, 006-17.

OFFICE OF INSPECTOR GENERAL:

Sayre Christian Village Nursing Home, Inc., 1600003997.

TRANSPORTATION CABINET:

Vaughn & Melton Consulting Engineers, Inc., 1700000117; Bureau Veritas Company, 1700000588; Stantec Consulting Services, Inc., 1700000598; Stantec Consulting Services, Inc., 1700000621; Stantec Consulting Services, Inc., 1700000635.

UNIVERSITY OF KENTUCKY:

Staggs & Fisher Consulting Engineers, Inc., A171080; Marshall Medical Management, LLC, K17-210; SG-2, LLC, K17-211; Frost Brown Todd, LLC, K17-212; Miller, Canfield, Paddock and Stone, LLP, K17-213; Dinsmore & Shohl, LLP, K17-214; Evora IT Solutions, Inc., K17-215.

VETERANS AFFAIRS, DEPARTMENT OF:

Trilogy Rehabilitation Services, LLC, 1700000535; Public Consulting Group, 1700000568.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

DEPARTMENT FOR PUBLIC HEALTH:

Multi, 1600002667.

EASTERN KENTUCKY UNIVERSITY:

Multi, 18-038; Fred Fyer, Ph.D., CADC, 18-063; Geoff Wilson, LCSW, CADC, 18-065.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Stantec Consulting Services, Inc., 1400000625; Tate Hill Jacobs Architect, Inc., 1500001065; Kohrs Lonnemann Heil Engineers, PSC, 1600000312.

HORSE PARK, KENTUCKY:

Park Equine Hospital, 1400003106.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Hanna Resource Group, LLC, 692.

KENTUCKY LOTTERY CORPORATION:

Smartplay International, Inc., 17-12-011.

MEDICAL LICENSURE, BOARD OF:

Multi, 1600002744.

MILITARY AFFAIRS, DEPARTMENT OF:

Mirotech, Inc., 1600002793.

MURRAY STATE UNIVERSITY:

Sherman Carter Barnhart, PSC, 019-14.

TRANSPORTATION CABINET:

T H E Engineers, Inc., 1000001409; Palmer Engineering Company, 1100001520; HDR Engineering, Inc., 1200000534; Stantec Consulting Services, Inc., 1200002065; QK4, 1300001567; American Engineers, Inc., 1300002003; Gresham Smith & Partners, 1300002683; Stantec Consulting Services, Inc., 1300002846; Summit Engineering, Inc., 1300003118; GRW Engineers, Inc., 1400000072; GRW Engineers, Inc., 1400000506; Palmer Engineering Company, 1400000811; Palmer Engineering Company, 1500001037; WMB, Inc., 1500001099; CDP Engineers, Inc., 1500001103; HMB Professional Engineers, Inc., 1500001230; CDP Engineers, Inc., 1600000584; Burgess and Niple, Inc., 1600000845; Keaton Real Estate Services, LLC, 1600002182; URS Corporation, 1600003494; H A Spalding, Inc., C-99005052-6.

UNIVERSITY OF KENTUCKY:

Ekhoff, Ochenkoski, Polk Architects, A141220; Stengel-Hill Architecture, A151150; JRA Architects, A151190.

UNIVERSITY OF LOUISVILLE:

Multi, 17-010 A-G.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Kentucky 4-H Foundation, 1700000421; Kentucky FFA Foundation, Inc., 1700000422.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1700000082; Multi, 1700000099; Multi, 1700000333; Legal Aid of the Bluegrass, 1700000423.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Greater Louisville Workforce Development Board, Inc., 1600001918-1; Seattle Jobs Initiative, 1700000604.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

USDA - Forest Service, 1600002348; UK Research Foundation, 1700000212.

DEPARTMENT FOR NATURAL RESOURCES:

Multi, 1600003887; Multi, 1600003888; Multi, 1600003889.

DEPARTMENT FOR PUBLIC HEALTH:

Western Michigan University, 1600002196.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Floyd County Board of Education, 1700000214.

EDUCATION, DEPARTMENT OF:

Morgan County Board of Education, 1600003576; Grayson County Board of Education, 1600003581; Barren County Board of Education, 1600003598; Bullitt County Board of Education, 1600003602; Bowling Green Independent Board of Education, 1600003604; Carter County Board of Education, 1600003615; Kenton County Board of Education, 1600003635; Madison County Board of Education, 1600003656; Ballard County Board of Education, 1700000027; Edmonson County Board of Education, 1700000044; Lewis County Board of Education, 1700000047; McCreary County Board of Education, 1700000067; Muhlenberg County Board of Education, 1700000068; Trigg County Board of Education, 1700000075; Eastern Kentucky University, 1700000190; Collaborative Center for Literacy Development, 1700000221; Walton Verona Independent Board of Education, 1700000222; Kentucky Center for the Arts, 1700000231; University of Louisville Research Foundation, 1700000254; Save the Children, 1700000256; Fayette County Board of Education, 1700000279; Eminence Independent Board of Education, 1700000294; Lyon County Board of Education, 1700000319; Western Kentucky University Research Foundation, 1700000336; University of Kentucky Research Foundation, 1700000377; Western Kentucky University Research Foundation, 1700000386; University of Louisville Research Foundation, 1700000388; Eastern Kentucky University, 1700000400; University of Kentucky Research Foundation, 1700000404; Western Kentucky University Research Foundation, Inc., 1700000406; University of Louisville Research Foundation, 1700000408; Northern Kentucky Cooperative for Educational Services, Inc., 1700000410; University of Kentucky Research Foundation, 1700000441; Jessamine County Board of Education, 1700000468; University of Kentucky Research Foundation, 1700000475; Owensboro Independent, 1700000580; Scott County Board of Education, 1700000590; University of Louisville Research Foundation, 1700000620; University of Louisville Research Foundation, 1700000622; Collaborative for Teaching, 1700000631; Green River Regional Education, 1700000633; Green River Regional Education, 1700000634; Whitley County Board of Education, 1700000638; Bellarmine University, 1700000639; Western Kentucky University Research Foundation, Inc., 1700000640; West Kentucky Education Cooperative Special Education, 1700000641.

FISH & WILDLIFE, DEPARTMENT OF:

UK Research Foundation, 1700000213.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1700000160.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Nicholasville, 1700000437; Christian County Fiscal Court, 1700000440; Harlan County Fiscal Court, 1700000646.

POST SECONDARY EDUCATION, COUNCIL ON:

Collaborative for Teaching, 1700000585.

TRANSPORTATION CABINET:

Kentucky Association of Chiefs of Police, 1700000429; Kentucky Association of Chiefs of Police, 1700000430; Kentucky Association of Chiefs of Police, 1700000431; Kentucky Association of Chiefs of Police, 1700000432.

TRAVEL, DEPARTMENT OF:

Lexington Area Sports Authority, 1700000647.

WORKFORCE INVESTMENT, OFFICE OF:

Greater Louisville Workforce Development Board, Inc., 1700000202; Greater Louisville Workforce Development Board, Inc., 1700000206.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1500001218.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Multi, 1600001201.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

People Advocating Recovery, 1600001726.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Kentuckianaworks, 1600001918; Kentucky Housing Corporation, 1600001952.

DEPARTMENT FOR PUBLIC HEALTH:

Friend for Life...A Cancer Support Network, Inc., 1600002035.

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE:

Department of Local Government, 1300001345.

EDUCATION, DEPARTMENT OF:

Department of Agriculture, 1600002461; Boone County Board of Education, 1600003127; Newport Independent Board of Education, 1600003182.

JUVENILE JUSTICE, DEPARTMENT OF:

University of Kentucky Medical Center, 1600002447; University of Louisville, 1600002449.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1500000910; Northern Kentucky Area Development District, 1500001369; Bluegrass Area Development District, 1600001177.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Morgan County Fiscal Court, 1600000086.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

CRIMINAL JUSTICE TRAINING,

DEPARTMENT OF:

Brett Scott, 1700000574; MB Consulting Services, LLC, 1700000575; Anthony P. Vilardo, 1700000578. Deaidra Douglas discussed the contracts with the committee. A motion was made by Senator Carroll to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed.

FINANCE AND ADMINISTRATION CABINET:

PFM Group Consulting, LLC, 1700000539. John Chilton and Andrew McNeill discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

KENTUCKY COMMISSION ON MILITARY AFFAIRS:

Simon Everett, Ltd., 1700000582. Stacey Shane and Stewart Ditto discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Centurion Solutions, LLC, 699. Joe Mattingly and Ken Marks discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Commonwealth Office of Technology, 1700000063. Carey Johnson and Kristi Graham discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Representative Yonts seconded the motion, which passed.

