



2018

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## County clerks' group talks elections with lawmakers

by Rebecca Hanchett  
*LRC Public Information*

FRANKFORT--How to give more leeway to Kentucky voters who want to cast ballots before Election Day was considered by state lawmakers on Nov. 28 during committee testimony from the Kentucky County Clerks Association.

Although Kentucky voters can cast absentee ballots in-person or by mail during set periods before an election with a valid excuse, Rep. Jerry Miller, R-Louisville, told the Interim Joint Committee on Local Government that many hospital and air transport workers in his area have difficulty voting because of their changeable work schedules.

"Inside the two-week period for requesting an absentee (ballot) they learn they're going to be in Shanghai or Anchorage, Alaska on Election Day, and at that point it's just too late for them to vote," Miller said. He asked Kentucky County Clerks Association (KCCA) President and Kenton County Clerk Gabrielle Summe if consideration has been given to expanding absentee voting so those workers have more options.

As a county clerk in Northern Kentucky -- which is home to the Cincinnati/Northern Kentucky International Airport--Summe said she understands the challenge of meeting the voting needs of airport workers. But she cautioned that providing options may come with added costs for counties, asking lawmakers to consider how sustainable some changes may be.

Early voting, specifically, raises certain ques-



Interim Joint Committee on Local Government Co-Chair Rep. Rob Rothenburger, R-Shelbyville, comments during the committee's Nov. 28 meeting in Frankfort.

tions, Summe told the committee.

"My county is huge, so even if I had three voting centers ... how would I fund that? Where would I have them? How would I pay (election workers)?" she asked.

No broad support for early voting was voiced by the committee although Rep. Steve Riggs, D-Louisville, mentioned early voting as a possibility. Riggs said the state's two-step mail-in absentee ballot process—which requires a voter to turn in an absentee ballot application before receiving a mail-in ballot—is "cumbersome."

"The way we do it now is more than 100 years old with very few changes," Riggs said. "It keeps people from voting because it's not as con-

## Many ways to follow the 2019 Regular Session

FRANKFORT – When the Kentucky Senate and House of Representatives begin the General Assembly's 2019 Regular Session on Jan. 8, citizens will have many ways to stay connected to legislative action.

The Kentucky Legislature Home Page ([www.lrc.ky.gov](http://www.lrc.ky.gov)) is updated daily to provide the latest legislative information. Web surfers can view the issues before lawmakers by browsing through bill summaries, amendments and resolutions. The website is regularly updated to indicate each bill's status in the legislative process, as well as the next day's committee-meeting schedule and agendas.

In addition to general information about the legislative process, the website provides information on each of Kentucky's senators and representatives, including their phone numbers, addresses and legislative committee assignments.

Citizens are also welcome to see proceedings in person in the State Capitol's legislative chambers and committee rooms, which are open to the public.

Those who can't make the trip to Frankfort can tune in to chamber proceedings and committee meetings on The Kentucky Channel, KET KY. Kentucky

Continued on page 2

Continued on page 2

## County clerks, from page 1

venient as it needs to be. I'm not sure we need that in a democracy."

Summe said some changes may be necessary, but asked that lawmakers consider that early voting in addition to voting on Election Day would be "expensive." And those costs, she said, will draw money away from counties.

"So you have to really, I think, have a conversation, which I would love to have," said Summe.

Senate Majority Caucus Chair Dan Seum, R-Fairdale, told Summe he is concerned about a lack of poll workers in the state. He asked about worker pay, which Summe said is set by each county. In her county, she said poll workers are paid \$20 per two-hour training class and \$150 for a 12-hour Election Day shift.

Seum said the dearth of workers poses some real problems for election operations.

"The danger now I think ... if we're getting a shortage of poll workers, now we're going to think about combining precincts, which then, now you've got travel time, the poll is now farther away from someone. So that's a danger," he

Continued on page 87

## 2019 Session, from page 1

Educational Television also provides online streaming of its legislative coverage at KET.org/legislature.

Citizens can also use toll-free phone lines to follow legislative action and offer their input to lawmakers. Those who want to give lawmakers feedback on issues under consideration can call the Legislative Message Line at 800-372-7181. Those who prefer to offer their feedback in Spanish can call the General Assembly's Spanish Line at 866-840-6574. Citizens with hearing impairments can use the TTY Message Line at 800-896-0305.

A taped message containing information on the daily schedule for legislative committee meetings is available by calling the Legislative Calendar Line at 800-633-9650.

Citizens can write to any legislator by sending a letter with a lawmaker's name on it to: Legislative Offices, 702 Capitol Ave., Frankfort, KY 40601.

The 2019 session is expected to last 30 working days and is scheduled to adjourn on March 29.

## Pension plans need ongoing attention, oversight panel told

by Rebecca Hanchett  
*LRC Public Information*

FRANKFORT— Funding for Kentucky's public pension systems continues to be a challenge, a state retirement official told a state pension oversight board on Nov. 26.

With the KERS (Kentucky Employees Retirement System) nonhazardous plan now less than 13 percent funded with around \$13.5 billion in unfunded liabilities – making it the worst-funded of all the state's pension plans – Kentucky Retirement Systems (KRS) Executive Director David Eager told the Public Pension Oversight Board that legislative attention is needed.

"We're pretty close to pay as you go on KERS nonhazardous," Eager said, explaining to the board that pension funds have decreased as retirements rise and payroll contributions fall.

"If we receive no contribution and no investment income, it'd be insolvent in two years," Eager said of the KERS nonhazardous plan. "That's not going to happen. We're going to get contributions and hopefully we're going to get investment income. (But) we're in a very fragile state."

Some good news shared by Eager and KRS Deputy Executive Director Karen Roggenkamp indicates that the unfunded liability for KRS overall decreased by \$450 million between 2017 and 2018, thanks mostly to a decrease in the unfunded liability of retiree health insurance plans.

"So we gained \$450 million on that unfunded," Eager said.

The KRS actuarial review excluded legislative changes made under 2018 Senate Bill 151 – the 2018 General Assembly's pension reform bill – which was pending a ruling from the Kentucky Supreme Court at the time of the board meeting. The Supreme Court has since declared SB 151 unconstitutional largely on procedural grounds. A special legislative session called by the governor on Dec. 17 to consider pension issues adjourned after two days, with legislative leaders saying more time was needed to reach a consensus on the issue.



Public Pension Oversight Board Co-Chair Rep. Jerry Miller, R-Louisville, fields questions during the Nov. 26 meeting of the committee in Frankfort.

KRS' County Employees Retirement System (CERS) nonhazardous pension plan's funding level dipped only slightly from 52.8 percent to 52.7 percent in 2018, accompanied by a slight uptick in the pension plan's unfunded liability, according to a state legislative actuarial and financial update provided to the board.

Showing improvement is the Teachers' Retirement System, the state's retirement system for Kentucky's active and retired educators. The funding level for the TRS pension plan increased from 56.4 percent to 57.7 percent in 2018, according to the legislative update, while the pension system's unfunded liability was unchanged.

The unfunded liability for the state's pension plans overall (including KRS, TRS, and the Judicial Retirement Plan and Legislators Retirement Plan) totals \$37.97 billion for 2018 – an increase of \$430 million over previous levels, according to preliminary numbers included in the legislative update.

A special legislative session called by the governor on Dec. 17 to consider pension issues adjourned after two days, with legislative leaders saying more time was needed to reach a consensus on the issue.

# 2019 REGULAR SESSION CALENDAR

## 2019 REGULAR SESSION CALENDAR

(approved by JRC 9/5/18)

### JANUARY PART I

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8 Part I Convenes (1)	9 (2)	10 (3)	11 (4)	12
13	14	15	16	17	18	19
20	21 Martin Luther King, Jr. Day	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 Part II Convenes (5)	6	7	8 Last Day for Bill Requests (8)	9
10	11 (9)	12 (10)	13 (6)	14 (7)	15 Last day for new Senate bills (13)	16
17	18 President's Day	19 Last day for new House Bills (14)	20 (11)	21 (12)	22 (17)	23
24	25 (18)	26 (19)	27 (20)	28 (21)		

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	2
					(22)	
3	4 (23)	5 (24)	6 (25)	7 (26)	8	9
10	11	12 Concurrence (27)	13 Concurrence (28)	14 VETO	15 VETO	16 VETO
17	18 VETO	19 VETO	20 VETO	21 VETO	22 VETO	23 VETO
24	25 VETO	26	27	28	29 SINE DIE (30)	30
31						



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# Committee Meetings

## Index

### A

Administrative Regulation Review Subcommittee, 35  
Agriculture, 20, 21, 24  
Appropriations and Revenue, 21

### B

Banking and Insurance, 11, 32

### C

Capital Projects and Bond Oversight, 52  
Child Welfare Oversight and Advisory Committee, 28

### D

Diabetes Medical Emergency Response Task Force, 46

### E

Economic Development and Workforce Investment, 25  
Education, 26  
Education Assessment and Accountability Review Subcommittee, 54

### G

Government Contract Review Committee, 56

### H

Health and Welfare and Family Services, 15

### J

Judiciary, 18

### L

Licensing, Occupations, and Administrative Regulations, 12  
Local Government, 30

### M

Medicaid Oversight and Advisory Committee, 41

### N

Natural Resources and Energy, 14

### P

Prefiled Bills, 59  
Program Review and Investigations Committee, 47  
Public Pension Oversight Board, 43

### S

School Safety Working Group, 49  
State Government, 8, 33

### T

Tax Expenditures, Task Force on, 52  
Tobacco Settlement Agreement Fund Oversight Committee, 35, 53  
Tourism, Small Business and Information Technology, 22

## INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

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

October 24, 2018

#### Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on State Government was held on Wednesday, October 24, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Representative DJ Johnson, Chair, called the meeting to order, and the secretary called the roll.

#### Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Jerry T. Miller, Co-Chair; Representative DJ Johnson, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Albert Robinson, and Damon Thayer; Representatives Lynn Bechler, Kevin Bratcher, Tom Burch, McKenzie Cantrell, John Carney, Joseph M. Fischer, Derrick Graham, Mark Hart, Richard Heath, Dennis Horlander, Reginald Meeks, Phil Moffett, C. Wesley Morgan, Jason Nemes, Jason Petrie, Rick Rand, Jody Richards, Bart Rowland, Tommy Turner, Ken Upchurch, and Jim Wayne.

Guests: Bradford Queen, office of the Secretary of State; John Steffen, Emily Dennis, Craig Dilger, and Elizabeth Weber - Registry of Election Finance; County Clerks Kenny Barger, Don Blevins, Jr., Tina Browning, Lynn Hesselbrock, and Bobbie Holsclaw; William May, Kentucky County Clerk's Association; and Kathryn Gabhart and Michael Board, Executive Branch Ethics Commission.

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

#### Approval of Minutes

The minutes of the September 26, 2018, meeting were approved without objection, upon motion by Senator Bowen.

### Kentucky Secretary of State/State Board of Elections - Update and Legislative Agenda for the 2019 Session.

Bradford Queen, Director of Communications, Office of the Secretary of State, was guest speaker. He focused on offices on the ballot and important dates in the 2018 election cycle, Kentucky election turnout history, absentee voting, military and overseas voters, candidate deadlines for the 2019 primary and general elections, e-poll books, and 2019 legislative proposals.

Offices up for election in 2018 include all U.S. representatives, 19 state Senate seats, 100 state House seats, the District 3 Supreme Court seat, all 115 district judges (27 counties), Commonwealth's attorneys, circuit court clerks, property valuation administrators, and other county and city officials. October 30 is the last date to request a mail-in absentee ballot for the November 6 general election. November 13 at 4:00 p.m. is the deadline for requesting a

recanvas. The State Board of Elections will meet no later than November 26 to certify the vote totals.

Turnout statewide for the 2016 general election was 59.1 percent. Turnout was 30.7 percent in 2015, when the governor, lieutenant governor, and state constitutional officers were on the ballot. For the 2014 mid-term election, turnout was 46.4 percent; it was 49.1 percent for the 2010 mid-term. Kentucky mid-term election turnout is generally in the 40 percent range. As of October 22, absentee ballots issued for the 2018 general election totaled 32,569.

More than 10,000 ballots have been requested by military and overseas voters since the 2014 launch of Kentucky's online portal "GoVoteKY.com." For the 2018 general election, 2,148 ballots have been sent through the portal. Kentucky military and overseas voters have resided in 118 Kentucky counties, 37 states, two territories, and more than 100 countries.

The earliest date to file for office and affix signatures for the 2019 primary and general elections is November 7, 2018. The 2019 filing deadline for party candidates is January 29 at 4:00 p.m. The primary election date is May 21, and the general election will be on November 5.

The Secretary of State and the Kentucky Board of Elections are focusing on the use of electronic polling books (e-poll books) to replace traditional paper registration books at precincts. It has been a 3½ year effort to bring e-poll book technology to the Commonwealth, utilizing federal funding through the Help America Vote Act (HAVA). Pilot projects were conducted during the 2016 primary and general elections in seven counties—Boyle, Floyd, Franklin, Jefferson, Kenton, Madison, and McCracken. E-poll books, which are devices similar to an iPad, were utilized in those counties in the 2018 primary election and were placed in every precinct in Franklin and Madison counties. Statewide, 37,241 voters checked in with e-poll books at precincts in the 2018 primary election. Driver's license scan was the method of identification for 90.5 percent of the voters. In Franklin and Madison Counties 94 percent of the voters were identified by ID scan.

For the 2019 legislative session, the Secretary of State intends to propose legislation to remove the excuse requirement for in-person absentee voting but retain the requirement to open in-person absentee voting no later than 12 working days before Election Day, remove the 4:00 p.m. deadline for online voter registration and allow online registration until midnight, and allow delivery of absentee ballots to voters by e-mail in emergency circumstances. Mr. Queen mentioned the emergency situation of firefighters who worked a forest fire in southern Kentucky in 2016 and were unable to vote through usual procedures.

Responding to Representative Johnson, Mr. Queen explained that absentee ballots can be transmitted electronically to military and overseas



voters. When county clerks receive a ballot request, they electronically transmit a link to the ballot, which the voter must print, fill out, and return by mail to the county clerk's office prior to Election Day.

Representative Miller said the emergency ballot proposal could be helpful to the United Parcel Service pilots in his district, who are often called on without prior notice. He asked about the timeline for requesting an emergency absentee ballot. Mr. Queen said he believes an emergency ballot would apply in that type of situation. He is unsure of the timeline but would be happy to obtain more information.

Representative Nemes commended the Board of Elections and county clerks for their work to ensure that elections are conducted fairly, and he complimented the online portal implemented by Secretary Grimes. He said he is concerned about allegations of lack of compliance with the federal consent decree that directed the Commonwealth of Kentucky to remove the names of ineligible voters from official voter registration lists. He also asked Mr. Queen whether he thinks legislation is needed to assure compliance with the consent decree and election law. Mr. Queen said that the Secretary of State's office and the Board of Elections are working with the U. S. Department of Justice on a compliance plan. Maintaining voter rolls is expensive, and the State Board of Elections in past budget cycles has not received the funding requested for that purpose. Almost a half million voters have been removed from the rolls because of death, felony conviction, incompetency, or personal request. In order to update the voter list, the Board of Elections in June sent nonforwardable mailers to 617,000 registered voters who have not voted in four election cycles or made any change in their registration. More than 200,000 mailers have been returned as undeliverable. After the November 2018 election, those voters will be sent a second mailer that is forwardable. Voters who are subsequently placed on an inactive list can be removed from the registration books after not voting in two more federal elections. Kentucky is participating with the Electronic Registration Information Center (ERIC), a multi-state partnership for improving the accuracy and efficiency of state voter registration systems. The Center helps identify voters who are not registered but are eligible to vote. Mr. Queen said he does not know when the consent decree compliance plan will be finalized but that the Board of Elections website includes information regarding the voter list maintenance program. Representative Johnson said the State Government Committee anticipates receiving an update on the compliance plan during the 2019 session.