EXEMPTION REQUEST:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET, OFFICE OF THE SECRETARY:

The Education and Workforce Development Cabinet, Office of the Secretary requested an exemption from the committee's routine review process for Memoranda of Agreement and modifications between EWDC Departments and will file quarterly reports. A motion was made by Representative Yonts to grant the request to June 30, 2018. Representative Nicholls seconded the motion, which passed without objection.

There being no further business, the meeting was adjourned at 10:55 a.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the October Meeting

October 11, 2016

Call to Order and Roll Call

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 11, 2016, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Mary Lou Marzian, Co-Chair; Senators Julie Raque Adams, Perry B. Clark, and Alice Forgy Kerr; Representatives Linda Belcher, and Tommy Turner.

Guests: Darrell Johnson, University of Kentucky Regulatory Services; John Ghaelian, Kevin Winstead, Attorney General's Office; Richard Bertelson, Department of Revenue; Brian Judy, Sonja Minch, Board of Barbering; Nathan Goldman, Board of Nursing; Amy Barker, Deaidra Douglas, Mark Filburn, Department of Criminal Justice Training; Ann DAngelo, Department of Transportation; Andrea Fryman, Morehead State University; Chuck Stribling, Michael Swansburg, Labor Cabinet; Steve Humphress, Melissa McQueen, Department of Alcoholic Beverage Control; Jared Downs, Tim House, Steve Milby, Department of Housing, Building and Construction; Laura Begin, Robert Brawley, Andrea Flinchum, Department of Public Health; Stephanie Brammer-Barnes, John Inman, Office of Inspector General; Maria Lewis, Department for Income Support; Elizabeth Caywood, Department for Community Based Services; Steve Kennedy, Tri-City Barber College.

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

The Administrative Regulation Review Subcommittee met on Tuesday, October 11, 2016, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

AGRICULTURAL EXPERIMENT STATION: Seed

12 KAR 1:116. Sampling, analyzing, testing, and tolerances. Darrell Johnson, executive director, represented the University of Kentucky, Division of Regulatory Services.

12 KAR 1:140. Permits, reports, and fees for persons using own tags.

12 KAR 1:155. Schedule of charges for samples submitted for testing.

In response to questions by Co-Chair Harris, Mr. Johnson stated that the fee increases only covered the increased costs of the testing kits. Fees had not been increased since 2012. There were no public comments expressing concern pertaining to the fee increases.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) add a definition for "free test; and (2) comply with the drafting and formatting 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: Office

40 KAR 2:145. Funeral planning declaration form. John Ghaelian, assistant attorney general, and Kevin Winstead, assistant attorney general, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to update the edition date of the Funeral Planning Declaration Form; and (2) to clarify on the form that signatures shall be obtained from the declarant, witnesses, and notary public to be consistent with the language in the administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

40 KAR 2:150. Cremation forms and inspections.

In response to a question by Representative Belcher, Mr. Winstead stated that funeral directing related to cremation, if for profit, would need to be done in conjunction with a licensed funeral home or funeral director. Some crematories were separate from a licensed funeral home or funeral director. The office would investigate further and provide Representative Belcher with a more in-depth summary of cremation requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Section 1 to reference declarants in conjunction with references to decedents; and (3) to amend Sections 1, 3, and 6 to: (a) clarify that the July 15, 2016 date is not applying retroactively, but that it is the effective date for KRS 367.97501 and 367.97527, which phased out the Preneed Cremation Authorization Form, CR-3; and (b) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Ad Valorem Tax; State Assessment

103 KAR 8:160. Valuation of municipal solid waste landfill facilities. Richard Bertelson, staff attorney, represented the department.

In response to questions by Co-Chair Harris, Mr. Bertelson stated that landfill valuation for tax assessment purposes was based on tipping fees in dollars per ton over the economic life of the landfill, divided for a yearly average. The economic life of a landfill was determined based on how much waste the site could accept. The administrative regulation was amended to revise valuation calculations based on comments from stakeholders. The royalty rate was the leasing rate for a municipality to use a privately-owned landfill property. The discount rate was the return on investment.

GENERAL GOVERNMENT CABINET: Board of Barbering: Board

201 KAR 14:125. Teacher requirements. Brian Judy, assistant attorney general, and Sonja Minch, administrator, represented the board. Steve Kennedy, owner, Tri-city Barber College, appeared in support of this administrative regulation.

In response to questions by Co-Chair Harris, Ms. Minch stated that this administrative regulation was amended to require 600 hours of instructional experience under supervision, rather than twelve (12) months, because 600 hours was a more specific standard. If an applicant was unable to complete

600 hours within the twelve (12) month time frame, the applicant may submit an extension request. Mr. Kennedy stated that this administrative regulation would ensure good educators for barbering schools. Ms. Minch stated that the board reached out to all nine (9) barbering schools without any negative feedback regarding these amendments.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add citations; (2) to amend Section 1 to clarify the examinations for which the passing score of eighty (80) percent applies; and (3) to amend Sections 3, 7, and 13 for: (a) clarity; and (b) compliance with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Nursing: Board

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements. Nathan Goldman, general counsel, represented the board.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Criminal Justice Training: Law Enforcement Foundation Program Fund

503 KAR 5:090. Participation: requirements; application; withdrawal. Amy Barker, assistant general counsel, and Mark Filburn, commissioner, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2(2)(d) to require completion of a forty (40) hour basic officer skills or new police chief orientation course for an officer who has completed basic training in the past but has had a separation of employment for more than thirty-six (36) months; (2) to amend Sections 5 and 7 to incorporate by reference the Application for Police Training Incentive form; and (3) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Motor Carriers

601 KAR 1:231. Repeal of 601 KAR 1:025, 601 KAR 1:029, 601 KAR 1:060, 601 KAR 1:075, 601 KAR 1:095, 601 KAR 1:101, 601 KAR 1:110, 601 KAR 1:145, 601 KAR 1:190, and 601 KAR 1:230. Ann D'Angelo, assistant general counsel, represented the cabinet.

In response to questions by Co-Chair Harris, Ms. D'Angelo stated that the cabinet was confident that these administrative regulations were superfluous and should be repealed.

Co-Chair Harris stated that it was important to repeal unnecessary administrative regulations in a timely manner.

Senator Clark stated that legislators should also repeal unnecessary statutes timely, such as if a statute is not withstood in a bill because the statute is superfluous.

In response to a question by Co-Chair Marzian, Ms. D'Angelo stated that the agency amendment removed 601 KAR 1:025 from the list of administrative regulations to be repealed because there was a federal mandate that required it. The cabinet planned to repeal and refile this subject matter as part of another administrative regulation, but realized that the repeal should wait until the other administrative regulation was ready.

A motion was made and seconded to approve the following amendments: to amend the TITLE; NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 1 to remove 601 KAR 1:025 from the list of administrative regulations to be repealed because there was a federal mandate in effect that required that administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

Administration

601 KAR 2:011. Repeal of 601 KAR 2:010.

Motor Vehicle Tax

601 KAR 9:111. Repeal of 601 KAR 9:010, 601 KAR 9:020, 601 KAR 9:060, 601 KAR 9:065, 601 KAR 9:095, and 601 KAR 9:105.

Transportation of Solid Waste

601 KAR 40:011. Repeal of 601 KAR 40:010.

Department of Aviation: Airport Safety Standards

602 KAR 20:091. Repeal of 602 KAR 20:090.

Department of Highways: Construction and Materials

603 KAR 1:031. Repeal of 603 KAR 1:030.

Right-of-way

603 KAR 4:046. Repeal of 603 KAR 4:045.

Traffic

603 KAR 5:311. Repeal of 603 KAR 5:020, 603 KAR 5:030, 603 KAR 5:080, 603 KAR 5:090, 603 KAR 5:240, and 603 KAR 5:301.

A motion was made and seconded to approve the following amendments: to amend the TITLE; NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 1 to remove 603 KAR 5:240 from the list of administrative regulations to be repealed because KRS 177.074 requires it. Without objection, and with agreement of the agency, the amendments were approved.

Office for Transportation Delivery: Mass Transportation

603 KAR 7:071. Repeal of 603 KAR 7:010, 603 KAR 7:040, 603 KAR 7:050, 603 KAR 7:060, and 603 KAR 7:070.

Department of Vehicle Regulation: Motor Vehicle Commission: Commission

605 KAR 1:011. Repeal of 605 KAR 1:010.

MOREHEAD STATE UNIVERSITY: Board of Regents: Board

755 KAR 1:080. Capital construction procedures. Andrea Fryman, business manager, represented the board.

In response to questions by Co-Chair Harris, Ms. Fryman stated that the $100,000 salary estimation included benefits. The estimate consisted of several potential positions. Existing staff was currently able to fulfill demand, but it may be necessary to hire more employees for future needs. This administrative regulation would allow decisions to be made by the board, rather than the state level, for increased efficiency.