Representative Meeks asked about Kentucky's history regarding voter fraud and election irregularities. Mr. Queen said that Secretary Grimes takes reports of election fraud seriously. When she assumed office she established an election integrity task force of state, federal and local officials. It includes representation by the Kentucky Attorney General, the U.S. attorneys for the eastern and western districts of Kentucky, the FBI, and Kentucky State Police. Many of the calls received by the task force are questions about election process. Reports of irregularities are referred to the Attorney General. The Secretary of

State and the Board of Elections do not have authority to investigate election offenses. The Secretary of State's office met recently with the task force, in anticipation of the approaching general election. When Representative Meeks said the committee might want to invite testimony from the task force, Representative Johnson said that is a good suggestion.

Representative Bechler inquired about the cost to implement e-poll books. Mr. Queen said the cost for statewide implementation is paid entirely from federal funds allocated through HAVA. Kentucky budgeted \$5.5 million toward the project and implementation came in under budget—at about \$4 million, he believes. He said he would be happy to follow up with the exact numbers.

Representative Wayne asked about funds that have been requested and received since 2009 to maintain the voter rolls. Mr. Queen said he does not have the numbers at hand but believes the budget request was underfunded approximately \$1 million per year. Representative Wayne said that because of the underfunding, the legislature has not been helping the Secretary of State's office in its efforts to comply with the federal court order.

Representative Miller said it troubles him that Kentucky elections are being exposed to fraud. He said probably 1,000 people who no longer live in his district are still listed on the voter rolls. Mr. Queen said that, with the exception of credit cards, the required identification must include a photo and signature of the voter. Precinct election officials are also allowed to identify voters by personal acquaintance.

Senator McGarvey asked whether the Department of Justice found actual violations by the Secretary of State's office and whether specific instances of fraud have been discovered. Mr. Queen said he does not know. Funding has not been sufficient to monitor the number of voters who move out of state. In regard to other reasons for purging legal voters, Kentucky is complying with state and federal law. He is not aware any instances of voter impersonation, which is exceedingly rare nationwide.

When asked by Representative Burch, Mr. Queen said that the information used to remove the names of voters who have died is supplied by the state's Office of Vital Statistics. Representative Burch said it has been his practice to notify the county clerk when he learns someone in his district has moved away. He believes that in most instances that would have prompted removal from the voter list. He acknowledged that the process is now more complicated but questioned how someone could have moved out of a precinct for an extended period of time without the voter's registration being challenged.

Senator Harper Angel said she is impressed with e-poll books and the proactive move by the Secretary of State to use federal funds to implement them. She looks forward to more e-poll books being used in Jefferson County. Mr. Queen said that e-poll books are a popular election administration solution. A number of states use them, but he does not know the exact number.

Representative Graham said that about a year ago county clerks indicated to legislative committees that the state's election system is secure, and he believes they would apprise legislators of suspected ballot

fraud or abuse. He has concern that some members of the committee think illegitimate ballots have been cast. Attention should be directed instead on attempts to limit citizens' fundamental right to vote.

Representative Nemes said he does not think there is an attempt to suppress the right to vote nor that anyone present is alleging that improper ballots were cast. Questions have arisen whether Kentucky is complying with the 1993 National Voter Registration Act (NVRA), which was signed by President Clinton. He also said it would be a federal violation for a county clerk to remove a voter from the rolls merely on someone's word.

Representative Nemes said he is a member of the Appropriations and Revenue Committee and that the Secretary of State did not bring the need for additional funding to the committee's attention during the budget process. The Department of Justice's investigation found that since 2009, Kentucky has not sent statutorily required notices to registrants under the change of address process contemplated by the NVRA and state law. The investigation also found that since 2015, Kentucky has not removed registrants through the statutorily prescribed process, and the Secretary of State agreed that that there were violations. Representative Nemes said he does not expect Mr. Queen to respond to his earlier question whether state law needs to be changed to allow the Secretary to comply with federal law and the consent decree but that the Secretary's office needs to bring any suggested statutory change to the General Assembly's attention.

Representative Wayne said it is his understanding that the Secretary of State has been working with the Justice Department in order to show that there is a problem in Kentucky. In so doing, she has tried to exhibit to the General Assembly the need for funds to correct the problem. He is a member of the Appropriations and Revenue Committee and, in his opinion, the 2018 budget process was one of the most closed he has ever experienced. He suggested that everyone stop pointing fingers and work together to fix the problem for the common good of Kentucky.

Representative Johnson said he expects this conversation to continue and that the Secretary of State or her representative will be asked in the future to testify about the compliance plan. He thanked Mr. Queen for his testimony and a good presentation.

#### **Registry of Election Finance – Update and Legislative Agenda for 2019**

Craig Dilger, Chairman; Elizabeth Weber, Vice-Chair, John Steffen, Executive Director; and Emily Dennis, General Counsel, were present from the Registry.

Mr. Dilger said that the Registry's goal for the 2019 legislative session is to have mandatory electronic filing enacted for all candidates. There were 6,343 candidates in the 2018 primary election cycle. There are 7,462 candidates in the 2018 general election, with 1,559 raising \$3,000 or more in campaign finance funds. Only 106 of those candidates are e-filers.

The regulatory function of the Registry has changed over time. The budget has been reduced significantly. In an effort to be efficient, both staff and spending have been reduced. The Registry previously had 20 employees but now has only 12

full-time staff and one part-time employee. There is also one vacancy. It has become physically impossible to provide needed information to the public, candidates, and the media in a timely fashion. It is necessary to require mandatory electronic filing of campaign finance reports in order to successfully and appropriately provide transparency to the citizens of the Commonwealth.

Mr. Dilger said that the legislature granted requested funds to update the Registry's computer system. The new system should be ready and functional to handle electronic filing from every candidate in the 2020 election cycle. That is a great step forward and provides an opportunity for mandatory electronic filing to be established across the board. When the system goes live in the 2020 election cycle, candidates will be able to file campaign finance reports from a smartphone. The process will be simple and relatively mistake-proof. Electronic filing will be web-based and will be accessible from any computer, tablet, or smartphone. Terminals for filing will also be available at the Registry and at public libraries. Mandatory electronic filing will provide transparency and fairness in the way information is reported and available. It will level the playing field and make the process transparent for everyone involved. Candidates can file electronically via the Internet, or they can bring their reports to the Registry on disk or other electronic storage medium for uploading by Registry staff. When mandatory electronic filing for candidates for statewide office was put in place by HB 90 (2012 RS), it was a great help. It allowed the Registry and staff to address problems or omissions before voters go to the polls. Beginning in 2017, candidates who raise \$3,000 or less are not required to file a campaign finance report.

Mr. Dilger said the current election cycle so far has run fairly smoothly, and he has no issues to report. The updated computer system will be helpful, and the Registry is grateful that it received funding for that purpose. The majority of states now require electronic filing. It was required in 30 states in the 2016 election cycle. Mississippi is the only state with no electronic filing, and it was begun only recently in West Virginia.

Senator Thayer said he has always filed electronically. He sponsored the bill that enacted mandatory electronic filing for statewide offices, and he has tried for years to get mandatory electronic filing passed for all races. He is committed to requiring mandatory electronic filing. Without it, the Registry staff is under a tremendous burden, and it is difficult for information to reach candidates, media, and the public. Those who decry the influence of money in politics should want electronic filing because it brings more transparency to the election process.

Senator Thayer said the current election cycle has been a disaster with respect to transparency. Some candidates have still not filed their 60-day pre-primary report. He named two 2018 candidates—a Republican candidate for Senate and a Democrat running for county judge/executive—who have not filed the required reports, with no apparent consequences. He said the voters should know that those candidates are breaking the law, and he questioned what can be done to improve enforcement when the law is not followed. Mr. Dilger said additional enforcement options would

be helpful, but he believes that mandatory electronic filing is the answer. With the new computer system that will soon come online, failure to file a timely report would be readily apparent to everyone who accesses the system. Transparency demands that everyone know as soon as possible before an election whether a candidate is complying with the law. Mr. Steffen said that because of the flood of paperwork, staff does not have time to monitor late filings. He agreed that the new filing system and mandatory electronic filing will speed up the entire process.

Senator Thayer asked about ease of use of the new computer system. He said the current e-filing system is cumbersome and archaic and requires candidates to purchase software. Mr. Dilger said the new system is simple to use and will provide portals for free access. Senator Thayer said he looks forward to working with the Registry to accomplish mandatory electronic filing.

Representative Carney commended everyone at the Registry for always being willing to help. He said the new technology should make e-filing simpler and that he will support legislation to make it mandatory.

Representative Graham asked about the decline in the number of staff. Mr. Dilger said it was due to attrition, budget cuts, and also inefficiencies that needed to be addressed. For a while staff was able to combine duties but now cannot keep up with the paperwork. Representative Graham said that transparency is important and that the legislature should work in a bipartisan fashion to provide the Registry with funds to hire additional staff. This would not only increase transparency but should allow time for staff to monitor compliance.

Senator Thayer said that it would be helpful to have more staff under the current reporting system, which requires staff to keystroke hundreds of paper reports. Under the new technology and with mandatory e-filing, he does not think personnel or budget would be an issue. Information would be made available quickly, and staff would be able to check compliance, deal with enforcement, and handle other duties. If the Registry has reasons to add personnel for compliance and enforcement, he would be open to that, but in terms of transparency he does not see a need to spend money to increase staff. Representative Graham clarified that he had suggested increasing Registry staff for purposes of investigating compliance.

Representative Johnson said he is glad that the new technology will be in-house rather than through a third-party vendor. Based on his personal experience, he hopes the new system for e-filing will include an "auto fill" feature for the start and end dates. He thanked the guests for their testimony and a helpful presentation.

#### **Kentucky County Clerk's Association – Update and Legislative Agenda for the 2019 Session**

Guest speakers were Don Blevins, Jr., Fayette County Clerk, Lynn Hesselbrock, Spencer County Clerk, and William May, Mayor of Frankfort and Executive Director of the Kentucky County Clerk's Association (KCCA). Mr. May introduced Mr. Blevins and Ms. Hesselbrock as co-chairs of the KCCA election committee.

Mr. Blevins said that county clerks supported HB 273 and HB 274 in the 2018 legislative session.

Both bills passed the House and the Senate but were vetoed by the governor. KCCA is again supporting that legislation for introduction for the 2019 session. HB 273 would ensure that any qualified voter who voluntarily removes his or her name from the voter registration list after December 31 and who subsequently wishes to register to vote prior to the next scheduled primary, shall not be considered as a "newly registered voter" for purposes of party eligibility. Some voters are canceling their registration after December 31 and "re-registering" with a different party in order to vote in that party's primary election. Clerks would like to close this "loophole" in current law, which requires that a voter who wants to change party affiliation after December 31 must wait until after the primary election. HB 274 would require mail-in absentee ballot application requests to be received by the county clerk by the close of business 14 days before an election; permit a county clerk to transmit an application for a mail-in absentee ballot to the voter by electronic mail; and require cancellation of a mail-in absentee ballot no later than 14 days before the election.

Mr. Blevins said it has become difficult for county clerks to fill election officer positions. Under current law election officers cannot change party affiliation for a year prior to appointment. They are supposed to be appointed by March 20, which means they would not be allowed to change party for almost a year and a half before the date of the primary. County clerks also would like persons registered as independents to serve as election officers; they are currently allowed to serve only as emergency replacements. Election law requires all four election officer positions to include both a Democrat and a Republican. Most county clerks are able to meet that requirement. Demographics are shifting, however, and disparity in party numbers makes it difficult for some counties to recruit four workers from each major party.

Ms. Hesselbrock said that 1,700 voters switched parties in Spencer County in 2017, which made it difficult to recruit precinct workers. The aging population and the long work hours also were a factor. KCCA supports legislation to amend KRS 117.045(9) to allow election officers to change party before December 31 rather than a year prior to the March 20 appointment date. The current prohibition is antiquated and creates barriers to achieving parity among precinct workers. She thinks many smaller counties are experiencing similar changes in voter registration.

Mr. Blevins said that SB 101, which was enacted in the 2018 regular session, required a candidate for school board to provide a high school transcript as evidence of high school graduation. Persons who attended high schools that no longer exist are unable to obtain a transcript, and KCCA would like to have the law amended to allow other documents to suffice as proof of graduation.

Representative Johnson asked for an update regarding recent e-notary proposals, which would allow a notary public to perform a notarial act by means of communication technology. Mr. Blevins said that the National Association of Secretaries of State task force chaired by Secretary of State Grimes for the purpose of developing standards for remote/online



notarial acts has been meeting during the summer. The task force has released draft bill language, which will be reviewed at their final meeting on November 19.

There were no further questions, and Representative Johnson thanked the speakers.

#### **Election Security – Voting Machines**

Madison County Clerk Kenny Barger, Trimble County Clerk Tina Browning, and Jefferson County Clerk Bobbie Holsclaw discussed utilization of new voting equipment in their counties.

Ms. Browning said that Trimble County purchased used Hart eSlate voting equipment in 2009 that was manufactured in 2002. The software was upgraded and the lithium batteries were changed in 2013. The machines were due for maintenance again in 2017, but there was a cost associated with the maintenance. She was impressed with the secure features of the Verity Touch Writer which Hart presented at the 2016 KCCA fall conference. The machine allows people with disabilities to vote independently. The Verity is never directly connected to the Internet or to any other systems which connect to the Internet. Data such as voter registration, poll books, and election night reporting systems are never directly connected to Verity. Hart voting systems has never been and will never be remotely accessible by Hart or anyone else. External card drives or other devices cannot be inserted by voters into the Hart loading device. Data is stored in multiple redundant locations, ensuring no loss of data and easy detection of any attempt to manipulate the data. Ms. Browning said she felt the Verity Touch Writer equipment was best suited for use in Trimble County. It would make Trimble an all-paper county. Each machine has a battery backup in case of power failure and will run for approximately two hours on battery backup. The equipment was purchased in March 2017 and used for the first time during the 2018 primary election. The poll workers liked the machines and thought they were easy to operate, especially for the voter. On Election Day the election returns came into the clerk's office quicker than in previous elections.

Mr. Barger said that Madison County had been a Hart customer but switched before the 2018 primary to Election Systems & Software (ES&S) in order to provide a paper backup for all votes. The ES&S machine is ADA-compliant and is not connected to any other piece of equipment. The equipment is 100 percent secure and cannot be manipulated. His opinion is that election security is mainly a problem in smaller elections that have lower turnout and lower vote totals, where a mere three miscast votes could sway an election.

Ms. Holsclaw said that Jefferson County is also an ES&S customer and bought new equipment a year ago. It was used for the first time during the 2018 primary. The previous equipment was about 20 years old and was still good, but it was becoming almost impossible to replace the parts. She is very happy with the new equipment, which cost a little more than \$3 million. The poll workers liked the equipment and felt that it was easier to use. She is confident that the November 6 general election in Jefferson County will go smoothly, and she is proud of the nonpartisan manner in which her county conducts elections.

Representative Johnson clarified that today's testimony was not intended to promote any equipment manufacturer but rather to discuss security, reliability, and maintainability of election equipment.

Representative Rand said that Ms. Browning is the county clerk in his district and does an excellent job. He is confident that she and all the county clerks are interested in running elections smoothly and fairly. He is relieved to know that the new machines are not connected to the Internet and that there are precautions to ensure the integrity of Kentucky's elections.

Representative Miller complimented Ms. Holsclaw for running an outstanding office. He said the precinct officers in Middletown, his district, are models of efficiency. He is also glad to know that there is paper backup. Ms. Holsclaw credited the previous county clerk and county board of elections for their insistence on always having paper backup, which provides the safest and most secure election system.

There was no further discussion, and Representative Johnson thanked the speakers for their testimony.

#### **Administrative Regulation Review**

Kathryn Gabhart, Executive Director, and Michael Board, General Counsel, were present from the Executive Branch Ethics Commission. At its September 11, 2018, meeting the LRC Administrative Regulation Review Subcommittee reviewed and amended the Ethics Commission's administrative regulations 9 KAR 1:015 & E (pre-administrative proceedings) and 9 KAR 1:030 & E (administrative proceedings). On October 3, the regulations were subsequently assigned to the Interim Joint Committee on State Government for secondary review. Ms. Gabhart briefly explained the regulations, and there were no questions from the committee.

Representative Johnson thanked the speakers. Business concluded, and the meeting was adjourned at 2:51 p.m.

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

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

October 23, 2018

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

The 3rd meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, October 23, 2018, at 10:00 AM, at the Kentucky Farm Bureau Headquarters, Louisville. Representative Bart Rowland, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Bart Rowland, Co-Chair; Senators Julie Raque Adams, Rick Girdler, Morgan McGarvey, Dennis Parrett, John Schickel, and Dan "Malano" Seum; Representatives Jim DuPlessis, Joseph M. Fischer, Jim Gooch Jr., Dennis Keene, Adam Koenig, Chad McCoy, Michael Meredith, Steve Riggs, Dean Schamore, and Addia Wuchner.

Guests: Mark Haney, President, and John Sparrow, Executive Vice President/Chief Executive Officer, Kentucky Farm Mutual Insurance Company; Patrick O'Connor, Deputy Commissioner of Policy, Kentucky

Department of Insurance; Bradley Salyer, Morgan & Pottinger, P.S.C.; Lawrence Ford, Senior Director of Government Relations, Anthem Blue Cross and Blue Shield; and Robert Byrd, Regional Director of Government Relations, Air Evac.

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

#### **Approval of Minutes**

A motion by Senator Buford and second by Senator DuPlessis to approve the minutes of the September 25, 2018, meeting carried by voice vote.

#### **Opening Remarks, Kentucky Farm Bureau Mutual Insurance Company**

Mark Haney, President of Kentucky Farm Bureau Mutual Insurance Company, gave a history of the company. With representatives in all 120 Kentucky counties, the company represents more than just rural communities. In 2019, Kentucky Farm Bureau will celebrate its centennial having been the voice of agriculture for 100 years, and will continue to advocate for rural members.

John Sparrow, Executive Vice President and Chief Executive Officer said Kentucky Farm Bureau, is the only farm bureau in the United States to be the number one market shareholder in its given state. Each county office has a governing group of community leaders who are advocates for the organization.

In response to Chairman Rowland's question, Mr. Haney said Kentucky Farm Bureau is the fourth largest farm bureau with 475,000 family memberships.

#### **Mandated Study of Medical Costs**

Patrick O'Connor, Deputy Commissioner of Policy, Kentucky Department of Insurance (DOI), reviewed the Kentucky Personal Injury Protection (PIP) System and its medical billing process. PIP is "no-fault" coverage with a baseline amount of \$10,000 that typically pays for medical expenses, funeral expenses, wage loss, survivor benefits, and rehabilitation. It is an alternative to the tort system where an individual gives up the right to sue except under certain circumstances. Consumers have the option to reject no-fault coverage. The study is the product of 2018 General Assembly House Bill 464 directing the DOI to perform a comparison study of billing rates for medical bills submitted by providers in the PIP system with other fee schedules. DOI surveyed five insurance companies on process, data intake, and data storage and compared this information to relevant fee schedules. DOI determined that PIP medical bills are processed in two ways—internal processing with very limited reductions to the bill and extended use of third party vendors. To make an accurate comparison to the Kentucky Worker's Compensation Fee Schedule (WCFS), DOI requested medical billing data that, at a minimum, captured Current Procedural Technology (CPT) codes. DOI requested information from three insurance companies that use re-pricing to compare billed amount, allowed amount, and the WCFS rate. The data received was on 600,328 individual transactions, \$140,483,820 in billed charges and approximately \$107,914,238 in allowed charges in 2017. This data was refined to take into account various limitations. Physical medicine was the most frequently billed section, combined with evaluation and management frequency, and radiology, to comprise 87 percent total of non-hospital, non-unit



codes. The majority of providers billing in these areas are chiropractors, physical therapists, multi-use spine and rehab facilities, and some general practitioners. The majority of bills originated in Jefferson County. Other notable locations were Hardin, Laurel, and Perry Counties. Mr. O'Connor reviewed the data comparison process. He noted that the fee schedule has a greater impact on less frequently billed codes but higher per transaction cost.

The Division of Insurance Fraud Investigation reviewed internal PIP fraud claims. A substantial uptick in fraud referrals in 2011-2012 was seen. In 2017, there were over 1,800 fraud referrals, a substantial amount being PIP fraud referrals with many being health care fraud referrals. Common fraud referrals are excessive treatment, billing for services not rendered, duplicate billing, illegal solicitation, and unqualified person performing the billing. DOI will continue to review data and will update the report with a comparison of hospital-specific transactions. Overall PIP is a beneficial system that serves to streamline medical treatment following an accident. The WCFS would reduce amounts payable and have a greater impact on higher dollar transactions.

In response to Senator Buford's question, Mr. O'Connor said in 2017 PIP premiums collected were approximately \$200 million.

Responding to Representative Koenig, Mr. O'Connor said he is in contact with other states that have enacted fee schedules and will report to the committee at a later date.

In response to Representative Gooch's questions, Mr. O'Connor said data was not processed to determine how many PIP claims exhausted their amount. PIP does not pay property damage. He did not know if items like eyeglasses would be covered as medical equipment.

Representative Riggs suggested the committee look into legal fees associated with PIP. Mr. O'Connor said the only data collected was if claims were in litigation. Amounts were not included.

In response to Representative Girdler, the Deputy Commissioner said there is a correlation in the consistent increase in PIP claims in Kentucky and 2011 legislation to reform Florida PIP laws. He said more information would be available at a later date on hospital fees. Representative Girdler thought the PIP program is subsidizing the health insurance.

Responding to Representative DuPlessis, Mr. O'Connor said excessive billing fraud is difficult to prove. The DOI receives complaints from insurance companies that are then investigated by the agency fraud unit using existing treatment guidelines.

In response to Senator Seum, Mr. O'Connor said the \$10,000 PIP amount has not changed since the program's inception. Consumers are not specifically told at the time of usage that PIP forfeits many of their legal rights. The information is contained in the policy.

#### **Insurance Issues Surrounding Air Ambulances**

Senator Morgan McGarvey said that he asked the committee chairmen to address the air ambulance billing issue after sending letters to several insurers earlier in the year and failing to receive responses from some. He became concerned about the issue after a medical event experienced by a coworker,

Bradley Salyer.

Bradley Salyer, attorney with Morgan & Pottinger, P.S.C., explained a recent medical event that happened to one of his twin sons who had been born prematurely. While just a few months old, both twins contracted an infection resulting in multiple doctor visits and extensive treatments. While one son slowly recovered the other experienced a respiratory medical emergency. Their pediatrician sent him to the Bowling Green Emergency Room. After being stabilized the hospital determined they did not have the pediatric intensive care needed and recommended he be flown to Vanderbilt Children's Hospital as no ground transportation was equipped with high-flow oxygen for the trip. His son is now doing well. Later, a representative from their insurer, Anthem, explained that the air transportation guidelines were in their written policy. Mr. Salyer explained that they began receiving bills from the air evacuation company, Air Methods for \$57,621.99 for the emergency air flight. Anthem covered \$10,632.59 of the flight claim. The Salyers would be responsible for the balance. Anthem denied all appeals referring the Salyers to their policy. Mr. Salyers commented that, under current law, everyone is one illness or one accident away from potential financial ruin.

Senator McGarvey explained that air ambulances fall under the Federal Aviation Administration (FAA) and the Airline Deregulation Act preventing flight cost regulations. He said Kentucky needs to create a framework that requires insurance companies to work with air ambulance companies and pay for the services provided. Several states have enacted such legislation. Senator McGarvey explained that he has drafted a bill that mirrors North Dakota's approach. The bill requires insurance companies to pay for air ambulances services, both in and out of network, requiring an average of the contracted rates that an insurance company has with in-network air providers with this representing final payment to the air ambulance company. The bill also provides a system for arbitration promulgated by the DOI. It also creates a system for prior authorization. To the extent possible, medical personnel must get the written authorization of the patient.

Responding to Senator Buford's question, Senator McGarvey said he thought the legislation could be made retroactive.

Responding to Representative Wuchner's question regarding the cost per member to expand the service, Senator McGarvey said he sent a letter this summer to several insurance companies, including Anthem. A representative of Anthem said they did not receive the letter.

In response to Representative DuPlessis regarding huge variances in insured versus uninsured air ambulance costs, Senator McGarvey said insurance companies should work with air ambulance agencies to distribute the cost and to establish standards. Representative DuPlessis said medical costs are exorbitant because there is no longer a free market condition.

Responding to Representative Meredith, Mr. Salyer said he did not know if an in-network provider was available.

Lawrence Ford, Senior Director of Government

Relations, Anthem Blue Cross and Blue Shield agreed that air ambulance fees and coverage have been an issue for years. In 2013, Anthem determined a nonparticipation rate for air ambulance providers which was 200 percent of the Medicare Rural Rate equal to 300 percent of the Medicare Metropolitan Rate. In 2016, Anthem contracted their first rotary service. Since then Anthem has worked diligently to contract with additional carriers. Mr. Ford explained that Anthem has successfully contracted with two additional carriers and now contract with five companies. He said he cannot address the past but there will be continued conversations on the issue. Mr. Ford said he was unaware of a letter being sent to Anthem. Anthem has diligently pursued contracts to avoid exorbitant consumer bills.

Senator Buford said the committee appreciates Anthem moving forward on this issue. Representative Rowland concurred and noted the air ambulance companies' work as well.

Responding to Representative Koenig's question, Mr. Ford said Anthem believes the solution is through contracts to distribute the risk. If it is available on a rider basis, there would be a tendency to be selected against. In regard to the Air Ambulance memberships, the person is at the mercy of who picks up the person.

Addressing Representative Meredith's questions, Senator McGarvey said an air ambulance call is made by medical personnel because they have determined a person is in dire circumstances. Even if Anthem covers 90 percent of flights, 10 percent are not insured resulting in astronomical bills that would put over 99 percent of Kentuckians into crippling debt. Because of this, legislation is necessary. Senator McGarvey said he has not prefiled his bill in hopes of both sides coming to an agreement.

Robert Byrd, Regional Director of Government Relations, Air Evac said he was asked to brief the committee on Federal House Resolution (HR) 302. Mr. Byrd thanked the chairman for pursuing this matter because Air Evac is now under contract with Anthem. This is a big win for consumers. Air Evac wants the patient held harmless and kept out of the middle of payment issues. Mr. Byrd said HR 302 forms an advisory committee on air ambulance patient billing to address consumer protections. While it does not remove the air ambulance industry from the deregulation act, it could be a start.

There being no further business, the meeting was adjourned at 12:00 PM.

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

### **Minutes of the 5th Meeting of the 2018 Interim**

November 9, 2018

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

The 5th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Friday, November 9, 2018, at 10:00 AM, in Room 129 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Dan “Malano” Seum, and Damon Thayer; Representatives Tom Burch, Al Gentry, Jerry T. Miller, Kimberly Poore Moser, Sal Santoro, Arnold Simpson, Diane St. Onge, Walker Thomas, and Susan Westrom.

Guests: Senator Ralph Alvarado, Michael Rodman, Kentucky Medical Association; Russell Travis, M.D.; Nancy Galvagni, Senior Vice President for the Kentucky Hospital Association; Harold Corder, Board Chair, David Trimble, Board Counsel and Greg Lakes, board member, Kentucky Board of Embalmers and Funeral Directors; Sidney Fogle, Executive Director Kentucky Funeral Directors Association; Bryan Alvey, Senior Director, Governmental and External Affairs, Chris Nolan, MML&K, and Kevin Smith, Vice President of Bourbon Affairs, Beam Suntory, Kentucky Distillers’ Association; Julie Campbell, Board Administrator, Kentucky Board of Hairdressers and Cosmetologists.

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

#### **Minutes**

The minutes of the October 12, 2018, meeting were approved without objection.

#### **18RS SB 153, AN ACT relating to the Interstate Medical Licensure Compact**

Senator Ralph Alvarado, sponsor of SB 153 from the 2018 Regular Session told committee members that similar bills have been filed in the past regarding nurses that have led to some concerns. However, this is a straightforward bill addressing interstate medical licensure. This is a legal agreement among states that addresses the licensing of physicians in multiple states. Currently, if you are a Kentucky physician who is licensed to practice medicine here but want to practice in another state, even for a short period of time, there is a lengthy and expensive application process. The Interstate Medical Licensure Compact (IMLC) corrects this problem and expedites the ability for quality doctors from other states to come to Kentucky, or for Kentucky physicians to practice in other states.

The compact came from a group of state medical board executives, administrators, and attorneys who wrote the compact language during 2013 to 2014. No one owns the compact per-say. It is an expedited pathway to state licensure for experienced physicians who have outstanding practice histories. It sets the qualifications for licensure and outlines the process for physicians to apply and receive licenses in states where they are not currently licensed. The language of the compact must be identical in each state. The compact became active in October of 2015. There are currently 24 states and one territory that are members of the compact. Five others, including Kentucky, have introduced legislation. Senator Alvarado will introduce a bill again in 2019, with a starting implementation date of January 1, 2020. The Kentucky Board of Medical Licensure and the Kentucky Hospital Association are in agreement with the current language. This will help increase access to health care in rural areas. This will also assist in attracting physicians who practice telemedicine and

who are out of state but want to perform telemedicine in Kentucky.

Russell Travis, MD, said the state must be a member of the interstate medical licensure compact. The physician applies to his or her medical board and that is forwarded to the state of principal licensure and must meet the requirements of that state. Once the requirements are met there is finger printing, and federal as well as state investigations. The state of principal licensure will issue a letter of qualification to the compact board. There is a \$700 cost for this process. Once the compact board has issued the letter the physician is licensed immediately. These compact licenses are for one year.

In response to a question from Senator Schickel, Dr. Travis said the compact is made up of a commission composed of two representatives from each state board. The commission makes the rules and there is no federal involvement. Senator Alvarado added that ultimately the authority remains in each state.

Michael Rodman, Executive Director of the Kentucky Medical Association said that the compact is not the only way to get a license. Kentucky doctors will still go through the KMA to get a license to practice in the Commonwealth.

In response to a question from Senator Higdon, Dr. Travis said that of \$700 paid to the compact, \$300 comes back to Kentucky to pay for the Kentucky license. The remaining amount goes to the commission.

Nancy Galvagni, Senior Vice President, Kentucky Hospital Association (KHA) said this bill is a high priority for hospitals. It is especially important for rural hospitals who lack access to specialists and need telehealth services from doctors in specialized practices.

In response to a question from Representative Burch, Senator Alvarado said the current process is much slower, with the risk that a bad doctor can move from state to state before there is proper notification to the board. In this compact, if someone goes bad in Indiana, all members of the compact are automatically notified and licenses can be cancelled in all states at once.

#### **Kentucky Board of Embalmers and Funeral Directors**

H. E. Porter, Chairman of the Board of the Kentucky Board of Embalmers and Funeral Directors told members that they would like to create a license that will allow retired or off duty EMS workers or someone who has had special blood borne pathogen training to be able to transport bodies. They have had an overwhelming response from people who would like to purchase this license when available. Rural funeral homes are restricted because their licensees must be on the premises when there is a funeral. If there was a call to pick up a body, they are in violation of the law if they leave the funeral home unattended. The transport license will be a relief for these funeral homes, particularly family owned businesses with limited staff.

David Trimble, Counsel for the Board, said this is designed to create an additional license related to transporting of bodies. Currently only a licensed embalmer or funeral director can transport. This new license will allow for trained individuals to be available

to the funeral directors to make the transport run as needed.

Sidney Fogle, Executive Director for the Kentucky Funeral Directors Association, said the board has not taken a position on the legislation because they have not seen it. In response to a question from Senator Seum, Mr. Fogle said this legislation will not affect coroners that are not in the funeral home business.

#### **Kentucky Distillers’ Association**

Kevin Smith, Vice President of Bourbon Affairs for Beam Suntory said that membership in the Kentucky Distillers’ Association has grown from six members 20 years ago to 40 members today. Kentucky dominates bourbon production, and this year has filled more than 1.7 million barrels of distilled spirits. Also, the assessed value for taxes is up this year by \$456 million from 2017. The distillers have made capital investments since 2011 in excess of \$485 million and project another \$620 million in the next five years.