In response to a question by Senator Raque Adams, Ms. Fryman stated that sometimes there was a delay in projects because the board had to wait on determinations from the state. This administrative regulation would allow the board to work directly with contractors.

Co-Chair Marzian stated that this issue may need to be reviewed by the Interim Joint Committee on Appropriations and Revenue or the Capital Projects and Bond Oversight Committee.

LABOR CABINET: Department of Workforce Standards: Division of Safety and Health Compliance: Division of Occupational Safety and Health Education and Training: Occupational Safety and Health

803 KAR 2:180. Recordkeeping, reporting, statistics. Chuck Stribling, occupational safety and health federal – state coordinator, and Michael Swansburg, general counsel, represented the division.

A motion was made and seconded to approve the following amendments: to amend Section 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.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Fair Trade, Pricing and Sales

804 KAR 3:081. Repeal of 804 KAR 3:080. Steve Humphress, general counsel, and Melissa McQueen, staff attorney, represented the department.

In response to a question by Co-Chair Harris, Mr. Humphress stated that the department was confident that these administrative regulations were superfluous and should be repealed.

Licensing

804 KAR 4:041. Repeal of 804 KAR 4:040, 804 KAR 4:050, 804 KAR 4:050, 804 KAR 4:150, 804 KAR 4:310, 804 KAR 4:340, and 804 KAR 4:385.

Conduct of Business; Employees

804 KAR 5:031. Repeal of 804 KAR 5:030 and 804 KAR 5:050.

Retail Premises

804 KAR 7:051. Repeal of 804 KAR 7:050.

Transportation of Alcoholic Beverages

804 KAR 8:041. Repeal of 804 KAR 8:040 and 804 KAR 8:060.

Quotas

804 KAR 9:021. Repeal of 804 KAR 9:020 and 804 KAR 9:030.

Malt Beverage Equipment, Supplies, and Service

804 KAR 11:021. Repeal of 804 KAR 11:020.

Department of Housing, Buildings and Construction: Division of Building Code Enforcement: Plumbing

815 KAR 20:020. Parts or materials list. Jared Downs, general counsel; Tim House, deputy commissioner; and Steve Milby, commissioner, represented the department.

In response to questions by Co-Chair Harris, Mr. House stated that this administrative regulation was required to use brand names, rather than product descriptions, because there were no national standards for these materials. For example, there was not a national standard for electric tankless water heaters. Kentucky and Illinois were the only states that required a temperature relief valve for water heaters; however, because technology had improved, the department amended this administrative regulation to require only a pressure relief valve. The plumbing industry requested these changes.

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.

815 KAR 20:080. Waste pipe size.

815 KAR 20:090. Soil, waste, and vent systems.

815 KAR 20:120. Water supply and distribution.

In response to questions by Senator Clark, Mr. Milby stated that NFPA 13D was the code for these specific fire protection systems. Because there was not a national standard, this administrative regulation was required to use brand names, rather than product descriptions.

A motion was made and seconded to approve the following amendments: to amend Section 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.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Epidemiology and Health Planning: Communicable Diseases

902 KAR 2:020 & E. Reportable disease surveillance. Laura Begin, regulation coordinator; Dr. Robert Brawley, chief of infectious diseases; and Andrea Flinchum, program manager, represented the division.

Office of Inspector General: Health Services and Facilities

902 KAR 20:058. Operation and services; primary care center. John Inman, deputy inspector general, and Stephanie Brammer – Barnes, policy analyst, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; and (2) to amend Sections 3, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Income Support: Child Support Enforcement: Child Support

921 KAR 1:380. Child Support Enforcement Program application and intergovernmental process. Marcia Lewis, regional program manager, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph 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.

Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:151. Repeal of 922 KAR 1:150, 922 KAR 1:170, 922 KAR 1:210, and 922 KAR 1:230. Elizabeth Caywood, executive advisor, represented the division.

Child Welfare

922 KAR 1:500. Educational and training vouchers.

Other Business: Co-Chair Harris stated reminded agencies about a requirement for repealer administrative regulations. In repealer administrative regulations, the NECESSITY, FUNCTION, AND CONFORMITY paragraph must include the reason for repeal of an existing administrative regulation. It is helpful if the reason for repeal is more specific than obsolescence. If a statute previously required the promulgation of an administrative regulation, the NECESSITY, FUNCTION, AND CONFORMITY paragraph should explain why that administrative regulation is no longer necessary, such as a statutory change or a replacement administrative regulation. Combining smaller administrative regulations into a larger administrative regulation is not always the best option. (Note from the Regulations Compiler: The statutory requirements for this paragraph within repealer administrative regulations are established in KRS 13A.310(3)(a)2.)

The following administrative regulations were deferred to the November 7, 2016, meeting of the Subcommittee:

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:049. Small game and furbearer hunting and trapping on public areas.

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Administration

601 KAR 2:030 & E. Ignition interlock.

Department of Aviation: Airport Development

602 KAR 15:011. Repeal of 602 KAR 15:010.

Division of Planning

603 KAR 9:021. Repeal of 603 KAR 9:020.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: School Administration and Finance

702 KAR 3:171. Repeal of 702 KAR 3:170.

Instructional Programs

705 KAR 4:231. General program standards for secondary career and technical education programs.

Instructional Programs

780 KAR 4:012. Repeal of 780 KAR 4:010.

LABOR CABINET: Department of Workforce Standards: Division of Safety and Health Compliance: Division of Occupational Safety and Health Education and Training: Occupational Safety and Health

803 KAR 2:412. Fall protection.

The Subcommittee adjourned at 1:55 p.m. until November 7, 2016, at 1 p.m.

2017 Prefiled Bills

BR22 - Representative Brent Yonts
(6/15/2016)

AN ACT relating to crimes and punishments.

Amend KRS 532.090 to establish gross misdemeanors as a new category of misdemeanor offense and set penalty range; amend KRS 439.340 to make parole mandatory for Class D offenders who are not violent offenders or sexual offenders and have not committed any violent acts while incarcerated; amend KRS 218A.135 to require that certain findings specific to the defendant be utilized in pretrial release decisions; amend KRS 532.080 to make persistent felony offender sentencing discretionary; amend KRS 534.070 to increase jail credit for fines; amend KRS 530.050 to create three-tiered offense of nonsupport; amend KRS 24A.110 to ensure that jurisdiction over gross misdemeanor cases is in the Distric Court; amend various sections of the Kentucky Revised Statutes to conform; repeal KRS 431.060.

(Prefiled by the sponsor(s).)

BR35 - Representative Jerry Miller
(8/22/2016)

AN ACT relating to the filing deadline for candidates running for a seat in the General Assembly.

Amend KRS 118.165 to change the filing deadline for candidates for offices to be voted for by the electors of more than one county and for members of Congress and members of the General Assembly from the last Tuesday in January, to the Tuesday prior to the third Monday in January; amend KRS 117.055 and 118.215 to conform.

(Prefiled by the sponsor(s).)

BR58 - Representative Michael Lee Meredith, Representative Jim DeCesare
(6/28/2016)

AN ACT relating to the Bowling Green Veterans Center, making an appropriation therefor, and declaring an emergency.

Authorize to the Department of Veterans' Affairs federal funds and bond funds in fiscal year 2016-2017 for the construction of the Bowling Green Veterans Center nursing home; establish conditions; provide that if debt service is required it shall be a necessary government expense to be paid from the general fund surplus account or the budget reserve trust fund; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

BR59 - Representative Daniel Elliott
(8/1/2016)

AN ACT relating to prescriptive authority for physician assistants.

Amend KRS 311.856 and 311.858 to permit physician assistants to prescribe and dispense controlled substances.

(Prefiled by the sponsor(s).)

BR62 - Representative Kenny Imes
(9/28/2016)

AN ACT relating to travel required for certain state employees.

Amend KRS 18A.115 to require certain nonmerit employees to travel to Fulton or Hickman County and to Pike, Martin, or Letcher County prior to being appointed and every four years thereafter.

(Prefiled by the sponsor(s).)

BR63 - Representative Kenny Imes
(9/28/2016)

AN ACT proposing an amendment to Section 32 of the Constitution of Kentucky relating to terms of members of the General Assembly.

Propose to amend Section 32 of the Constitution of Kentucky to prevent Senators from serving more than four consecutive terms of office and Representatives from serving more than eight consecutive terms of office, whether complete or partial terms, and prevent a legislator from serving more than sixteen consecutive years in the General Assembly, regardless of the house in which he or she served, beginning in 2018 for newly elected members only; allow legislators to resume service after two years have elapsed since leaving office; provide ballot language; submit to voters for ratification or rejection.