This past January worldwide members of the spirits production industry gathered in Louisville to have a summit regarding taxes. Beam Suntory is seeing millions of dollars being lost as a result of tariffs. The company has had to cut back on capital investments. Over the years this committee has done things to help grow the industry and they are turning to the committee for help again.

Bryan Alvey, Senior Director of Governmental and External Affairs, said the Distillers’ Association (KDA) is proud of the industry. A top priority for this coming session is to pursue legislation to bolster the Ignition Interlock Device (IID). Social responsibility is important to the industry. The Kentucky Transportation Cabinet, Administrative Office of the Courts, Mothers Against Drunk Drivers, District Courts and the association have been meeting to find common ground to move this legislation forward.

The association also supports stronger fake ID laws and expanding the DUI court to mirror the one in Jefferson County. It is the industry’s belief that these efforts will help public safety as a whole. One responsibility program that the association is proud of is the Safe Ride Kentucky Campaign. The association provided over \$100,000 in funding and partnered with Lyft to deliver 5,000 safe and sober rides in 2018. Last weekend alone during the UK/GA game there was an average of 50 rides an hour during and after the game.

Finally, this industry is the most heavily taxed industry in the state. During this legislative session the association will address the business to business tax. The association will ask to be exempted from this double taxation. As an example, Mr Alvey said when a tour company purchases admission tickets from a distillery to offer to their patrons in a tour package, under the Department of Revenue interpretation, the tour company pays the same distillery tax when they resale them to the consumer. This creates a 12 percent tax increase. The association will also ask for a change in the structure of the barrel tax credit. Kentucky is the only state that has this type of tax.

Additionally, if a distillery wants to locate in a dry territory, the territory has a local option to vote a precinct wet. This allows for sampling and the sale of the product in that precinct. In SB 11, in



2015, there was a provision to allow for this local option election. However, that provision will sunset in 2019. The association will ask that this provision be made permanent in the statutes. Additionally, the association wants to clarify the implementation provisions in HB 400 from the 2017 regular session. These would include allowing distilleries to outsource packaging. The association would also like for Kentucky to become reciprocal with other states in order to ship spirits.

The association is constantly on the lookout for way to bring tourists to Kentucky. Last year there were 1.194 million visitors to the Kentucky Bourbon Trail and the Kentucky Bourbon Trail Craft Tour. This is a great economic impact for the state as well as the distilleries and communities. The association would like to be able to offer exclusive offerings at distillery visitor centers. Craft members are interested in legislation the association is calling HB136 for spirits. This would bring parity to the spirits industry.

There a Kentucky Bourbon Trail welcome center at the Frazier History Museum in Louisville. This is the official starting point for the Bourbon Trail. There is also an entire floor of exhibits dedicated to bourbon.

Senator Higdon commented that half of the world's bourbon is stored in Marion/Nelson County. He toured the Bourbon Trail with Bourbon City Tours and found it impressive.

Senator Thayer thanked the KDA and the Bourbon Trail for the high level of investment in infrastructure and the workforce in the Commonwealth. The leadership of this committee, in eliminating artificial barrier to free enterprise, is doing one of the best things that the legislature can do for businesses in Kentucky. Distilleries should be able to sell special release bottles. The business to business tax issue is a misinterpretation by the Revenue Cabinet and it is the responsibility of the legislature to clean up that language.

In response to a question from Representative Burch. Mr. Nolan said the barrel tax is almost \$24 million in ad valorem property tax on barrels that are stored in warehouses. Mr. Smith said the association is not looking to remove that tax. Rather, the barrel tax credit has become less effective and they are looking to use it as it was designed.

Representative St. Onge asked if the association could meet with the equine industry to see if there are ways to promote both together.

In response to a question from Representative Miller, Mr. Smith said there are roughly 17,500 distillery related jobs with an annual payroll of about \$800 million. Mr. Alvey added that new distilleries are being built, and it is hope that they will join the KDA.

In response to a question from Representative Santoro, Mr. Alvey said the special release bottles are more of a parity issue, with beer and wine being allowed to have special release products. Retailers are also currently allowed to purchase a barrel from Makers Mark and have special release bottles. Mr. Nolan added that this allows more options in the market. Retailers and Distillery Visitor Centers are talking about two different sets of consumers. In response to a question from Representative Moser, Mr. Nolan said retailers have exclusive offerings

now. In response to a question from Representative Koenig, Mr. Alvey said distillers are the only business that cannot have special offerings. Beer and wine are allowed as well as retailers to have special offerings.

#### **Proposed Administrative Regulation 201 KAR 012:280**

Julie Campbell, Board Administrator for the Kentucky Board of Cosmetology told members that Representative Miller was proposing a committee amendment to update an administrative regulation. The board is in full agreement with the amendment.

Representative Miller commented that he has a constituent that was concerned with the language of the original amendment to the regulation. Representative Miller met with people in the industry as well as Ms. Campbell. All parties are happy with the new amendment.

In response to a question from Representative Burch, Ms. Campbell said this regulation sets parameters for safe practice in the esthetics industry. It adds more training for basic exfoliation during dermaplain techniques and leaves advanced practices to requiring physician oversight.

In response to a question from Representative St. Onge, Ms. Campbell said advanced derma plain techniques mean the blade is going beyond the basic, uppermost layer of dead skin. Representative Miller commented that basic derma plain technique is a common practice.

Representative Miller moved for the adoption of the agency amendment to administrative regulation 201 KAR 012:280. There was a second and the regulation was approved by voice vote.

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

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

### **Minutes of the 6th Meeting of the 2018 Interim**

November 1, 2018

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

The 6th meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, November 1, 2018, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Ernie Harris, Paul Hornback, John Schickel, Brandon Smith, and Whitney Westerfield; Representatives John Blanton, Larry Brown, McKenzie Cantrell, Tim Couch, Myron Dossett, Jim DuPlessis, Daniel Elliott, Chris Fugate, Angie Hatton, Dennis Keene, Reginald Meeks, Jim Stewart III, Jim Wayne, and Jill York.

Guests: Peter Goodman, Director, Division of Water, Energy and Environment Cabinet (EEC); Sara Anderson, Manager, Surface Water Permits Branch, Division of Water, EEC; Sean Alteri, Deputy Commissioner, Department for Environmental

Protection, EEC; Charles Snively, Secretary, EEC; and Bruce Scott, Deputy Secretary, EEC.

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

#### **Agency Amendment**

Peter Goodman explained the Agency Amendment for 401 KAR 005:006 Wastewater Planning Requirements for Regional Planning Agencies. The Agency Amendment was approved by a unanimous voice vote.

#### **United States Environmental Protection Agency's Proposed Affordable Clean Energy Rule**

Bruce Scott, Deputy Secretary, EEC, stated that on August 21, 2018 the United States Environmental Protection Agency (EPA) proposed the Affordable Clean Energy (ACE) Rule to replace the Clean Power Plan (CPP) of 2015 that never went into effect. ACE established emission guidelines for states to develop plans to address greenhouse gas emissions from existing coal-fired power plants.

Sean Alteri, Deputy Commissioner, Department for Environmental Protection, explained that Kentucky will develop a plan under ACE that will affect seven electric utilities, forty-one electric generating units, and all ratepayers. A state implementation plan is required to comply with National Ambient Air Quality Standards (NAAQS) under the Clean Air Act. However, because carbon dioxide is not a criteria pollutant to which NAAQS would apply, only a state plan is required. The Energy and Environment Cabinet commends the EPA's effort to re-establish the proper role of states to develop a state plan.

The CPP mandated carbon dioxide emissions standards that would have effectively shuttered coal-fired plants, but ACE allows states to set their own standards to meet federal emissions guidelines. Under ACE, on-site heat-rate efficiency improvements are defined as the best system of greenhouse gas emissions reduction from existing coal-fired power plants, with a list of candidate technologies that can be used to achieve those increases in performance. ACE also updates EPA's New Source Review Permitting program to incentivize efficiency improvements at existing coal-fired power plants.

In response to a question from Representative Wayne, Mr. Scott stated that utilities and consumers determine the energy sources that are available in the marketplace. The ACE rule is predicting a three to four percent reduction in carbon dioxide emissions upon the implementation of projects, and utilities will make decisions to close certain plants that will likely accelerate the reduction. Secretary Snively stated the closing of coal-fired plants combined with a four percent reduction in carbon dioxide emissions will cause emissions to be even lower than the goal for the CPP.

In response to a question from Representative Gooch, Mr. Scott stated the ACE rule only applies to coal-fired plants. The CPP was a regional plan, but the ACE rule only applies on a unit to unit basis. Mr. Alteri stated that it would be helpful if the New Source Review amendments were adopted concurrently with the implementation of the ACE rule, so that certain efficiency improvements precipitated by the rule



would not trigger New Source Review.

In response to a question from Representative DuPlessis, Mr. Alteri stated an efficiency change in an electric generating unit that triggers New Source Review can cause a lawsuit if the utility circumvents the permitting process.

The next meeting of the committee will be held on December 14, 2018. Documents distributed during the meeting are available in the LRC Library and at [www.lrc.ky.gov](http://www.lrc.ky.gov).

There being no further business, the meeting was adjourned.

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

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

November 27, 2018

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

The sixth meeting of the Interim Joint Committee on Health and Welfare and Family Services was held on Tuesday, November 27, 2018, at 1:00 p.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called the meeting to order at 1:11 p.m., and the secretary called the roll.

Present were:

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

Guests: David Allgood, Director of Advocacy, Center for Accessible Living; Amy Dougherty, Attorney, Bluegrass Elder Law in Lexington, and Chair, Kentucky State Independent Living Council (SILC); Shawn C. Jones, MD, FACS, President, Kentucky Foundation for Medical Care and Past-President, Kentucky Medical Association; Evelyn Montgomery Jones, MD, FAAD, Founder and President, WellSprings Dermatology and SkinCare; Adam Meier, Secretary, and Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services; Shelley Snyder, Executive Director, Kentucky Circuit Court Clerks' Trust for Life; Julie Bergin, President and CEO, RN, BSN, MHA, Kentucky Organ Donor Affiliates; Terri Thomas, Harbor House of Louisville; Pam Hagan and Michael West, Kentucky Board of Nursing; and Kelli Cauley, Kentuckia Regional Planning & Development Agency (KIPDA).

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, Dana Simmons, and Gina Rigbsy.

#### **Approval of the Minutes of the September 19, 2018 and October 17, 2018 Meetings**

A motion to approve the September 19, 2018 and October 17, 2018 minutes was made by Representative Riley, seconded by Senator Alvarado, and approved by voice vote.

#### **Center for Independent Living and Statewide**

#### **Independent Living Council**

David Allgood, Director of Advocacy, Center for Accessible Living, stated that there are three centers for independent living: The Center for Accessible Living in Louisville, Independence Place in Lexington, and The DisABILITY Resource in Hazard. The three small satellite centers are located in Murray, Covington, and Bowling Green. The main funding for the Centers for Independent Living is through the federal Administration on Community Living grant, and also from some contracts with state agencies. Independent living centers serve anyone with any type of disability. The five core services required by the federal government are advocacy, transition, referrals, independent living skills, and peer support and mentoring. Almost all services provided are free. Federal law requires that 51 percent of employees of the centers for independent living and 51 percent of the board members have a disability. The centers for independent living want individuals with a disability to have the choice to live either in the community or another setting of their choice. There are almost 1 million Kentuckians and 57 million Americans with disabilities making them the largest minority population. Individuals can learn about programs that may eventually help them transition from Medicaid because they were able to build a totally accessible home and find a job. A change in how Medicaid funding is spent needs to be made, because 80 percent of long-term care funding is spent on institutions and nursing home care and 20 percent is spent on community based services. Most individuals want to live in the community if possible making it more cost effective while providing a better quality of life. Everyone lives with the possibility that they can become disabled at any time. The centers want to be a resource for legislators and all Kentuckians.

Amy Dougherty, Attorney, Bluegrass Elder Law in Lexington, and Chair, Kentucky State Independent Living Council (SILC), stated that SILC in conjunction with the councils on independent living and the Department for Aging and Independent Living develops a state plan for independent living every three years to make sure awareness is raised for the services available to individuals with disabilities. The state plan has been approved by the federal Administration for Community Living (ACL). The goals of the state plan are to increase awareness of supports for independent living for all disabled Kentuckians, increase the effectiveness of SILC, increase access to all services, and to be advocates through education. SILC oversees the distribution of \$330,000 to the centers and to the Office for the Blind. The members are appointed by the Governor, but it is a federally mandated organization. SILC is mandated by Title VII of the Rehabilitation Act of 1973 as amended by 1992 that requires a majority of SILC members be disabled. SILC meets quarterly and review the work of the centers and SILC members to see if the goals of increasing awareness of services for independent living for disabled Kentuckians are being met. SILC meetings are videoconferenced and opened to the public at the HDI Coldstream Training Room 014, 1525 Bull Lea Rd #160, Lexington, Kentucky. Disabled individuals can apply for a gubernatorial appointment to the council.

In response to a question by Senator Meredith, Mr. Allgood stated that Kentucky has an institutional care model where the first option for people with disabilities is either go to a nursing home or institution instead of being able to go into the community. This model has been around for a long time and needs to be changed where the first option for disabled individuals is community services. The Personal Care Attendant Program pays an individual \$7.25 per hour to become an attendant, but it is almost impossible to find individuals willing to work for this amount. It costs approximately \$17,000 to receive community services versus almost \$38,000 for placement in a nursing home.

In response to a question by Representative Prunty, Ms. Dougherty stated that there is representation from western Kentucky on SILC. There are some vacancies available on SILC that could be filled by someone from western Kentucky.

In response to a question by Representative Moser, Mr. Allgood stated that the centers do not work directly with personal care homes, but would access or facilitate in any way possible. If the right amount of supports are built around an individual, they can live in the community independently.

#### **Update on 1115 Medicaid Waiver**

Adam Meier, Secretary, Cabinet for Health and Family Services, stated that Kentucky HEALTH was reapproved on November 20, 2018. The monitoring and evaluation reporting templates were streamlined and standardized to be more in line with what has been approved in other states. The transitional medical assistance (TMA) population will not be required to pay any premiums. Kentucky requested and CMS approved to treat the domestic violence or interpersonal violence population as a medically frail category which would automatically exempt these individuals from premiums and community engagement. The community engagement notifications to recipients would be received 30 days instead of 90 before the change would become effective.

In response to questions by Senator Alvarado, Secretary Meier stated that the April 1, 2019 is the target date for internal planning. The cabinet will work with the Education and Workforce Development Cabinet and local workforce boards to refinalize a community engagement rollout schedule based on workforce area. Some workforce areas would like to pilot one or two counties and then roll it out to the entire region while others would like to roll it out to the entire region, so the cabinet is working with these workforce areas to allow them to localize how to implement the support for community engagement. The cabinet is still working with Campbell and Kenton counties to finalize plans since the waiver would be implemented in these counties first.

In response to a question by Senator Raque Adams, Secretary Meier stated that since the approval was struck down approximately 20 hours before going live, the cabinet had to change IT systems and how information would be displayed and transmitted to providers in Health Net which is used to verify eligibility so providers were not able to be trained. Once the cabinet realized there was some confusion, new training documents were sent out for clarification.

The confusion caused some dental providers to think coverage was being denied to children, but the problem was resolved quickly. Any provider who has any confusion about coverage can contact the cabinet for clarification. Providers will be retrained whenever there are any changes to the system.

In response to questions by Representative George Brown, Secretary Meier stated that the cabinet has worked with CMS very diligently to ensure that any appropriate exemptions are included to protect any unintended adverse consequences of waiver policies. The same people that have access currently will have access after the waiver implementation. The initial budget document looked at the number of member months that were projected with and without the waiver. It is not about losing coverage but having fewer members enrolled in Medicaid, and it is not a bad thing to have people graduate from Medicaid eligibility to a qualified health plan (QHP). The waiver is designed to move more people to private insurance coverage. Representative Brown said that coverage of citizens in the Commonwealth should not be based on the bottom line for hospitals and doctors. Secretary Meier stated that having more people in private market coverage leaves more dollars in Medicaid to serve the most vulnerable population that it was designed to serve. Moving people to private market coverage gives them better access to a network of physicians, because Medicaid typically has a smaller network.

In response to a question by Representative Prunty, Secretary Meier stated that there is always a chance that the waiver might not move forward. CMS did a more thorough review, reopened the comment period, and looked at the administrative record that already existed and found things missed in the judicial review the first time to ensure that the program would be designed to engage people but not create issues with people having access to current coverage.

In response to a question by Senator Raque Adams, Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services, stated that recipients will receive a notice of eligibility at least 30 days in advance of any changes to their benefits.

In response to questions by Representative Jenkins, Secretary Meier stated that Kentucky has to look at quarterly wage data and Department of Insurance (DOI) data of other states to understand what happened to people who were no longer eligible for Medicaid. Kentucky has built one of the most robust evaluation and monitoring plans and partnered with the University of Pennsylvania Center for Health Incentives and Behavioral Economics to help design the plan. Kentucky has a randomized control trial to use the best scientific method to evaluate the effects of the waiver. Arkansas used existing infrastructure and were able to be operational quickly. Kentucky has built an ecosystem to have a one-stop shop for resources related to employment and training. Individuals can still fill out a paper form for eligibility, but the cabinet created a new IT system that services all the programs including the Medicaid waiver to make it easier for individuals. The cabinet has completed some pilots in the SNAP population and created a privacy office to work through datasharing issues with partners. Deputy Secretary Putnam stated that Kentucky's

exemptions are automatic, and in Arkansas, recipients have to opt in for an exemption. The cabinet is working with employers to educate them about Medicaid benefits and information. Secretary Meier stated that if recipients are not reenrolled in Arkansas because of not reporting something, data shows that it was because some of these individuals had found a job.

In response to a question by Senator Meredith, Secretary Meier stated that there are approximately 1.4 million individuals enrolled in Medicaid, and 500,000 would be enrolled in the waiver. About 165,000 would be impacted by the community engagement in the waiver.

In response to questions by Representative Marzian, Secretary Meier stated that the private sector market will include a qualified health plan that is purchased on the federal exchange that is subsidized. Over the last six months, there has been an enrollment decline in Medicaid of approximately 41,000. Because of record low unemployment, the number of people who qualify for Medicaid has declined because their income has increased. Kentucky has spent less than \$10 million to date. The savings from transitioning from Kynect to healthcare.gov has been reallocated toward the state portion of offsetting the cost for the IT portion. The cabinet looked at how the employment and training programs were administered for SNAP, TANF, and Medicaid and found a hodgepodge of different systems that all had maintenance and operation technology costs and were done differently. The cabinet was not able to get accurate comparisons from career centers, so all of the different IT systems were replaced with one IT system. The cabinet created a more efficient administration of all employment and training programs that is being looked at as a national model for how it is done.

In response to a question by Senator Danny Carroll, Deputy Secretary Putnam stated that the requirement that a Medicaid recipient goes onto their employer's health plan is being implemented a year from the initial implementation of the waiver. The state will pay the amount the employee would owe less any amount that they would owe in premiums if they are in a standard Kentucky health plan.

#### **Legislative Hearing for Executive Order 2018-780 relating to Reorganization of the Cabinet for Health and Family Services**

Adam Meier, Secretary, Cabinet for Health and Family Services, stated that prior to the executive order, the cabinet's Public Affairs Office and the Administrative Hearings Branch were in the same organizational unit. The Administrative Hearings Branch was combined with the Ombudsman's Office to collect data and get involved more quickly in the administrative hearings process to find savings on identifying issues before the full hearing, a correction, or a settlement. Disability Determination Services and Child Support Enforcement were part of the Income Support Division but were broken into two separate divisions. A motion to accept Executive Order 2018-780 was made by Senator Alvarado, seconded by Representative Wuchner, and approved by voice vote.

#### **Kentucky Health Rankings Compared to Surrounding States**

Rhonda Randall, DO, Chief Medical Officer of

Retiree Solutions, UnitedHealth Group, stated that America's Health Rankings is a long-standing report that builds on the United Health Foundation's work to help draw attention to the cornerstones of public health. For nearly 40 years, the report has given actionable data-driven insights that stakeholders can use to effect change in the state or nationally and continue the dialogue of improving the nation's health. The annual state rankings report measures the overall health of each state in the country. Detailed analysis has been developed on key health priorities for the country including seniors, women and children, and those who have served in the military. United Health Foundation's website currently features more than 160 measures of health.

America's Health Rankings report leverages the model of health developed under the guidance of a scientific advisory group of experts in public health and other healthcare fields. Each report includes a comprehensive set of measures examining behaviors, community and environment, public policy, clinical care, and health outcomes. The data is used to provide a holistic view of population health. Many reports, comprehensive rankings are also calculated as well as the ranking for each individual measure. The annual rankings report has 34 measures of health. The researchers use data for the report from the United States Department for Health and Human Services, the United States Department of Commerce, the Commonwealth Fund, the United States Census Bureau, and the Centers for Disease Control Prevention Behavioral Risk Factor Surveillance System (BRFSS). America's Health Rankings has long been a resource for modern trends across the nation. The platform also provides state-specific data across populations that helps policymakers, health officials, community leaders, and others track markers of health in their states.

The data shows that Kentucky has a low rate of uninsured residents, a low violent crime rate, and a low excessive drinking rate. Rates of adolescent well visits, baby-friendly facilities, and dedicated health care providers among women are higher in Kentucky than the United States average. The data shows the negative impacts are adult smoking, tobacco use during pregnancy, and a high rate of secondhand smoke, especially for children and adolescents. There are challenges when looking at mortality with high rates of drug deaths, cancer deaths, and premature deaths. Key health behaviors that often lead to poor health outcomes include low rates of physical inactivity and obesity. Smoking is the largest negative driver of health in Kentucky with nearly a quarter of the adult population smoking.

Promoting the health of women, infants, and children is fundamental to keeping communities in Kentucky healthy both today and for future generations. The 2018 America's Health Rankings Health of Women and Children report uses 62 health indicators to better understand the challenges of health of women and children across the country and state by state. Kentucky ranks 47<sup>th</sup> in the nation with maternal and child health. Kentucky faces challenges with intimate partner violence, drug deaths, and food insecurity. The rate of maternal mortality for black women is lower in Kentucky than the national



average. The premature death rate in Kentucky is 1.8 times higher than the top-ranked state. From 2016 to 2018, drug deaths in Kentucky increased from 23 to 29.1 deaths per 100,000 females aged 15 to 44 years. The infant mortality rate is higher in Kentucky than the national average. Early death among seniors is 35 percent higher in Kentucky than the national average. Other than Tennessee, Kentucky had a faster rate of decline in teen birth rates compared to neighboring states and nationally over the past 10 years.

Kentucky ranks in the top 10 healthiest states for youth substance use disorder and has a lower prevalence than the United States. Teen suicide is higher in Kentucky than neighboring states and 22 percent higher than the national average. Kentucky ranks in the bottom 10 for adverse childhood experiences, concentrated disadvantage, food insecurity, risk of social isolation, and protective family routines and habits. Excessive drinking is lower in Kentucky than United States and all neighboring states except Tennessee and West Virginia. Adolescents report low rates of dependence or abuse of illicit drugs or alcohol in the past year. Kentucky has the 7<sup>th</sup> best high school graduation rate in the nation. Obesity prevalence is higher among females, whites, adults 65+, all urban cities, and among those with less than high school and college graduates than any of its neighboring states. Compared to the United States, secondhand smoke, smoking, and youth tobacco use are all higher in Kentucky. HPV immunizations for males and females are lower than the national average.

The United Health Foundation is supporting the University of Kentucky College of Dentistry (UKCD) in its Eradicate Oral Cancer in Eastern Kentucky project. The three-year project will raise public awareness of the symptoms of oral cancer and its links to heavy alcohol and tobacco use, provide approximately 1,000 oral cancer screenings at local health departments, help connect patients who need additional care to cancer specialists in Lexington, and enable UKCD to lead an integrated outreach and care program to local residents.

Pathways and the United Health Foundation have recently launched a new partnership to improve the mental health care in eastern Kentucky. The three-year project will expand mental health services for over 3,000 children in eastern Kentucky using telehealth technology. The new technology will eliminate the need for families to drive up to two hours to access a children's mental health specialist.

Senator Raque Adams said smoking and obesity are huge problems in Kentucky that need to be addressed with public policy.

In response to questions by Senator Alvarado, Ms. Randall stated that vaping, smokeless tobacco, and other tobacco use are included the negative impacts of smoking. The CDC BRFSS Survey does not break down the smoking information to show how much of the data is due to vaping. Senator Alvarado stated that low birth weight can often be attributed to tobacco use during pregnancy. Ms. Randall stated that smoking correlates to many other health measures, and if the smoking rate decreases, it will show how it impacts other measures and how to move Kentucky's overall ranking.

In response to questions by Senator Thomas, Ms.

Randall stated that the America's Health Rankings reports does not give recommendations on what a state should do to combat negative measures. The United Health Foundation can share what has worked for other states that would help Kentucky make informed public policy decisions. Information can be provided for all 50 states about what has been done legislatively on smoking rates over the past 30 years. The health rankings report shows a correlation between the health of women and children does rank in the bottom ten in whether or not a state has high or low rates of breastfeeding. Things that support mom and baby around breastfeeding to educate them to provide coaching, support, care coordination, care management have been very successful at increasing breastfeeding rates. Legislative practices around breastfeeding was not available.

In response to questions by Senator Givens, Ms. Randall stated that there is a correlation between cancer mortality and smoking. Cancer mortality factors include clinical care, early detection of cancer, appropriate diagnosis and treatment, and other related risk factors for cancer such as genetics, other exposures, and obesity. Senator Alvarado said that obesity and secondhand exposure to tobacco are directly correlated to higher cancer rates.

Representative Wuchner stated that Kentucky needs to return physical activity to schools, because 30 minutes of physical activity and movement can help with the obesity problem that can begin at an early age and can cause other health problems in their adult life.

#### **Consideration of Referred Administrative Regulations**

The following administrative regulations were on the agenda for consideration: **201 KAR 020:057** - Scope and standards of practice for advanced practice registered nurses; **900 KAR 001:091** - Repeal of 900 KAR 001:090; **906 KAR 001:190** - Kentucky National Background Check Program (NBCP); and **907 KAR 001:121** - Repeal of 907 KAR 001:120 and 907 KAR 001:130. A motion to consider the administrative regulations was made by Representative Wuchner, seconded by Senator Kerr, and approved by voice vote.

#### **Blue Zones**

Evelyn Montgomery Jones, MD, FAAD, Founder and President, WellSprings Dermatology and SkinCare, stated that according to the Rural Health Organization (RHO), the definition of health is a state of complete physical, mental, and social wellbeing not merely the absence of disease or infirmity. The true quality of life longevity is more than living a long life, but living our years well. There are many things that happen with our health that we have no control over, but there are many choices today that will influence our health and well-being toward the end of our life. The desire is for prevention of disease. The 2016 Gallup Wellbeing Index reported that Kentucky was the 49<sup>th</sup> healthiest state and in 2017 the 45<sup>th</sup>. An unhealthy state takes a toll on state resources and healthcare dollars that can be crippling. People that have high wellbeing cost less and perform better.

Shawn Jones, MD, FACS, President, Kentucky Foundation for Medical Care and Past-President, Kentucky Medical Association, stated that Gallup-

Sharecare Well-Being Index includes five elements of well-being: purpose, social, financial, community, and physical that drive some of our behaviors such as obesity and opioid use. When comparing Kentucky to the nation, it is important to look at the purpose, the social, financial community, and the physical. Health ways data indicates a very small change in wellbeing up or down, impacts healthcare dollars and ER visits significantly. Kentucky has a lot it can improve on with respect to smoking rates and obesity rates, but the challenge is the opportunity. Of the 4.4 million Kentuckians, 1.4 million are on Medicaid. The good news is there is a very low uncovered population. We do not want to make the mistake of equating coverage with good health care or easy access or think that a low uninsured rate alone will move the needle on reducing costs. Increased coverage and improving health are two different things although they are related. In 2017, the United Health Foundation ranked Kentucky 42<sup>nd</sup>, and found that Kentucky continues to have a high prevalence in smoking, a high cancer death rate, a high preventable hospitalization rate, and in the past three years, a 24 percent increase in diabetes. Of the core 33 measures reviewed, the foundation gave Kentucky negative marks in 22. Since 1990, the highest ranking Kentucky has received from the foundation was 39<sup>th</sup> in 2008 which was before Medicaid expansion and the lowest was 47<sup>th</sup> in 2014 after the Medicaid expansion. In 2016, over \$9 billion state and federal funds were spent to cover the 1.4 million Medicaid recipients. The conservative projected savings of a Blue Zone's project in the Paducah area alone is \$200 million.

Dr. Montgomery Jones stated that Dan Buettnr was commissioned by National Geographic to find the pockets in the world of people who have lived the longest most functional lives. The five communities were located in Ikaria, Greece, Okinawa, Japan, Ogliastra Region, Sardinia, Loma Linda, California, and Nicoya Peninsula, Costa Rica. The nine common behaviors among the five communities were moderate, regular physical activity, life purpose, stress reduction, moderate caloric intake, plant-based diet, moderate alcohol intake, especially wine, engagement in spirituality or religion, engagement in family life, and engagement in social life. Blue Zones make it easier for a person who is challenged to make changes in their lifestyle. We are only as strong as the unhealthiest citizen, and the Blue Zones helps raise the level of health for all citizens and looks at all aspects of wellbeing. Blue Zones is a collaborative approach that touches all aspects of a life radius. After receiving a \$6 million grant from the Kentucky Foundation for Medical Care, the charitable arm of the Kentucky Medical Association, Paducah was chose as an ideal community to adopt and implement a Blue Zones 3-year project. The foundation allocated \$200,000 per year to Paducah for a 2-year pilot program called the Active Program. At the end of the two years, Paducah could decide whether to engage and implement a larger Blue Zone project with a more proven return of investment (ROI).

Dr. Jones stated that Kentucky needs to get out of the business of doing sick care and start focusing more on preventative care to change Kentucky's future physically, socially, and economically.

Senator Danny Carroll stated that the Blue Zones



projects are viable options that need to be funded. It might be an advantage for the managed care organizations (MCOs) to invest in Blue Zone projects.

Representative Moser stated that there needs to be a change in attitudes rather than mandating change. Change comes from engaging communities. Blue Zones would be a good investment for Kentucky.

In response to a question by Representative Wuchner, Dr. Jones said that they had not spoken to the Paducah county-judge executive association. She encouraged bringing all the stakeholders together for success of the program. Blue Zones are about natural moving not just exercising.

#### **Kentucky Organ Donor Association**

Shelley Snyder, Executive Director, Kentucky Circuit Court Clerks' Trust for Life, stated that an unintended consequence of the new driver's license renewal requirement change from a four-year to an eight-year renewal cycle will be the impact on the mission of organ donor and transplantation in Kentucky. Currently, the Circuit Clerks talk to a million people per year and ask when a person renews their driver's license if they would like to registries as an organ donor. Kentucky has currently one of the fastest growing registry for organ donation, but the number will be cut in half when Kentuckians only renew their license every eight years. Kentucky's Organ Donor Registry was created in 2007, and there are 1.8 million Kentuckians registered. KODA has talked to the acting commissioner of the Department of Fish and Wildlife Resources, Kentucky Tourism, Arts and Heritage Cabinet, about adding the donor registry question when someone renews a hunting and fishing license. Organ donation and transplantation continue to be a very important option of Kentuckians with medical issues. Currently there are 1,000 Kentuckians waiting for a life-saving organ transplant and 115,000 nationally. Every ten minutes someone is added to the waiting list for an organ transplant. It is very rare that someone dies in a way to be an organ donor, and that is why people need to register and state their wish to be a donor. The number one reason that families say no to donation at the time of their loved one's death is because they have not talked about organ donation and did not know what their loved one would want. All information on the registry is confidential. The goal is to give everyone the opportunity to be an organ donor.