(Prefiled by the sponsor(s).)

BR64 - Representative Kevin Bratcher
(9/21/2016)

Direct the Legislative Research Commission to establish a task force to develop a strategy and funding mechanism to provide care for medically fragile adults with intellectual and developmental disabilities and report findings for referral to the appropriate committees.

(Prefiled by the sponsor(s).)

BR66 - Representative Daniel Elliott
(9/22/2016)

AN ACT relating to retirement benefits for legislators.

Amend KRS 6.505 to close the Legislators' Retirement Plan to new members effective August 1, 2017; prohibit current legislators from participating in the Legislators' Retirement Plan on or after August 1, 2017; provide that current and future legislators shall only participate in the Kentucky Employees Retirement System for any service to the General Assembly occurring on or after August 1, 2017.

(Prefiled by the sponsor(s).)

BR68 - Representative Sannie Overly
(7/13/2016)

AN ACT relating to credit freezes for consumers.

Create a new section of KRS 367.363 to 367.365 to define "protected person," "record," "representative," and "sufficient proof of authority"; require a consumer reporting agency to place a security freeze on a protected person's record or report upon proper request by a representative; require the freeze to be placed within 30 days of receiving the request; set forth when the credit reporting agency is required to remove the freeze; allow the credit reporting agency to charge a fee under certain circumstances; establish penalties for violations.

(Prefiled by the sponsor(s).)

BR69 - Senator Mike Wilson
(7/15/2016)

AN ACT relating to the Bowling Green Veterans Center, making an appropriation therefor, and declaring an emergency.

Authorize to the Department

of Veterans' Affairs Federal Funds and Bond Funds in fiscal year 2016-2017 for the construction of the Bowling Green Veterans Center nursing home; establish conditions; provide that if debt service is required it shall be a necessary government expense to be paid from the General Fund Surplus Account or the Budget Reserve Trust Fund Account; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

BR71 - Representative Regina Bunch (7/19/2016)

AN ACT relating to family member visitation rights.

Repeal and reenact KRS 405.021 to grant visitation to family members if it is in the child's best interest based on listed factors.

(Prefiled by the sponsor(s).)

BR73 - Representative Rick Nelson (7/15/2016)

AN ACT relating to a tax credit for volunteer firefighters.

Create a new section of KRS Chapter 141 to establish a $1,000 refundable income tax credit for certain volunteer firefighters; declare the purpose of the credit; require annual reporting to the Legislative Research Commission to evaluate the impact of the credit; amend KRS 141.0205 to provide the ordering of the credit and to make technical corrections.

(Prefiled by the sponsor(s).)

BR74 - Representative Rick Nelson (8/5/2016)

AN ACT relating to promise zone tax incentives.

Amend KRS 139.570 to allow additional compensation for sellers in the promise zone; create a new section of KRS Chapter 141 to allow an income tax credit for qualified employees equal to the individual income tax on wages earned in the promise zone, not to exceed $2,400; allow an income tax credit for qualified employers in an amount equal to $100 for each employee working within the promise zone; require reporting by the Department of Revenue to the Legislative Research Commission; amend KRS 141.0205 to order the new tax credits; create a noncodified section to set forth the purpose of the Act and describe actions previously taken by the federal government.

(Prefiled by the sponsor(s).)

BR75 - Representative Kevin Bratcher, Representative Joseph Fischer, Representative John Carney, Representative Jim DuPlessis, Representative Dennis Horlander, Representative Kenny Imes, Representative Stan Lee, Representative Bart Rowland, Representative James Tipton, Representative Russell Webber (7/6/2016)

AN ACT relating to hate crimes.

Amend KRS 532.031, relating to an offense committed as a result of a hate crime, to include offenses committed against an individual because of the individual's actual or perceived employment as a city, county, state, or federal peace officer, member of an organized fire department, emergency medical services personnel; provide that "emergency medical services personnel" is defined as in KRS 311A.010; enumerate that members of an organized fire department or emergency medical services personnel includes volunteer members if the violation occurs while the volunteer is performing duties with an organized fire department or emergency medical services personnel.

(Prefiled by the sponsor(s).)

BR80 - Representative Joni Jenkins (8/2/2016)

AN ACT relating to the Kentucky educational excellence scholarship.

Amend KRS 164.7871 to name the Kentucky educational excellence scholarship the "Arch Gleason Kentucky Educational Excellence Scholarship"; amend KRS 164.7874 to conform.

(Prefiled by the sponsor(s).)

BR81 - Representative Jerry Miller (8/17/2016)

AN ACT relating to spas.

Amend KRS 241.010 to define the term "spa" within the alcoholic beverage control statutes as a beauty salon employing at least ten cosmetologists, not including contractors or those renting booths or chairs within the beauty salon; direct that a properly licensed professional perform any spa services requiring an occupational license for that service; prohibit the spa definition from limiting or restricting any practitioner from engaging in services authorized under that person's license; define "beauty salon," "cosmetologist," and "cosmetology" as used in the spa definition; amend KRS 243.086 to allow a spa to obtain a Nonquota Type 3 (NQ3) alcohol drink license; limit alcohol by the drink sales at a spa to only those guests who are receiving at least an hour of one of the primary services offered by the spa; amend KRS 244.085 to add spas to the list of alcohol by the drink establishments that are exempt from the prohibition against minors remaining on the premises.

(Prefiled by the sponsor(s).)

BR84 - Representative Kevin Bratcher (7/22/2016)

Declare state sovereignty over powers not given to the federal government by the United States Constitution; demand that the federal government cease mandates beyond constitutionally delegated powers; prohibit federal legislation requiring state passage of laws under threat of penalties or sanctions; distribution of copies of the Resolution to designated officials.

(Prefiled by the sponsor(s).)

BR86 - Representative James Kay (9/15/2016)

AN ACT relating to the independence and transparency of the board of trustees of the Kentucky Retirement Systems and declaring an emergency.

Amend KRS 12.028 to prevent the Governor from effecting any reorganization of the Kentucky Retirement Systems board of trustees; amend KRS 63.080 to prevent the Governor from removing trustees of the Kentucky Retirement Systems, except upon conviction of a felony or for a finding of an ethical violation as provided under KRS 61.645; amend KRS 61.645 to change the composition of the Kentucky Retirement Systems board of trustees to eight elected trustees and five appointed trustees, removing one gubernatorial appointment and the secretary of the Personnel Cabinet from the board; limit the definition of "investment experience"; provide that a vacancy of an elected trustee shall be filled upon a vote of a majority of the remaining elected trustees and that the vacancy shall be filled within 90 days; place the Kentucky Retirement Systems under the Model Procurement Code; establish that any raises to Kentucky Retirement Systems staff be no higher than KRS Chapter 18A employees; require disclosure of all holdings, fees, and commissions by individual investment managers, require the Kentucky Retirement Systems to report returns net of fees; require disclosure of all contracts or offering documents and contract disclosure of investment contracts to the board, the Auditor of Public Accounts and the Government Contract Review Committee; establish a ban on placement agents; amend KRS 61.650 to impose on the Kentucky Retirement Systems board of trustees, staff, and contract investment advisors the CFA Institute Codes of Conduct; amend KRS 12.020 and 18A.035 to make technical and conforming amendments; provide a delayed effective date for the changes to the board composition, direct the Kentucky Retirement Systems to hold elections and prescribe the initial terms of office for the new elected members; EMERGENCY.

(Prefiled by the sponsor(s).)

BR89 - Representative Myron Dossett (10/13/2016)

AN ACT relating to railroad companies and making an appropriation therefor.

Amend KRS 277.990 to increase the fine for a violation of KRS 277.200, relating to a railroad company obstructing a highway, street, or navigable stream to $5,000 for each offense; transfer 50 percent of each fine collected to the law enforcement agency that issued the citation.

(Prefiled by the sponsor(s).)

BR94 - Representative John Short (7/27/2016)

AN ACT relating to the property tax on unmined coal.

Amend KRS 132.820 to establish a standard value for unmined coal reserves that have not been mined during the 10-year period immediately preceding the assessment date, for purposes of state and local property taxes on unmined coal assessed on or after January 1, 2018, setting the standard value thereof at zero unless information is available that warrants any deviation; require the Department of Revenue to prepare an informational document explaining the basis of this tax, the valuation procedures used, and the procedure for taxpayers to follow to appeal assessments; amend KRS 131.190 and 134.546 to conform; make technical corrections.

(Prefiled by the sponsor(s).)