In response to a question by Senator Danny Carroll, Julie Bergin, President and CEO, RN, BSN, MHA, Kentucky Organ Donor Affiliates, stated that KODA would be open to any opportunity to discuss the issue with anyone interested.

There being no further business, the meeting was adjourned at 3:15 p.m.

## **INTERIM JOINT COMMITTEE ON JUDICIARY**

### **Minutes of the 6th Meeting of the 2018 Interim**

November 2, 2018

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

The 6th meeting of the Interim Joint Committee on Judiciary was held on Friday, November 2, 2018, at 10:00 AM in Louisville, Kentucky at the University of Louisville's Brandeis School of Law. Representative

Joseph M. Fischer, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Joseph M. Fischer, Co-Chair; Senator Whitney Westerfield, Co-Chair; Senators Joe Bowen, Danny Carroll, Perry B. Clark, John Schickel, Wil Schroder, Dan "Malano" Seum, Representatives John Blanton, McKenzie Cantrell, Joni L. Jenkins, Chad McCoy, C. Wesley Morgan, Jason Nemes, Jason Petrie, and Brandon Reed.

Guests: Chief Justice John D. Minton, Jr., Chris Cohron, Rob Sanders, Steve Gold, Stacy Tapke, Mike O'Connell, Representative George Brown, Jr., Representative Jim Wayne, Tony Reed, Luther Brown, Representative Jason Nemes, Representative Jerry Miller, and Mayor Bill Dieruf.

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

#### **Approval of Minutes from October 5, 2018**

Due to not having a quorum, the minutes for the October 5, 2018 meeting were not presented for approval.

#### **State of the Judiciary**

John D. Minton, Jr., Chief Justice of the Kentucky Supreme Court, presented the 2018 State of the Judiciary Address. An independent judiciary has been maintained while creating valuable partnerships with legislators and other key stakeholders. He stated the ability to work with local, state, and national organizations has contributed to the court system's success. Chief Justice Minton is grateful to work together in tackling issues so that the people of the Commonwealth can reap the benefits of this collaboration. The spirit of cooperation serves Kentuckians well as the expertise of others helps the courts adapt to the changing legal and societal landscape.

Chief Justice Minton stated that courts are facing a crisis as the cost, delay, and complexity of litigation is undermining public confidence in our civil justice system. Courts have made great strides in technology, but have failed to become more user-friendly in other ways. In Kentucky and across the nation, there is a decline in the civil caseload, and near extinction of the civil jury trial.

Chief Justice Minton asked a group of lawyers, judges, and legislators to attend the Southern Region Civil Justice Reform Summit in May. They returned energized and full of ideas to improve civil justice in Kentucky. The group created a Civil Justice Reform Commission, chaired by Deputy Chief Justice Lisabeth T. Hughes, which recommended changes to the civil justice system. One of the recommended changes was for the Supreme Court to develop a business courts pilot project. Business courts are designated dockets or divisions of Circuit Court that hear complex commercial cases and business disputes. Business courts have been adopted in 24 states, and pilot programs are under way in five other states. The business courts' goal is to improve access to justice by unclogging regular dockets and giving complex commercial cases the attention they need, improving court efficiency, and creating a more attractive forum for doing business.

The Supreme Court formed a Court Efficiency

Committee earlier in 2018 to identify issues that lead to delay. The committee is chaired by Retired Circuit Judge Dodie George and comprised of judges and circuit clerks from all four levels of the court system. The committee is to look at the current process and evaluate areas that can be streamlined.

Chief Justice Minton highlighted the passage of HB 348, adding three Family Courts in jurisdictions with the heaviest workloads, easing the burden on Family Court judges in Lincoln, Pulaski, Rockcastle, Boone, Gallatin, and Bullitt counties. The elimination of two District Court judgeships and one Circuit Court judgeship allowed for the creation of these new positions. HB 348 also stated that the Supreme Court may direct the Administrative Office of the Courts (AOC) to engage in a weighted caseload study beginning in 2020, and every eight years thereafter. The Judicial Workload Assessment Committee will begin evaluating the caseload to determine if any tweaks are needed before 2020.

In regards to Pretrial Justice Reform, the Kentucky Court of Justice is taking part in the Pretrial Justice Institute's 3DaysCount campaign. 3DaysCount is a national initiative to make pretrial justice safer, fairer, and more effective by reducing the number of people in jail without sacrificing public safety. The initiative is based on the premise that even three days in jail can leave many people less likely to appear in court and more likely to commit new crimes because of the stress incarceration places on jobs, housing, and family connections. Chief Justice Minton stated that common sense solutions can lead to better outcomes, enhanced public safety, and more effective use of public resources. Kentucky's participation in the program came from the Pretrial Bail Practices Committee, a group of 14 circuit and district judges who evaluate the current risk assessment tool and recommend ways to improve pretrial practices and court rules. Although the Kentucky Court of Justice participates in the program, it does not make policy or take an official position on matters of policy. Having disagreements among judges as to the best approach for bail reform, judges do not speak on behalf of the court system or their respective associations. The role of the judges is to provide guidance on how changes in the law will impact the court system and AOC's Pretrial Services program from an administrative standpoint.

Chief Justice Minton stated that the Department of Pretrial Services launched a pilot program in Jefferson County in October to bring a case management, service-oriented approach to the Monitored Conditional Release Program for defendants in Circuit Court. The Pretrial Assisted Re-Entry & Treatment Services Program (PARTS) reduces jail population by allowing certain defendants to be released pending trial. The program will serve up to 25 people with non-violent, non-sexual felony cases who would otherwise remain incarcerated pending trial. PARTS targets a defendant's specific needs, such as substance use disorder, obtaining employment, housing, and health insurance, in order to give them the tools to become successful, productive members of society while ensuring they avoid future criminal activity. PARTS partners with Circuit Judges, Commonwealth's Attorneys, Public Defenders,

Louisville Metro Department of Corrections, and local treatment providers.

The first report on the Open Family Court Pilot Project was sent to the legislature in October. Some child protection cases will be open to the public under a four-year pilot from 2018-2021. In 2016, the Kentucky General Assembly passed legislation asking the Supreme Court to look at whether or not it is beneficial to open cases involving child dependency, neglect and abuse, and termination of parental rights. While the benefits from the first phase of opening Family Courts to the public in Hopkins, Jefferson, Harrison, Nicholas, Pendleton, and Robertson counties are inconclusive, information will continue to be collected and reported annually for the remaining three years.

Chief Justice Minton noted that SB 200 passed in 2014, which created Family Accountability, Intervention, and Response (FAIR) Teams. FAIR teams work with court designated workers to keep young people out of the formal court system by providing access to treatment and diversion programs. While FAIR teams are effective among young whites, the results are not as promising for minorities. The Department of Family and Juvenile Services has developed an agency model to reduce implicit bias that may unintentionally contribute to the disproportionate minority contact. The model will guide how AOC trains staff, collects data, and revises policies and practices that may indirectly reinforce disproportionate minority contact. AOC has shared this model with the Juvenile Justice Oversight Council and other agency partners.

Chief Justice Minton noted the passage of 2018 HJR 33, requesting that the AOC and the Cabinet for Health and Family Services establish a Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) Program, to examine how adult guardianship is working for the fast-growing aging population. WINGS is comprised of judges, the public and private bar, aging and disability networks, mental health agencies, advocacy groups, service providers, and family members affected by guardianships. It has met three times to discuss how to respect and encourage the autonomy of vulnerable adults while keeping them safe from exploitation and abuse. WINGS' focus is to educate the public on how to navigate the system of services and laws that help aging parents and disabled children turning 18 years of age. WINGS will present its first report to the Judiciary Committee in January 2019.

KYeCourts, a comprehensive court technology overhaul, continues to make strides in changing courts over from paper-based to a paperless system. The changes include a new appellate case management system, CourtNet 2.0, increased electronic filing by making more case types available, a new notification system to remind defendants of their court dates, and a new accounts receivable and restitution program.

After the July audit of the AOC, Chief Justice Minton stated that Deloitte was hired to help carry out the auditor's recommendations. Deloitte will have a team at the AOC for 12 weeks to develop an internal auditing function; documenting existing workflows related to travel reimbursements, inventory, county facility reimbursements and budget processes; and

to make recommendations about additional internal controls and technology relating to the documented workflows. This is an important step in making changes to strengthen the AOC's financial and administrative operations as well as providing more transparency to the public.

Chief Justice Minton provided an update on the Judicial Branch's capital projects. The final stages of design for an addition and renovation to the Henry County Courthouse and a new judicial center in Nicholas County are underway. A roofing renovation has begun in Simpson County and a roof replacement in Mason County was completed. The Oldham County Project Development Board has been advised to oversee construction on the existing courthouse. A Project Development Board is being put together for a new judicial center in Bath County. The Jefferson County Hall of Justice's lobby will be renovated in association with Louisville Metro Government.

In response to Chairman Fischer, Chief Justice Minton stated the Civil Justice Reform Commission will include all areas of concern that need to be addressed, being both substantive and procedural, to assist people in using the court system more easily.

In response to Senator Clark, Chief Justice Minton state that the court system needs to be part of conversations with legislators to find the solution in reducing bench warrants and parole violations.

#### **Prosecutorial Issues and Concerns – Commonwealth's Attorneys**

Chris Cohron, Commonwealth's Attorney for the 8<sup>th</sup> Judicial Circuit, stated that case filings have increased from 33,201 in FY16 to 37,448 in FY17, which is the highest annual increase in the past seven years. Case closings were at nearly 34,000 for FY17, which is an increase of more than 1,000 over the previous year. For FY17, an estimated average of 200 cases were filed per prosecutor. There are currently over 81 Commonwealth attorney vacancies across all classifications. There are 206 filled assistant positions, with 121 being fulltime, 63 part-time, and 22 quarter-time. On January 7<sup>th</sup>, ten offices will change hands, and eight more may change pending election results.

Rob Sanders, Commonwealth's Attorney for the 16<sup>th</sup> Judicial Circuit, stated that Kenton County is up 30 percent from the previous year, and will surpass the number of indictments from 2017 by the end of next week.

Mr. Cohron assured the committee that without the Rocket Docket Program, the criminal justice system would be in dire straits. In 2015, through SB 192, the mechanism was created for a Rocket Docket Program throughout Kentucky. The Prosecutors Advisory Council (PAC) voted to fund 30 existing programs for FY17, and additional funding for seven new programs in FY18. A total of 37 of the 57 judicial circuits will have a Rocket Docket Program. The program has saved approximately \$51.3 million in local jail costs from July 2015 through May 2018, based on a \$5.9 million investment. Since 2015, 12,652 cases have been completed, and approximately 2,226 more are pending as of May 2018. In addition, approximately 8,000 defendants have been referred to drug treatment through the Rocket Docket System. PAC is looking forward to having this program in every county in Kentucky.

Mr. Sanders stated that PAC is very conservative in recommending new felony offenses. A felony strangulation bill, coming from the Fayette County Commonwealth Attorney's Office, is the only new felony request this session. The bill is to combat domestic violence cases when an expert has to be paid by the Commonwealth to testify about a woman who was choked to the point of unconsciousness or losing control of her bowels, when that should be self-evident.

Mr. Cohron addressed the CJPAC report. Commonwealth Attorneys want to continue working on Penal Code Reform, and to work together to highlight the practical effects of the laws being considered and implemented.

In response to Chairman Fischer, Mr. Cohron stated that bail reform is needed. His personal opinion is that money bail is not appropriate. The discretion of the courts when considering the nature of the offense, the criminal record, and the facts of each case needs to be considered when determining whether or not to detain someone. Mr. Cohron would like to use the federal system as a guide, to ensure the courts still have discretion in pretrial release decisions. Mr. Sanders added that using an algorithm and not giving judges any discretion is not a good system. Mr. Cohron commented that you should be able to explain why every person is being detained, and it should never be because of money.

In response to Senator Carroll, Mr. Sanders explained that the felony strangulation bill being proposed will not be for someone who just puts his or her hands on someone else's neck, but for when strangulation is to the point of cutting off oxygen to the brain. The bill is a combination of bills from other states. Senator Carroll offered his assistance.

In response to Senator Schickel, Mr. Cohron clarified that he believes that cash bond should be abolished, and the judge should be responsible for making a decision to detain or not. If a judge chooses not to detain, the judge should have the flexibility to impose pretrial release conditions. Mr. Sanders commented that he does not completely agree with Mr. Cohron. These differences of opinion are why the Commonwealth's Attorney Association has not come out with a position on the issue. Mr. Sanders does agree that posting a \$500 bond does not make the community any safer, but having family members who will not post a \$250 bond can be very telling as to whether or not the person should be released. He believes that having a significant (\$10,000) cash bond posted might discourage them from jumping bail or committing new offenses. In regards to the constitutionality of taking away judicial discretion, Mr. Sanders explained that, while Commonwealth attorneys may disagree on whether to completely do away with cash bonds, they agree that making the decision through an algorithm is not effective.

#### **Prosecutorial Issues and Concerns – County Attorneys**

Steve Gold, Henderson County Attorney, gave an overview of the duties of a County Attorney. Duties include criminal prosecution, delinquent tax collection, child support collection, and legal counsel to local government. Criminal Prosecution duties include domestic violence, DUIs, felonies



through preliminary hearings, Juvenile Court and FAIR teams, child dependency cases, mental health/disability cases, Casey's Law cases, review of criminal complaints, and work with law enforcement to secure search warrants and arrests warrants. County Attorneys caseloads for FY17 was approximately 114,000 misdemeanors, which was down from the previous year. Approximately 255,000 traffic cases were filed, which is down from 287,000 the previous year. Many County Attorneys run traffic safety programs, so the drop in traffic cases could be due to the public attending these programs. Juvenile Court cases increased by nearly 1,500 in FY17, and Family Court cases increased to 45,000 cases. Combined, there were 493,000 cases filed in FY17, which equates to almost 2,000 cases per year per County Attorney.

Stacy Tapke, Kenton County Attorney, reviewed the decline in delinquent tax collections. Delinquent taxes become Certificates of Delinquency, which are sold every summer to third-party purchasers. A portion of these purchases fund the County Attorneys operating expenses. Third-party purchasing has declined from \$31,780,074 in 2009 to 13,293,306 in 2015. The portion delegated for County Attorneys has dropped from \$4,368,075 in 2009 to \$1,794,034 in 2015. This downward trend makes it difficult to cover operating expenses.

In addition, child support collection is an individual contract between County Attorneys and the Child Support Enforcement (CSE) Division of Department of Income Support (DIS), which allows the County Attorneys to collect on behalf of all of the children in their communities. Child support collections for FY18 is at \$374,434,986.04. Child support collection is a critical part of what County Attorneys do. Fifteen counties currently have 152,742 open active child support case files. The challenge of collections can be directly attributed to trends on the criminal side. With the rise of heroin addiction, people are losing custody of their children and becoming wards of the state, making it more difficult to collect support.

Mr. Gold reviewed how County Attorney's offices are funded. The PAC just pays for criminal prosecution, County Attorney salaries, and \$3,000 per year per office for operating expenses. There are 505 employees and 120 elected officials. There are 280 Assistant County Attorneys; fulltime, part-time, and quarter-time. Some are shared between counties. Including the elected County Attorney, there is an average of 2.4 prosecutors and two clerical positions per county. County Attorneys do not directly benefit from fines, fees, or court costs. The County Attorney's office receives \$50 for each bad check collected. With fewer checks being written, this total is sharply declining. Traffic Safety Diversion programs provide \$25 per case to Circuit Clerks and \$30 to the Finance and Administration Cabinet in lieu of court costs. The Department of Revenue provides a portion from delinquent tax collections for operating expenses only. Local governments are not required to contribute, however some do provide fiscal supplements, courthouse office space, or some other type of benefit.