BR95 - Representative John Short (8/17/2016)

AN ACT relating to a tax credit for volunteer firefighters.

Create a new section of KRS Chapter 141 to establish a refundable income tax credit for certain volunteer firefighters; declare the purpose of the credit; require annual reporting to the Legislative Research Commission to evaluate the impact of the credit; amend KRS 141.0205 to provide the ordering of the credit and to make technical corrections.

(Prefiled by the sponsor(s).)

BR97 - Senator Reginald Thomas (8/3/2016)

AN ACT relating to general principles of justification.

Create a new section of KRS Chapter 503 to incorporate the “no duty to retreat” provisions elsewhere in the chapter; amend KRS 503.050, 503.055, 503.070, and 503.080 to require a reasonable belief that defensive force is necessary before it is justified; change the term “great bodily harm” to “serious physical injury” as used throughout the Penal Code; amend KRS 503.060 to require an initial aggressor to retreat before the use of force can be justified; repeal KRS 503.120.

(Prefiled by the sponsor(s).)

BR103 - Senator Reginald Thomas (8/3/2016)

AN ACT relating to oaths.

Amend KRS 6.072 to require witnesses appearing before a committee, subcommittee, or task force of the General Assembly to take an oath prior to giving testimony.

(Prefiled by the sponsor(s).)

BR110 - Representative Chuck Tackett (9/8/2016)

AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to exemptions from taxation.

Propose an amendment to Section 170 of the Constitution of Kentucky to exempt from taxation property of certain veterans’ organizations if the entity has qualified for exemption from federal income tax; submit to voters.

(Prefiled by the sponsor(s).)

BR111 - Senator John Schickel (8/30/2016)

AN ACT relating to operator’s license testing.

Amend KRS 186.480 to require the Department of Kentucky State Police to make a driver’s manual available in printed or electronic format that contains the information needed for an operator’s license examination; require that the manual have a section regarding an applicant’s conduct during interactions with law enforcement officers; require that the operator’s license examination include the applicant’s knowledge regarding conduct during interactions with law enforcement officers.

(Prefiled by the sponsor(s).)

BR112 - Representative Kenny Imes (9/28/2016)

AN ACT relating to administrative regulations.

Amend KRS 13A.010 to amend the definition of “administrative regulation” and to define “last effective date”; amend KRS 13A.040 to require the regulations compiler to maintain a list of all administrative regulation numbers and their corresponding last effective dates; amend KRS 13A.220 and 13A.222 to make conforming changes to enable the renewal of an administrative regulation; amend KRS 13A.310 to provide that, beginning July 1, 2017, an ordinary administrative regulation shall expire 7 years after its last effective date; provide that an administrative regulation that has a last effective date prior to July 1, 2012, shall expire on July 1, 2019; establish duties of regulations compiler; and establish requirements for an administrative body that does not want an administrative regulation to expire.

(Prefiled by the sponsor(s).)

BR113 - Representative Stan Lee (10/18/2016)

AN ACT relating to interscholastic extracurricular activities.

Create a new section of KRS Chapter 158 to authorize participation in a public school interscholastic extracurricular activity by a home school; establish criteria for participation therein.

(Prefiled by the sponsor(s).)

BR114 - Representative Chris Harris (10/13/2016)

AN ACT relating to unclaimed life insurance policies.

Amend 304.15-420 to clarify the retroactive application of the Unclaimed Life Insurance Benefits Act.

(Prefiled by the sponsor(s).)

BR115 - Representative Rick Nelson (7/26/2016)

AN ACT relating to expungement.

Amend KRS 431.073 to reduce filing fee for felony expungement from $500 to $200.

(Prefiled by the sponsor(s).)

BR123 - Representative Jeffery Donohue (8/22/2016)

AN ACT relating to railroads.

Create a new section of KRS Chapter 277 to require two-person crews on trains or light engines used in connection with the movement of freight; establish civil penalties for failure to have a two-person crew.

(Prefiled by the sponsor(s).)

BR124 - Representative Jeffery Donohue (8/22/2016)

AN ACT relating to public procurement.

Create new sections of KRS Chapter 45A to set forth findings of the General Assembly and establish 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," "Kentucky," 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).)

BR125 - Representative Jeffery Donohue (8/8/2016)

AN ACT relating to day reporting programs.

Create a new section of KRS Chapter 533 to authorize the use of day reporting programs in criminal sentencing.

(Prefiled by the sponsor(s).)

BR127 - Senator Reginald Thomas (10/19/2016)

AN ACT relating to arrest-related deaths.

Amend KRS 72.025 to add deaths which occur during arrest to cases which are investigated by the coroner; create a new section of KRS Chapter 72 to require coroners to notify the Medical Examiner's Office of arrest-related deaths and require an annual public report; amend KRS 72.020 to conform.

(Prefiled by the sponsor(s).)

BR132 - Senator Reginald Thomas (8/26/2016)

AN ACT relating to superintendent screening committee membership.

Amend KRS 160.352 to require the appointment of a school equity council member to the superintendent screening committee, if an equity council exists; allow a board to add a high school student to the superintendent screening committee.

(Prefiled by the sponsor(s).)

BR134 - Senator Dennis Parrett (9/15/2016)

AN ACT relating to kinship care.

Amend KRS 605.120 to permanently establish a kinship care program.

(Prefiled by the sponsor(s).)

BR135 - Representative Dennis Keene (9/23/2016)

AN ACT relating to child abuse and neglect.

Create a new section of KRS Chapter 199 to establish the central registry for child abuse and neglect; establish definitions; establish requirements for operation of the registry; provide that the Act be known as Sophie's law.

(Prefiled by the sponsor(s).)

BR138 - Senator Reginald Thomas (9/20/2016)

AN ACT relating to wages.

Amend KRS 337.010 to increase the applicable threshold of employees of retail stores and service industries from $95,000 to $500,000 average annual gross volume of sales for the employer; amend KRS 337.275 to raise the state minimum wage to $8.20 per hour on July 1, 2018, $9.15 per hour on July 1, 2019, and $10.10 per hour on July 1, 2020, and to raise the state minimum wage for tipped employees to $3.05 per hour on the effective date of the Act, $3.95 per hour on July 1, 2019, and $4.90 per hour on July 1, 2020; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.

(Prefiled by the sponsor(s).)

BR141 - Representative Fitz Steele (8/18/2016)

AN ACT relating to the property tax on unmined coal.

Amend KRS 132.820 to exempt unmined coal reserves from state and local property taxation if on January 1 of any tax year the owner or lessee of the reserve does not hold a valid permit from both the state and federal governments to mine coal from the reserve, and does not anticipate that coal will be mined from the reserve at any point during the tax year; amend KRS 131.190 to conform; make technical corrections; apply to property assessed on and after January 1, 2018.

(Prefiled by the sponsor(s).)

BR142 - Representative Fitz Steele (8/18/2016)

AN ACT relating to coal severance revenues.

Amend various sections in KRS Chapter 42 to distribute 100 percent of coal severance revenues among the coal-producing counties on the basis of the tax collected on coal severed or processed in each respective county; amend KRS 143.090, 164.7890, and 164.7891 to make conforming changes; repeal KRS 42.490, relating to transfer of county fund balances.

(Prefiled by the sponsor(s).)

BR143 - Representative Fitz Steele (8/18/2016)

AN ACT relating to sales and use tax holidays and declaring an emergency.

Create a new section of KRS Chapter 139 to establish a three-day sales and use tax holiday during the first weekend in August in 2017, 2018, 2019, and 2020 to exempt clothing, school supplies, school art supplies, computers, and school computer supplies; EMERGENCY.

(Prefiled by the sponsor(s).)

BR145 - Senator John Schickel (8/30/2016)

AN ACT relating to a board of directors of a college within the Kentucky Community and Technical College System.

Amend KRS 164.350 to require the board of directors of a community and technical college to approve biennial budget requests and to accept or reject donations of land or funds to the college; amend KRS 164.600 to change the terms of office for

members of boards of directors; hold members of boards of directors harmless for proper actions and require that they be provided legal counsel upon request; require an outside agency or foundation associated with a college to notify the local board of directors of upcoming meetings, to conduct open meetings, to publicly disclose all financial documents, including donations and moneys raised and expended, and to prohibit the agency's or foundation's citizen members from having a conflict of interest or being a relative of a college employee.
(Prefiled by the sponsor(s).)

BR147 - Representative Kim King (9/14/2016)

AN ACT relating to sex offender registrants.
Amend KRS 17.545 to prohibit sex offender registrants from being on the grounds of a publicly owned playground without advance written permission.
(Prefiled by the sponsor(s).)