Mike O'Connell, Jefferson County Attorney, stated that Jefferson County District Court handled

80,101 of the 483,901 criminal cases in District Court statewide, which equates to Jefferson County handling 17 percent of the entire caseload in Kentucky. That does not include matters not charted such as warrants screened, expungements reviewed, police officers trained, outreach to the schools and community, the opioid crisis, or drivers safety. Jefferson County Attorney's Office Civil Division handles everything from municipal bonding to vacant and abandoned property, to defending the largest police force in the state. The Child Support Division handles nearly 57,000 open cases, representing 20 percent of the total caseload in the state, and collects more than \$61,000,000 for children in need. The state contributes to Jefferson County only \$2,800,000. That is 1/8 of the Jefferson County Attorney's Office budget. The \$3,000 allotted barely pays the office's average monthly postage. The other 7/8 of the budget needs to be covered by federal contracts and grants, local community contributions, and staff working to fund themselves. This level of funding from the state has an adverse effect on the ability to pay prosecutors a fair wage. Jefferson County pays \$40,000, the state of Ohio pays \$52,968, Indiana pays \$56,763, Tennessee pays \$65,750, and large urban areas nationwide average \$61,103. The national average for Prosecuting Attorneys with 10-20 years of experience is \$93,065. Jefferson County averages a pay of \$56,064. This salary makes hiring new attorneys difficult.

Mr. O'Connell also commented that Jefferson County has joined in the multi-district litigation against distributors and manufacturers in the fight against the opioid crisis. The top three drug distributors of opioid are in the Forbes top 15 companies.

Mr. Gold outlined some additional issues. The DUI ignition interlock law is being worked on to make it more practical. The medical marijuana legislation must be detail oriented and should address DUI. The anticipated passing of Marsy's Law will require each County Attorney's office to have a dedicated victim's advocate, which is a grant funded position. Some of the smaller counties may need to share an advocate. The Child Support Guidelines Review Commission will be offering recommendations to extend the income cutoff that is currently based on numbers from the 1970s. The commission will also be presenting a shared custody proposal to provide some uniformity to shared custody guidelines across the state. County Attorneys would like an amendment to KRS 69.360 that would allow all county detectives to serve process statewide and make arrests, not just consolidated local governments.

#### **Discussion of Firearm Storage**

Representative Brown announced that legislation will be presented during the upcoming session. Representative Wayne explained that the proposed legislation is in the context of 40 child firearm tragedies. This legislation is not intended as gun control, but for child safety.

Tony Reed spoke on behalf of his three-year-old nephew who was accidentally killed by his father's unsecured firearm. The child's father refused to properly secure his pistol. There are other children still living in the home. There are currently no

consequences for leaving a firearm unattended. Mr. Reed would like to see stiffer penalties in the future.

Luther Brown spoke on behalf of his eight-year-old grandson who was accidentally killed by an unsecured firearm. In his eight years of having a radio broadcast, he would always start by saying, "Lock the guns up. Keep the children safe." His grandson was at a babysitter's house, when the sitter dropped the gun, causing it to fire, which ultimately killed his grandson. Guns are not going away. Mr. Brown stated that children gaining access to a loaded gun is not right. In 80 percent of every school shooting, the child took the gun from the home. Safe gun storage can prevent 97 percent of child firearm accidents. This gun safety bill is very important. Mr. Brown encouraged everyone to go online to view the NRA's video about his gun safety organization: [www.nratv.com/videos/cam-and-company-2017-little-hands-little-feet](http://www.nratv.com/videos/cam-and-company-2017-little-hands-little-feet).

Mr. O'Connell, citing a John Hopkins study, stated that 8,300 children and teens are admitted to hospitals each year with gunshot wounds. More than 3,200 injuries to children under the age of 18 years of age; nearly nine per day. This legislation benefits gun owners by clearly outlining what safe gun storage entails. It is a common sense approach to gun safety.

#### **Discussion of Kentucky's Hate Crime Law**

Representative Nemes, commented that, while we, as a nation, strive for justice, we are not yet there. Last week a man tried to enter an African-American church in Jefferson County, but all of the doors were locked, so he went to a local grocery store. He saw a man and little boy, and shot the man over and over, as his 12-year-old grandson watched. The shooter then left and shot another woman. Approaching two other citizens, one white and one African-American, he said, "Don't shoot me. White people don't kill white people." His victims were shot because of their color, not because of anything they had done. This proposed legislation would allow the Parole Board or sentencing judge to consider that the murder was a hate crime when deciding whether to release the perpetrator on parole.

There being no further business, the meeting adjourned at 12:12 pm.

## **INTERIM JOINT COMMITTEE ON AGRICULTURE**

### **Subcommittee on Rural Issues**

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

November 14, 2018

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

The 1st meeting of the Subcommittee on Rural Issues of the Interim Joint Committee on Agriculture was held on Wednesday, November 14, 2018, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Walker Thomas, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stan Humphries, Co-Chair;



Representative Walker Thomas, Co-Chair; Senators David P. Givens and Paul Hornback; Representatives Mark Hart, Richard Heath, Jason Petrie, and Steven Rudy.

Guests: Holland B. Spade, External Affairs, AT&T Kentucky; Hilda Legg, State Director of Rural Development, United States Department of Agriculture (USDA); Jeff Hurd, General Manager, Hopkinsville Electric System (HES) and EnergyNet; and Richard Shaw, Telecommunications Manager, HES.

LRC Staff: Nathan Smith, Kelly Ludwig, Tanya Monsanto, and Rachel Hartley.

#### **Rural Broadband Access**

##### **AT&T Kentucky**

Holland Spade stated the Federal Communications Commission (FCC) launched the Connect America Fund (CAF). The program will provide \$327 million over six years to expand high-speed internet access to more homes and small businesses in Kentucky. CAF is part of the FCC's modernization of its universal service support programs. The funds will be used for deploying, maintaining, and offering internet access and voice service in FCC-identified areas.

In August 2015, AT&T accepted \$30 million in CAF support. These funds will be used to offer high-speed internet access to more than 84,000 homes and small businesses, primarily via fixed wireless internet technology. It uses a fixed wireless "last mile" connection between the fiber at the cell tower and the customer premises. This service is available in 53 counties throughout Kentucky.

AT&T has exceeded its year-end 2017 requirement of over 33,000 locations, and is on track to reach 84,000 locations by 2020 in Kentucky.

In response to a question from Senator Givens, Ms. Spade stated Windstream does participate in industry-wide conference calls, but is unsure if a representative from the company is based in Kentucky.

In response to a question from Representative Heath, Ms. Spade stated mounting equipment to existing structures is utilized for cellular coverage, but not for fixed wireless.

##### **United States Department of Agriculture**

Hilda Legg stated the USDA is focused on the "last mile". Infrastructure is a high priority in Kentucky, since the majority of people without high speed broadband are in rural communities.

The Community Connect Grants help fund broadband deployment into rural communities where it is not yet economically viable for private sector providers to deliver service. Rural areas that lack any existing broadband speed of at least 10 Megabits per second are eligible.

The Distance Learning and Telemedicine program helps rural communities overcome the effects of remoteness and low population density to connect to each other and to the world. The program can link teachers and medical service providers in one area to students and patients in another.

The USDA is launching a \$600 million pilot program in January for rural broadband that will be focused on communities with a population of 20,000 or less. The program will be a hybrid of loans and grants.

In response to a question from Senator Humphries, Ms. Legg stated the USDA's Rural Utilities Service traditionally only makes loans to co-ops, but there have been loans made to wireless companies, start-up companies, and municipalities.

In response to a question from Representative Heath, Ms. Legg stated mounting equipment to existing structures is utilized in other states, but not in Kentucky. The communities should use all assets to decrease cost.

In response to a question from Senator Givens, Ms. Legg stated Windstream received FCC funds that prevented competition with other service providers. There should be accountability and certain criteria required before any funds are received.

##### **Hopkinsville Electric System and EnergyNet**

Jeff Hurd stated Hopkinsville Electric System (HES) was established as a nonprofit municipal corporation in 1942. HES purchases all electric generation from the Tennessee Valley Authority.

In 1998, HES agreed to run fiber optic cable to the substations to implement automated monitoring. EnergyNet was launched in 1999 to manage the internet services within HES. HES began to offer fiber optic broadband services to local businesses, industries, and city agencies, while residential internet services were offered starting in 2000.

HES received a \$4 million loan from the Kentucky Infrastructure Authority to provide fiber optic internet to all of Hopkinsville.

Documents distributed during the meeting are available in the LRC Library and at [www.lrc.ky.gov](http://www.lrc.ky.gov).

There being no further business, the meeting was adjourned.

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

### **Budget Review Subcommittee on Justice and Judiciary**

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

October 25, 2018

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

The 3rd meeting of the Budget Review Subcommittee on Justice and Judiciary of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, October 25, 2018, at 10:00 AM, in Room 420 of the Chase Law Building at Northern Kentucky University. Senator Wil Schroder, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Christian McDaniel, John Schickel, Robin L. Webb, and Whitney Westerfield; Representatives Daniel Elliott, Joseph M. Fischer, and Arnold Simpson.

Guests: Patricia Summe, Judge, 16th Circuit Court; Richard Bruggemann, Judge, 54th Circuit Court; Kelly Easton, Judge, 9th Circuit Court; Tyler Gill, Judge, 7th Circuit Court; Stockton Wood, Judge, 19th Circuit Court; and Julie Ward, Judge, 17th Circuit Court.

LRC Staff: Zachary Ireland, Savannah Wiley, and Chase O'Dell.

#### **Bail Bond Reform**

Judges Summe, Bruggemann, Easton, Gill, Wood, and Ward each spoke on the importance and implications of bail bond reform.

In response to questions from Senator McDaniel, Judge Summe stated that an evidence based risk assessment is required by statute for bail determinations, but the forms are developed by the Administrative Office of the Courts (AOC). Judge Summe said that pretrial officers can release misdemeanants without a judge's signature.

In response to a question from Senator Westerfield, Judge Ward stated that judges don't have the resources to monitor low-low risk misdemeanants. Judge Ward noted that the only conditions imposed on low low risk individuals are to not participate in any illegal activity and to appear on the individual's court date.

In response to a question from Senator Schickel, Judge Summe noted that judges do not receive verified employment information like they did in the past. Judge Wood noted that verified employment information was on pretrial release forms prior to AOC removing that section of the forms.

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

## **INTERIM JOINT COMMITTEE ON AGRICULTURE**

### **Subcommittee on Equine Issues**

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

November 14, 2018

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

The 1st meeting of the Subcommittee on Equine Issues of the Interim Joint Committee on Agriculture was held on Wednesday, November 14, 2018, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Stephen West, Co-Chair and Representative Brandon Reed, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative Brandon Reed, Co-Chair; Senators C.B. Embry Jr., Paul Hornback, Dennis Parrett, and Damon Thayer; Representatives Derrick Graham, Richard Heath, Sannie Overly, Phillip Pratt, Rob Rothenburger, James Tipton, and Susan Westrom.

Guests: Dr. Jeanne Flounders, Veterinarian; Mick Peterson, Ph.D., Director of Ag Equine Programs, University of Kentucky; Nancy Cox, Ph.D., Dean of the College of Agriculture, Food and Environment, University of Kentucky; Marc Guilfoil, Executive Director, Kentucky Horse Racing Commission, Jamie Eads, Deputy Executive Director, Kentucky Horse Racing Commission and Anne Hardy, Executive Director, Horse Country, Inc.

LRC Staff: Stefan Kasacavage, CSA and Susan Spoonamore, Committee Assistant.

##### **Effects of Fireworks on Horses**

Dr. Jeanne Flounders, veterinarian, stated that she is seeing more injuries to horses caused from the excessive use of fireworks, mostly during the month of July. Horses, which are known as flight animals, become terrified of fireworks and will run through fences and destroy their stall causing harm

to themselves, their foals, and to their owners. If fireworks lighting were limited to a specific number of days, it would help to cut down on injuries.

In response to Senator West, Dr. Flounders stated that horse owners try to anticipate and make arrangements ahead of time to move the horses to safe areas such as other fields or barns. Some horses have to be medicated. Horse owners and veterinarians would be better at preparing and caring for their animals if the number of days for fireworks were limited.

In response to Senator Thayer, Dr. Flounders said that some groups have talked to their local officials, but nothing has been done.

Senator Hornback stated that horses generate a local economic impact through the purchase of hay and grain. People seem to use fireworks for other purposes throughout the year, such as birthday parties and other celebrations.

Representative Tipton encouraged all interested parties to meet with local officials to see if a solution could be found.

#### **University of Kentucky Ag Equine Program**

Mick Peterson, Ph.D., Director of Ag Equine Programs and Nancy Cox, Ph.D., Dean of the College of Agriculture, Food and Environment, University of Kentucky, explained that the University's Ag Equine program is a framework that encompasses everything equine. The programs are a long-term commitment to serving the state's signature equine industry. UK's undergraduate program in Equine Science and Management is the fastest growing major. Over 75 percent of the students in the Equine Science and Management Internship program are from out of state. Graduates have started businesses in Kentucky, are selling products from Kentucky, and have provided a workforce for Winstar, Darley, and Rood and Riddle. Industry Engagement and Basic Research includes drug testing, equine pharmacological research, and legal and business questions surrounding integrity. Another area is safety, racing and show surfaces, rider safety, establishing an equine and jockey injury database, and research of musculoskeletal disease. Industry engagement is not limited to big farms. Horse pasture evaluations include 228 farms (19,280 acres), in 25 counties with 39 students participating.

In response to Senator West, Dr. Peterson said that cutting-edge research would include musculoskeletal disease. By examining inflammatory and anti-inflammatory markers, it would lead to early indicators for potential catastrophic (life-ending) injury in race horses. Researchers would rely on measuring mRNA, or the precursors to proteins, from circulating white blood cells.

Representative Reed predicted that in the next five years, the University of Kentucky's Equine Programs would be the world center for research.

#### **Breeders' Cup and the Breeders' Cup Incentive Fund**

Marc Guilfoil, Executive Director and Jamie Eads, Deputy Executive Director, Kentucky Horse Racing Commission, discussed the Breeders' Cup and the Breeders' Incentive Fund for thoroughbreds. Since 2006, \$140 million has been distributed to owners who have bred their animals in Kentucky and have wins in eligible races across the globe. As of the August deadline, 9,146 mares have been nominated and the

commission will continue to accept nominations until December for pregnant mares, weanling, and yearlings. A portion of the tax on all thoroughbred wagers at Kentucky racetracks funds the Kentucky Thoroughbred Development Fund (KTDF). Those funds provide added money to stakes, handicap, allowance, non-claiming maiden and AOCs with a tag of \$25,000 or more. In 2017, the fund received \$9,678,897 and in 2018 (thru 9/30/18), it has received \$7,945,857.

The Kentucky Sire Stakes program for Standardbreds combines two taxes, a stallion tax along with the pari-mutual tax to fund the Kentucky Sire Stakes. The overall purse money is \$4.5 million with \$250,000 for finals. There are three legs with a \$30,000 split guarantee for races at The Red Mile.

For all other equine breeds, the Kentucky Horse Breeders' Incentive Fund receives seven percent of the six percent stallion sales tax, and those funds are distributed over 11 non-racing approved Kentucky affiliates. Since 2008, \$11.8 million have been distributed. It was noted that the Kentucky Horse Racing Commission has been working with the advisory committee and legal team to revise the regulations in order to increase participation in the fund. This is being done while still providing rewards to owners and breeders of Kentucky-bred horses.

In response to Senator West, Ms. Eads stated that the amount of mares bred in Kentucky remains about the same from 2017. In regards to the middle market sales, she said that the market follows the money.

#### **Horse Country and Equine Tourism**

Anne Hardy, Executive Director, Horse Country, Inc., stated that the mission of Horse Country is to connect guests to the horses, land, and people through experiences that inspire love of the animal and Kentucky. Horse Country is a non-for-profit organization, with a board of directors that supports Kentucky brands. Horse Country also promotes investing in racing and the Kentucky Bourbon Trail along with other Kentucky markets.

In response to Senator West, Ms. Hardy said that Horse Country has interaction with the Kentucky Tourism Cabinet. Membership fees help provide guest services support.

There being no further business, the meeting was adjourned.