BR148 - Representative Kim King (9/14/2016)

AN ACT relating to legislative procedures for state fiscal measures.
Create a new section of KRS Chapter 6 to require roll call votes on any state fiscal measure, including an appropriation or revenue-raising measure, voted upon in the Senate or House or a committee thereof; require identification of any state fiscal measure by the director of the Legislative Research Commission, or upon a determination by the Senate or House or a committee of either; require separate vote for any state fiscal measure.
(Prefiled by the sponsor(s).)

BR149 - Representative Kim King (9/14/2016)

AN ACT relating to foreign law.
Create a new section of KRS Chapter 454 to establish legislative intent that the rights of an individual afforded under the Constitutions of the Commonwealth and the United States take precedence over the application of any foreign law in any judicial or quasi-judicial proceeding; define specific terms; strictly construe waivers of constitutional rights; provide exceptions for corporate entities; prohibit choice of venue outside of the Commonwealth or United States to preserve the constitutional rights of the person against whom enforcement is sought.
(Prefiled by the sponsor(s).)

BR150 - Representative Kim King (8/30/2016)

AN ACT relating to school notification of persons authorized to contact or remove a child.
Create a new section of KRS Chapter 620 to require the Cabinet for Health and Family Services, if the cabinet is granted custody of a dependent, neglected, or abused child, to notify the school in which the child is enrolled of persons authorized to contact the child or remove the child from school grounds.
(Prefiled by the sponsor(s).)

BR151 - Representative Kim King (8/30/2016)

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).)

BR152 - Representative Kim King (8/12/2016)

AN ACT relating to pawnbrokers.
Amend KRS 226.040 to require pawnbrokers to record daily transaction information and also provide the information on an online service accessible by law enforcement agencies.
(Prefiled by the sponsor(s).)

BR156 - Senator John Schickel (10/11/2016)

AN ACT relating to a sales and use tax exemption for currency and bullion.
Amend KRS 139.480 to exempt from sales and use tax sales or purchases of bullion or currency made on or after July 1, 2017, but before July 1, 2021.
(Prefiled by the sponsor(s).)

BR157 - Representative Jody Richards (8/26/2016)

AN ACT relating to the Bowling Green Veterans Center, making an appropriation therefor, and declaring an emergency.
Authorize to the Department of Veterans' Affairs Federal Funds and Bond Funds in fiscal year 2016-2017 for the construction of the Bowling Green Veterans Center nursing home; establish conditions; provide that if debt service is required it shall be a necessary government expense to be paid from the General Fund Surplus Account or the Budget Reserve Trust Fund Account; APPROPRIATION; EMERGENCY.
(Prefiled by the sponsor(s).)

BR166 - Representative Tim Couch (9/20/2016)

Urge the United States Environmental Protection Agency to prioritize compliance assistance over current enforcement practices.
(Prefiled by the sponsor(s).)

BR176 - Senator Danny Carroll (9/19/2016)

AN ACT relating to nuclear power.
Amend KRS 278.600 to require that nuclear power facilities have a plan for the storage of nuclear waste rather than a means of permanent disposal and to add definitions of "storage," "low-level nuclear waste," and "mixed nuclear waste"; amend KRS 278.610 to allow certification if the facility and its plans for waste storage are approved by the Nuclear Regulatory Commission; eliminate the requirement that the facility have a plan for disposal of high-level nuclear waste; eliminate the requirement that cost of waste disposal be known; eliminate the requirement that the facility have adequate capacity to contain waste; give the Public Service Commission authority to hire a consultant to perform duties relating to nuclear facility certification; prohibit construction of low-level nuclear waste disposal sites in Kentucky except as provided in KRS 211.852; direct the Energy and Environment Cabinet to review regulations required for permitting nuclear facilities and report to LRC; repeal KRS 278.605, relating to construction of nuclear power facilities.
(Prefiled by the sponsor(s).)

BR177 - Senator Danny Carroll (10/6/2016)

AN ACT relating to jailers and declaring an emergency.
Amend KRS 441.245 to require fiscal courts to detail the duties and compensation of the jailer for the upcoming year; require a quarterly report by the jailer of the duties performed; EMERGENCY.

(Prefiled by the sponsor(s).)

BR178 - Senator Danny Carroll
(10/6/2016)

AN ACT relating to licensing fees for the sale of alcoholic beverages.
Amend KRS 243.075 to allow cities with a population of less than 20,000, and counties that do not have a city with a population greater than 20,000, to impose a regulatory license fee on the sale of alcoholic beverages; grandfather in cities and counties imposing a regulatory license fee prior to the effective date of the Act.
(Prefiled by the sponsor(s).)

BR179 - Senator Danny Carroll
(9/19/2016)

AN ACT relating to the law enforcement and firefighters foundation programs and making an appropriation therefor.
Amend various sections of KRS Chapter 15 and KRS 95A.250, relating to the Kentucky Law Enforcement Foundation Program fund and the Firefighters Foundation Program fund, to increase the annual supplement payment to local governments for qualifying law enforcement officers and firefighters from $3,000 to $4,000 beginning July 1, 2018; provide a reimbursement to local governments to reimburse for required contributions to the employee pension system resulting from the supplement increase; provide partial compensation for local government administrative expenses; amend KRS 95A.262 to increase the annual allocation to volunteer fire departments from the Commission on Fire Protection Personnel Standards and Education from $8,250 to $11,000 beginning July 1, 2018; APPROPRIATION.
(Prefiled by the sponsor(s).)

BR180 - Senator Danny Carroll
(9/19/2016)

AN ACT relating to the tracking of drug convictions.
Amend KRS 218A.202 to require the Administrative Office of the Courts to forward drug conviction data to the Cabinet for Health and Family Services for inclusion in the KASPER electronic monitoring system.
(Prefiled by the sponsor(s).)

BR183 - Representative Tim Couch
(9/13/2016)

AN ACT relating to greater public awareness of taxes levied by school districts.
Amend KRS 157.440, 157.621, 160.470, 160.473, and 160.476 to expand the existing public hearing requirements for property taxes levied by school district boards of education to apply to all property tax rates rather than only rates exceeding the calculated compensating tax rate; require notice of the public hearings to be posted on the school district Web site in addition to the required newspaper advertisement.
(Prefiled by the sponsor(s).)

BR184 - Representative Tim Couch
(9/13/2016)

AN ACT relating to the property tax on unmined coal.
Amend KRS 132.820 to exempt unmined coal reserves from state and local property taxation if on January 1 of any tax year the owner or lessee of the reserve does not hold a valid permit from both the state and federal governments to mine coal from the reserve, and does not anticipate that coal will be mined from the reserve at any point during the tax year; amend KRS 131.190 to conform; make technical corrections; apply to property assessed on and after January 1, 2018.
(Prefiled by the sponsor(s).)

BR185 - Representative Jill York
(9/19/2016)

AN ACT relating to the use of local government economic assistance fund moneys.
Amend KRS 42.472 to partially restrict the use of local government economic assistance fund (LGEAF) moneys distributed to counties from oil and natural gas to the repair and maintenance of streets and roads; EFFECTIVE July 1, 2017.
(Prefiled by the sponsor(s).)

BR186 - Senator Gerald Neal
(9/9/2016)

AN ACT relating to firearms.
Create a new section of KRS Chapter 527 to prohibit the unlawful storage of a firearm.
(Prefiled by the sponsor(s).)

BR191 - Representative James Kay
(9/15/2016)

AN ACT relating to retirement benefits for legislators.
Amend KRS 6.505 to close the Legislators' Retirement Plan to new members effective August 1, 2017; prohibit current legislators from participating in the Legislators' Retirement Plan on or after August 1, 2017; provide that current and future legislators shall only participate in the Kentucky Employees Retirement System for any service to the General Assembly occurring on or after August 1, 2017.
(Prefiled by the sponsor(s).)

BR195 - Senator Gerald Neal
(9/23/2016)

AN ACT relating to juries.
Amend KRS 29A.040 to add holders of personal identification cards issued within a county to the master list of potential jurors for that county.
(Prefiled by the sponsor(s).)

BR196 - Senator Gerald Neal
(9/23/2016)

AN ACT relating to juror pay.
Amend KRS 29A.170 to increase juror pay and expense allowance; amend KRS 32.011 to conform; repeal KRS 32.070, relating to expense allowances for jurors.
(Prefiled by the sponsor(s).)

BR199 - Senator C.B. Embry Jr.
(10/4/2016)

AN ACT relating to timber theft.
Amend KRS 364.130 to specify that a person, regardless of state of mind or whether the person believes to be authorized or not, is liable for three times the stumpage value of the timber and three times the cost of any damages to property when he or she takes the timber of another without legal right or color of title.
(Prefiled by the sponsor(s).)

BR200 - Representative John Short
(10/18/2016)

AN ACT relating to the Eastern Kentucky Veterans Center, making an appropriation therefor, and declaring an emergency.
Authorize to the Department of Veterans' Affairs Federal Funds and Bond Funds in fiscal year 2016-2017 for the construction of the Eastern Kentucky Veterans Center nursing home in Magoffin County; establish conditions; provide that if debt service is required it shall be a necessary government expense to be paid from the General Fund Surplus Account or the Budget Reserve Trust Fund Account; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

BR201 - Representative Russ Meyer
(10/6/2016)

AN ACT relating to controlled substances.

Amend 218A.010 to provide definitions for "fentanyl" and "fentanyl derivative"; amend KRS 218A.020 to allow the Office of Drug Control Policy to request that the Cabinet for Health and Family Services schedule fentanyl analogues not approved for human use by the United States Food and Drug Administration; amend KRS 218A.050 to include fentanyl analogues not approved for human use by the Food and Drug Administration as a Schedule I controlled substance; amend KRS 218A.142 to create the offense of aggravated fentanyl trafficking; amend KRS 218A.1412 to increase the penalties for trafficking in fentanyl.

(Prefiled by the sponsor(s).)

BR209 - Senator Gerald Neal
(9/23/2016)

AN ACT relating to juries.

Amend KRS 15.733 to allow the disqualification of a prosecuting attorney from the retrial of a case due to discriminatory jury selection practices; create a new section of KRS Chapter 27A to require the Administrative Office of the Courts to collect and report data on the race, ethnicity, and sex of members of juries.

(Prefiled by the sponsor(s).)

BR210 - Representative Joseph Fischer
(9/23/2016)

AN ACT relating to controlled substances.

Amend KRS 218A.1412 to make trafficking in any amount of fentanyl or carfentanil subject to elevated penalties.

(Prefiled by the sponsor(s).)

BR215 - Senator John Schickel
(10/14/2016)

AN ACT relating to crimes and punishments.

Amend KRS 431.005 to permit a peace officer to make an arrest for a violation of KRS 508.030, assault in the 4th degree, when the violation occurs in a hospital and the officer has probable cause; amend KRS 431.015 to conform.

(Prefiled by the sponsor(s).)

BR222 - Representative Myron Dossett
(10/13/2016)

AN ACT relating to railroad companies and making an appropriation therefor.

Amend KRS 277.990 to increase the fine for a violation of KRS 277.200, relating to a railroad company obstructing a highway, street, or navigable stream, to $2,500 for each offense; transfer 50% of each fine collected to the law enforcement agency that issued the citation.

(Prefiled by the sponsor(s).)

BR225 - Representative Jill York
(9/19/2016)

AN ACT relating to promise zone tax incentives.

Amend KRS 139.570 to allow additional compensation for sellers in the promise zone; create a new section of KRS Chapter 141 to allow an income tax credit for qualified employees equal to the individual income tax on wages earned in the promise zone, not to exceed $2,400; allow an income tax credit for qualified employers in an amount equal to $100 for each employee working within the promise zone; require reporting by the Department of Revenue to the Legislative Research Commission; amend KRS 141.0205 to order the new tax credits; create a noncodified section to set forth the purpose of the Act and describe actions previously taken by the federal government.

(Prefiled by the sponsor(s).)

BR238 - Representative Myron Dossett
(10/6/2016)

AN ACT relating to a reduction of motor vehicle property tax rates for certain disabled veterans.

Create a new section of KRS Chapter 132 to reduce the property tax rate levied on and after January 1, 2018, by the state and by local taxing jurisdictions on motor vehicles owned by totally disabled veterans, whose disability is service-connected, to 50 percent of the tax rate levied on other motor vehicles by the relevant taxing jurisdiction, except in the case of historic motor vehicles.

(Prefiled by the sponsor(s).)

BR242 - Senator Joe Bowen
(10/18/2016)

AN ACT relating to retirement and declaring an emergency.

Amend KRS 21.540 to require the Judicial Form Retirement System, which administers the Legislators' Retirement Plan and the Judicial Retirement Plan, to post descriptive and financial information to the system's Web site; amend KRS 61.645 to specify that investment fee and commission reporting requirements for the Kentucky Retirement Systems shall include profit sharing, carried interest, and partnership incentives; provide that the systems may not have to disclose contracts on a Web site if disclosure would result in competitive disadvantage but require those contracts to be released to the trustees, State Auditor, and the LRC Govt. Contract Review Committee; subject the systems to KRS Chapter 18A regarding personnel; subject hiring of executive director to Senate confirmation; make technical amendments; amend KRS 161.250 to specify that investment fee and commission reporting requirements for the Kentucky Teachers' Retirement System must include profit sharing, carried interest, and partnership incentives; provide that the Teachers' Retirement System may not have to disclose contracts on a Web site if disclosure would result in competitive disadvantage, but require those contracts to be released to the trustees, State Auditor, and the LRC Govt. Contract Review Committee; amend KRS 161.340 to make hiring of executive secretary subject to Senate confirmation; amend various KRS sections to place all state retirement systems under Model Procurement Code regarding contracts and clarify ban on placement agents; amend KRS 7A.220 to increase the membership of the Public Pension Oversight Board; EMERGENCY.

(Prefiled by the sponsor(s).)

BR243 - Senator Gerald Neal
(10/4/2016)

AN ACT relating to expungement.

Amend KRS 431.073 to reduce filing fee for felony expungement from $500 to $200; allow the court to waive all or any portion of the fee if an applicant is indigent or financially unable to pay; amend KRS 431.078 to allow the court to waive all or any portion of the filing fee for misdemeanor, violation, or traffic infraction expungement if an applicant is indigent or financially unable to pay.

(Prefiled by the sponsor(s).)

BR246 - Representative Kenny Imes
(10/13/2016)

AN ACT relating to the disclosure of public retirement information.

Amend KRS 61.661, 161.585, and 21.540 to require the disclosure, upon request, of the retirement benefit information of current and former members of the General Assembly, including their name, status, and projected or actual retirement benefit payments and benefits from Kentucky Retirement Systems, Kentucky Teachers' Retirement System, Legislators' Retirement Plan, and the Judicial Retirement Plan.

(Prefiled by the sponsor(s).)

BR247 - Representative Kenny Imes (10/13/2016)

Urge the United States Congress to amend Title II of the Social Security Act to repeal the Government Pension Offset Provision.

(Prefiled by the sponsor(s).)

BR248 - Representative Kenny Imes (10/13/2016)

AN ACT relating to the Kentucky Teachers' Retirement System board of trustees.

Amend KRS 161.250 to increase the Kentucky Teachers' Retirement System board membership from nine members to 11 by adding two elected trustees who are retired members; amend KRS 161.300 to conform; provide that the election of the two new retired members shall occur so that the initial term of office will begin July 1, 2017.

(Prefiled by the sponsor(s).)

BRs by Sponsor

* - denotes primary sponsorship of BRs

Senate

Bowen, Joe
BR242*
Carroll, Danny
BR176*, 177*, 178*, 179*, 180*
Embry Jr., C.B.
BR199*
Neal, Gerald A.
BR186*, 195*, 196*, 209*, 243*
Parrett, Dennis
BR134*
Schickel, John
BR111*, 145*, 156*, 215*
Thomas, Reginald
BR97*, 103*, 127*, 132*, 138*
Wilson, Mike
BR69*

House

Bratcher, Kevin D.
BR64*, 75*, 84*
Bunch, Regina
BR71*
Carney, John
BR75
Couch, Tim
BR166*, 183*, 184*
DeCesare, Jim
BR58
Donohue, Jeffery
BR123*, 124*, 125*
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BR89*, 222*, 238*
DuPlessis, Jim
BR75
Elliott, Daniel
BR59*, 66*
Fischer, Joseph M.
BR75*, 210*
Harris, Chris
BR114*
Horlander, Dennis
BR75
Imes, Kenny
BR62*, 63*, 75, 112*, 246*, 247*, 248*
Jenkins, Joni L.
BR80*
Kay, James
BR86*, 191*
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Nelson, Rick G.
BR73*, 74*, 115*
Overly, Sannie
BR68*
Richards, Jody
BR157*
Rowland, Bart
BR75
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Fees,

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All 50 states, the District of Columbia and the federal government levy some type of gas tax, Pula said. Most of these taxes are a fixed cent-per-gallon rate. However, the District of Columbia, Kentucky and 15 other states have variable rate gasoline taxes that change without the need of regular legislative action.

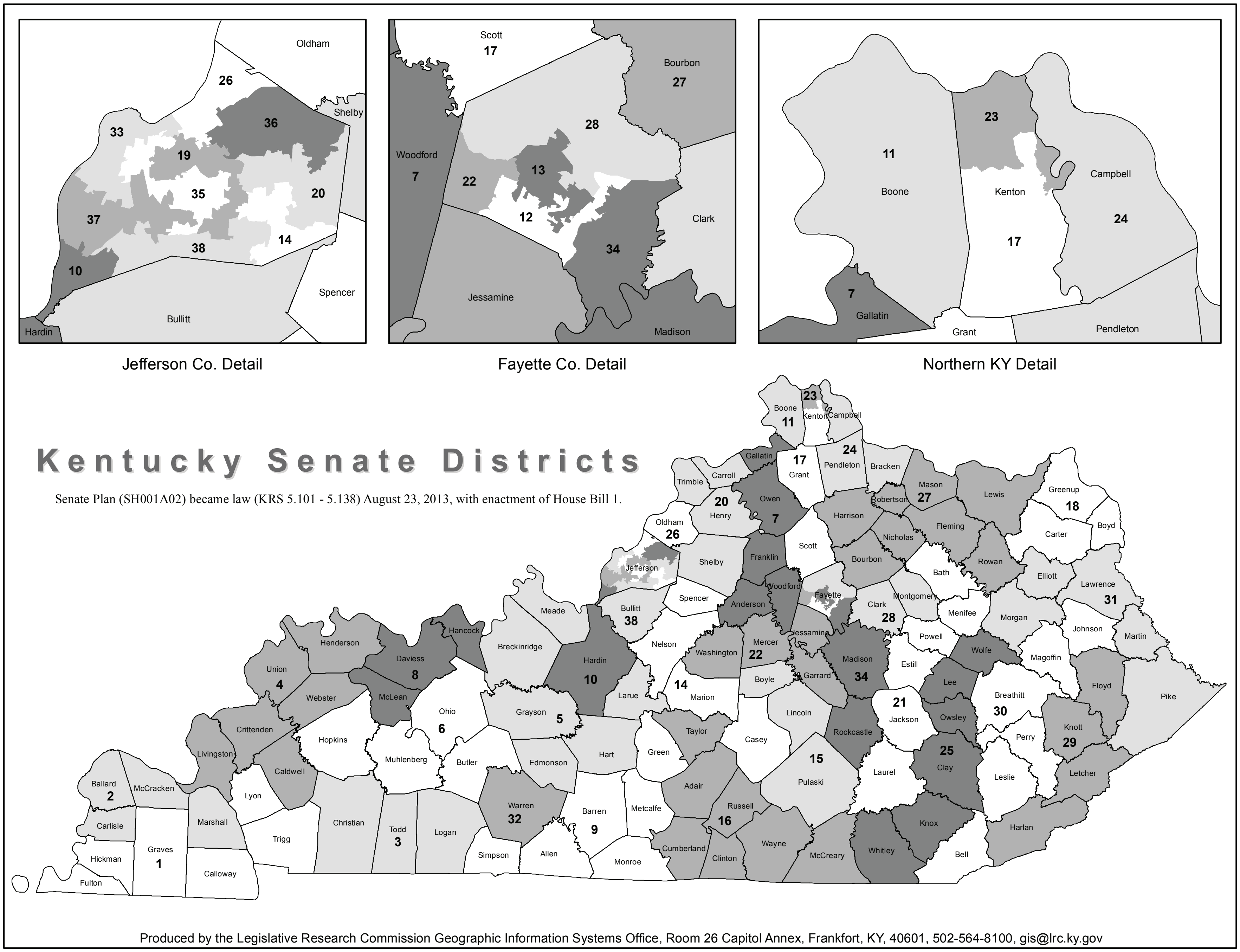
Pula said Hawaii, Illinois and Indiana apply their general sales tax to gasoline. So while their per-gallon tax rate remains constant, revenues vary based on the price of gasoline.

Committee Co-chair Sen. Ernie Harris, R-Prospect, said the Corporate Average Fuel Economy (CAFE) standards are forcing manufacturers to produce more fuel-efficient vehicles. That translates to less gas tax revenues coming into both state and federal coffers. Pula added that the goal is for the average vehicle in the United States to get 54.5 mpg by 2025.

As another means to increase funding and offset vehicle fuel efficiency, 10 states have enacted legislation to charge a special fee for hybrid or electric vehicles including Missouri, North Carolina and Virginia. In Kentucky, similar legislation was introduced during the 2016 General Assembly.

Because electric cars are such a small percentage of vehicles, Pula estimates the special fee for hybrid or electric vehicles will only bring in $54,000 annually in Missouri, $132,000 in North Carolina and $89,854 in Virginia.

Pula said another option for states to increase revenue is to toll, but there are some restrictions. Tolls can only be erected on interstates that have been widened by the state. There is a pilot project, however, that allows Missouri, North Carolina and Virginia to toll existing interstate highways that haven't been widened. While other states can ask to be a part of that pilot program, Pula said none have.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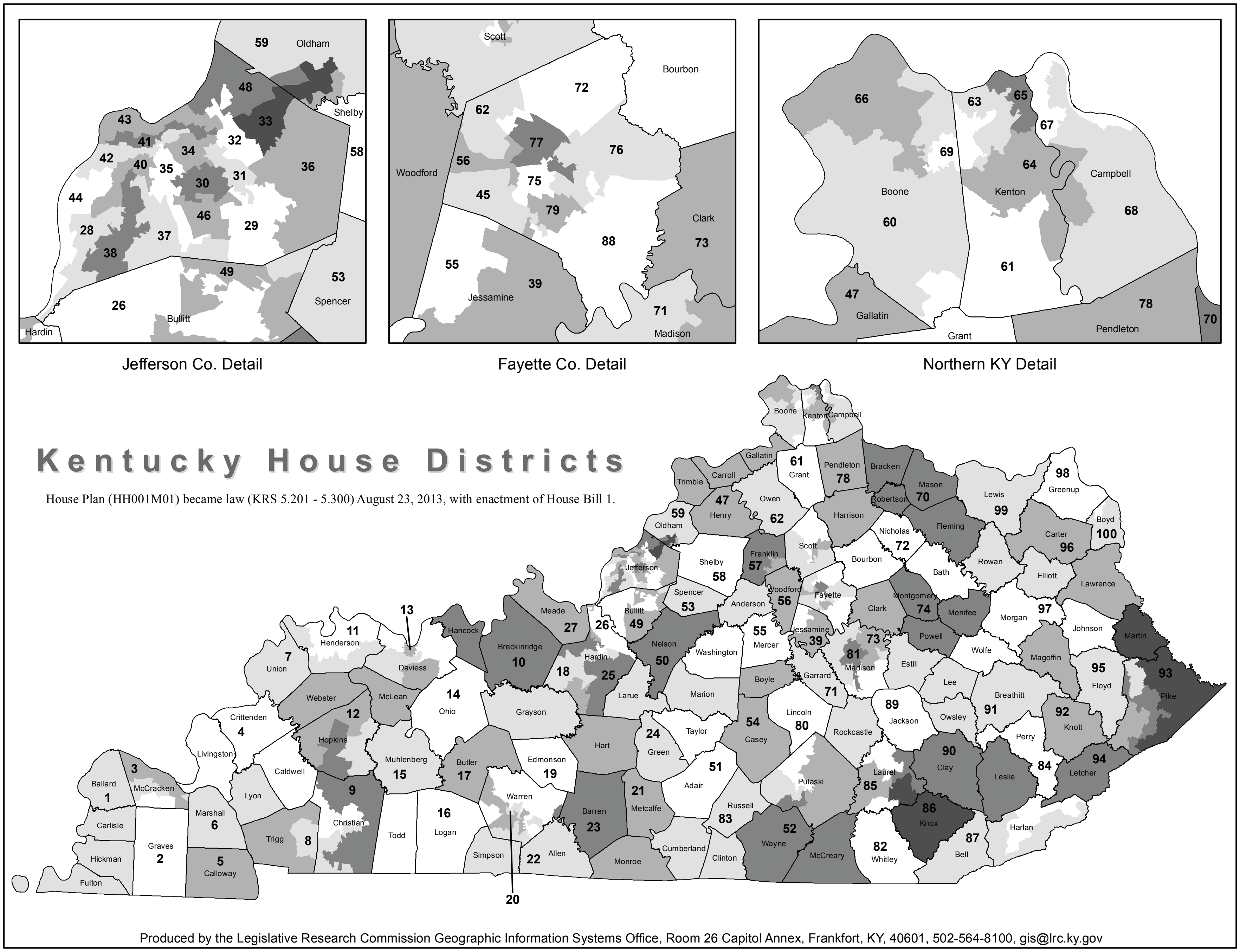
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