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

### **Minutes of the 6th Meeting**

#### **of the 2018 Interim**

November 15, 2018

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

The 6th meeting of the Interim Joint Committee on Tourism, Small Business, and Information Technology was held on Thursday, November 15, 2018, at 1:45 PM, in Room 154 of the Capitol Annex. Representative Diane St. Onge, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representatives Diane St. Onge, Co-Chair, and Tommy Turner, Co-Chair; Senators Ernie Harris, Jimmy Higdon, Stephen Meredith, Wil Schroder, Mike Wilson, and Max Wise;

Representatives John Blanton, Larry Brown, George Brown Jr, Chris Fugate, Robert Goforth, Jim Gooch Jr., David Hale, Angie Hatton, Richard Heath, Michael Meredith, Russ A. Meyer, Charles Miller, Rick G. Nelson, Sannie Overly, Melinda Gibbons Prunty, Brandon Reed, and Bart Rowland.

Guests: Dr. Chuck Grindle, Chief Information Officer, Commonwealth Office of Technology; Paul Gilbert, State Government Affairs, Crown Castle International Corp.; Christopher Gladstone, KY District Manager, Crown Castle International Corp.; Kate Shanks, Vice President for Policy Development, Kentucky Chamber of Commerce; Ben Taylor, Chamber of Commerce; Joe Danaher, Integrity IT; Jason Keller, Regional Senior Director, Charter Communications; Julia Crigler, Executive Director, Kentucky Cable and Telecom Association.

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

#### **Approval of Minutes**

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

#### **Commonwealth Office of Technology**

Dr. Chuck Grindle, Chief Information Officer of the Commonwealth Office of Technology (COT), testified about updates the department. Some of the solutions to the problems within COT were fixed legislatively while some were fixed internally. COT created a new mission statement to reflect the changes within the organization. The department will focus on security, enterprise services, contract administration, and training/education for Kentucky.

A 2012 Executive Order signed by the Governor gave to the Chief Information Officer of COT the authority over the enterprise architecture and funding to have a direct reporting relationship amongst the IT cabinet directors. HB 244 provided additional leverage for COT to have authority to empower enterprise-wide IT leadership, with the result effecting debt service, enterprise initiatives and net savings across the Executive Branch. As part of this reorganization COT needed to increase the staff that were functionally dependent. Every contract providing services to the state has been reviewed to determine its necessity, potential consolidation, or renegotiation for a better cost to the state. COT has added a new compliance officer position, has consolidated all empty project manager positions into one Enterprise Project Manager Officer Position, hired a Chief Data Officer, created a Digital Transformation Office, and hired a Business One Stop director.

Dr. Grindle said that in November of 2017, COT was \$17.9 million in debt. Over the past year, COT has paid off nearly \$12 million of that debt. To avoid future debt, COT has leveraged capital to operationalize desktop hardware refreshes, or updating existing hardware with software updates. As of November 2018, COT is \$5.9 million in debt, which Dr. Grindle hopes will be paid off by the end of the fiscal year.

Some cost saving initiatives instituted included implementing converged infrastructure for servers



and storage into the Dell VBlock. Through an agreement with the provider, the state did not have to pay storage fees for the new VBlock until all physical and virtual servers were migrated, which saved the state about \$6 million. COT has implemented an enterprise monitoring and management tool through Dynatrace, which provides diagnostics of state agency applications, decreasing down time if a problem occurs and has cancelled a \$3 million contract for teleconferencing services and opting to use products like Skype and AT&T instead. COT recently moved the department mainframe to Boulder, Colorado while meeting all federal guidelines for privacy and security.

Some challenges going forward for COT involves upgrading all 33,000 state computers to Windows 10 by January 1, 2019, an integrated service desk application (down from 9 different applications around the state) with a licensing service, and one Enterprise Resource Planning system.

Responding to a question from Representative Goforth, Dr. Grindle explained the COT's charge-back model of budgeting, which is a calculated guess each year based on historic costs, number of staff, the cost of licensing, and potential cost increases throughout the tech industry. Pertaining to the additional open space at the COT building, Dr. Grindle speculated COT can generate about \$100,000 to \$150,000 a month.

In response to a question from Representative St. Onge regarding cybersecurity, Dr. Grindle said the state gets about 200,000 hits per day attempting to breach Kentucky's cybersecurity.

#### **Small Cell Technology and the Future of Smart Communities**

Paul Gilbert, State Government Affairs with Crown Castle International Corporation discussed smart communities and the infrastructure Crown Castle provides within that community. A smart city or community is a broad statement for using information or communication technology to enhance performance, reduce waste, or optimize consumption. Examples of smart community applications may include monitoring public transportation, public safety applications, or even personal devices connected to the internet.

Christopher Gladstone, KY District Manager for Crown Castle International Corporation, says that Crown Castle can provide all aspects of the technology needed to bring fast internet service to smart communities or cities. Crown Castle owns over 40,000 cell phone towers, 60,000 small cell nodes and over 60,000 miles of fiber optic cable. Specific to Kentucky, Crown Castle has 670 macro sites, 110 small cells, and 150 miles of fiber optic cable covering roughly 66 percent of the state's population.

Mr. Gilbert additionally talked about how mobile networks have traditionally functioned on tower based networks. But as more and more data was used via mobile phones, traditional networks became too congested. Additional infrastructure was needed to alleviate this congestion. Crown Castle uses smaller towers closer to the end user to facilitate faster connections with wireless devices. These "small cells" are high powered, discrete antennas found lower to the ground or in facilities much closer to the end

user. Most of these antennas are either designed to fit in with existing infrastructure or can be attached to utility poles or other existing infrastructure in order to remain discrete. Mr. Gilbert also discussed the type of coordination between the private sector and government in order to deploy the coming 5G internet speed.

Responding to questions from Senator Meredith, Mr. Gilbert confirmed that Crown Castle has not been involved with the Kentucky Wired project. Crown Castle responds to a specific customer need in a specific area. Additionally, Mr. Gladstone said it would be possible for Crown Castle to take advantage of another company's infrastructure in order to provide the service requested, which has happened before, but each respective company would need to decide what makes sense from a RF perspective. Mr. Gilbert confirmed that Crown Castle invests in research and development of the small cell technology and matching the needs of a community with what infrastructure exists and what needs to be created.

In response to a question from Representative Gibbons Prunty, Mr. Gladstone confirmed that the "Big Four" wireless providers are Verizon, T-Mobile, AT&T, and Sprint.

#### **Cyber Security - Kentucky Chamber of Commerce**

Kate Shanks, Vice President for Policy Development for the Kentucky Chamber of Commerce introduced Ben Taylor with the U. S. Chamber of Commerce and Joe Danaher with Integrity IT, a member of the Chamber's Small Business Policy Council. Mr. Taylor updated the committee the U.S. Chamber of Commerce's views on cyber security, privacy and digital commerce. The Chamber is concerned about a patchwork of digital privacy legislation being passed across different states, potentially making it more difficult for businesses to adhere to regulations if they have locations in different states. The U.S. Chamber has been working on legislation to be introduced in Congress in 2019.

The Chamber has a working group made up of representatives from about 200 companies and they created ten privacy principles along with a nationwide privacy framework to reflect with member companies' concerns. The number one issue is preemption. While the U.S. Chamber previously advocated for self-regulation as the preferred method to deal with privacy, the Chamber now recognizes the need for Congress and the Trump Administration to offer consistent protection to Americans. Several states have enacted some digital privacy laws, of which California has the most comprehensive. The U.S. Chamber believes this patchwork of 50 plus laws enacted on the subject would impede interstate commerce. Mr. Taylor talked about legislation affecting cross-border data flow needing to be included in all future international trade agreements, such as the United States-Mexico-Canada Agreement.

Mr. Danaher with Integrity IT, a small IT company based in Lexington, wanted to voice his support of the Chamber's efforts regarding digital privacy. He noted that federal HIPAA privacy rules lay down a good framework for digital privacy regulation. Mr. Danaher testified to the difficulty of implementing

the technical and physical controls over the data to adhere to multiple state regulations.

Responding to a question from Representative St. Onge, Mr. Danaher confirmed he was advocating for federal legislation that would give clear guidance on what additional controls businesses need to meet instead of having a patchwork of regulations to meet across multiple states. In response from additional questions from Representative St. Onge, Mr. Taylor said between the European Union's General Data Protection Regulation (GDPR) and California's recent digital privacy laws, different industries find different parts of the laws difficult to implement and be compliant with. Mr. Danaher addressed that this federal legislation would have required Facebook to disclose the selling of user data to a third party, but it would not have disclosed what Cambridge Analytica wanted with the information.

#### **Broadband in Kentucky**

Julia Crigler, Executive Director for the Kentucky Cable and Telecom Association, and Jason Keller, Regional Senior Director of Government Affairs with Charter Communications spoke to the committee about high-speed and broadband internet in Kentucky. Cable companies are responsible for more than 4,000 jobs and \$4.7 billion in economic activity in the state. Ms. Crigler told the committee that broadband companies are focused specifically on three things: investing heavily in infrastructure and new technologies, upgrading networks throughout the Commonwealth to ensure customers have access to gigabit internet speeds, and making sure that broadband is affordable for low income families.

Earlier this year, the Federal Communications Commission (FCC) released a report indicating that 85.8 percent of Kentucky homes have access to minimum broadband speeds of 25 megabits download by 3 megabit upload. The same report in 2015 showed that only 60 percent of Kentuckians had access to broadband. This has moved Kentucky to from 45<sup>th</sup> in the nation in broadband access to 38<sup>th</sup> in the nation. Ms. Krigler talked about the thousands of homes in rural Kentucky that members of the Kentucky Cable and Telecom Association have provided broadband service in the last 24 months. Ms. Krigler also indicated companies are preparing for future advances in high speed service by testing new technologies such as fixed wireless services. These new technologies show promise in providing ultra-high speed internet service and help expand the services into rural parts of the state. By the end of the year, 85 percent of all Kentuckians should have access to gigabit internet speeds from their local cable provider. Members of the Kentucky Cable and Telecom Association also provide affordable high speed internet to families with children on free or reduced lunches with the state school systems.

Responding to a question from Representative Goforth, Ms. Krigler confirmed that the Kentucky Cable and Telecom Association has no connection with the Kentucky Wired project. Jason Keller, Regional Senior Director of Government Affairs with Charter Communications, confirmed that the reduced rate packages are not subsidized by anyone, but are initiatives provided solely by the cable providers.

In response to a question from Representative



Gibbons Prunty, Mr. Keller acknowledged there are still pockets of rural counties that do not have broadband service. He said the companies were trying to address the issue in two ways: continued deployment of their wireline assets, such as building out fiber lines into the county, and expanding the fixed wireless networks.

There being no further business, the meeting was adjourned at 3:12 p.m.

## **INTERIM JOINT COMMITTEE ON AGRICULTURE**

### **Minutes of the 5th Meeting of the 2018 Interim**

November 14, 2018

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

The 5th meeting of the Interim Joint Committee on Agriculture was held on Wednesday, November 14, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Richard Heath, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy; Joe Bilby, General Counsel, Kentucky Department of Agriculture; Larry Thomas, President, Kentucky Soybean Association; Ryan Bivens, Chairman, Kentucky Soybean Promotion Board, Dave Maples, Executive Vice President, Kentucky Cattlemen's Association, and Maury Cox, Executive Director, Kentucky Dairy Development Council.

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

The October 10, 2018 minutes were approved upon voice vote, without objection, on a motion made by Senator Embry and seconded by Representative Reed.

#### **Report from Subcommittees:**

Representative Reed stated that the Equine Issues Subcommittee heard from Dr. Jeanne Flounders, veterinarian, regarding the effects of fireworks on horses and the problems facing horse owners dealing with injured horses as a result of fireworks use. Dr. Nancy Cox, Dean of the University of Kentucky's College of Agriculture, Food and Environment and Dr. Mick Peterson, University of Kentucky's Director of Ag Equine Programs, stated that the programs focus on safety, integrity, careers, and workforce development.

Senator West noted that the name of the subcommittee was recently renamed Equine Issues to better reflect the issues regarding the horse industry. Marc Guilfoil, Executive Director and Jamie Eads,

Deputy Executive Director, Kentucky Horse Racing Commission said that the Breeders' Incentive Fund is financially stable and Kentucky's equine industry had remained flat in numbers of horses. Anne Hardy, Executive Director, Horse Country, Inc. said that Horse Country, Inc. was a collection of horse farmers and people in the horse industry whose goal is to promote the horse industry. It has been successful in promoting the Kentucky brand, horses, hospitality, food, and bourbon.

A motion was made by Senator Hornback and seconded by Representative Tipton to accept the report. The motion passed.

Representative Thomas stated that the Rural Issues Subcommittee heard from Holly Spade, Director of External Affairs, AT&T regarding projects across the state. AT&T is running broadband to the cell towers in order to transmit wireless internet to homes in and around those areas. Hilda Legg, State Director, United States Department of Agriculture (USDA), reported that it was the intention of USDA to work with other partners, such as utility companies and telecom companies, to help get broadband to rural communities. Representative Thomas said that Jeff Hurd, General Manager, Hopkinsville Electric System (HES), explained that HES had applied to make 1 gig internet available for all the houses in the city of Hopkinsville. HES had also been in talks with Pennyryle Rural Electric about a joint effort in laying fiber-optic lines.

A motion made by Senator Embry and seconded by Representative Reed to accept the report. The motion passed.

#### **Legislative Issues for 2019 Regular Session**

Warren Beeler, Executive Director, Governor's Office of Agricultural Policy (GOAP), agreed that it was important to have broadband available statewide so farmers can farm with the latest technology. About \$6 million has been approved for use at the Kentucky State Fairgrounds. The funds will be used to tear down Cardinal Stadium and the old transportation building before next year. GOAP is looking to fund beekeepers and woodlands owners. GOAP has already funded three hemp projects and looks to fund more projects in the near future. Some of those projects will depend on the Farm Bill and its inclusion of hemp as a legal crop. Ag Finance has done 954 loans for over \$125 million. Over 68 percent of the loans have been to beginning farmers. Ag Finance receives between \$600,000 and \$700,000 thousand a month back on those loans. The goal now is to figure out how to reach young farmers. As to legislative issues, language was not included in HB 366 regarding veterinarian sales tax exemptions for poultry. With poultry being the largest agriculture industry in the state it needs to be added. Mr. Beeler reported on the North American International Livestock Exposition (NAILE). The number of livestock entries remained the same with the exception of dairy entries. The largest show was breeding sheep with over 7,600 entries. The total number of all entries in the NAIL was 20,000. The shows have outgrown the capacity available. More pens are needed as well as technology to help with checking in livestock quicker.

Joe Bilby, General Counsel, Kentucky Department of Agriculture, stated that the Department would be

recommending that the statutes regarding grain laws in Kentucky be rewritten. There are several aspects within the statutes that are not clear nor concise, which creates a lot of confusion for owners of grain elevators and farmers. The statutes are old and are not current for today's market. The Kentucky Grain Insurance Corporation (KGIC), created in the 1980s, was the primary risk management vehicle for farmers in the Commonwealth. KGIC enabled farmers to be compensated for some of their losses in the event of a failure of a grain elevator. Any producer who paid into the fund would be eligible for some payment. In the 1990s, once the fund reached a balance of over \$4 million, the legislature suspended the assessments. Since then, no farmer has paid into the fund but the definition states that once a farmer paid into the fund and never opted out the farmer would still be eligible. The farmers who entered the industry after the assessments were suspended are not covered.

In response to Representative Rothenburger, Mr. Bilby stated that the language includes financial or structural failure of a warehouse.

In response to Senator West, Mr. Bilby said adding an assessment fee has been discussed for inclusion in the new language, but it was decided to leave the assessment fee suspended. Every few years a grain warehouse will fail in other states. About two years ago, the biggest failure of a warehouse was in Arkansas – total claims were \$24 million. The last warehouse that closed in Kentucky was a long time ago.

Senator West recommended that KDA keep an eye on the grain elevators in Kentucky which have grown enormously in size. If an assessment fee is ever applied again, it would be important to protect the amount that is in the Kentucky Grain Insurance Corporation Fund.

In response to Senator Parrett, Mr. Bilby said that if a warehouse went into structural failure it would likely lead to financial failure. Senator Parrett asked that the new language clarify that particular definition.

In response to Chairman Heath, Mr. Bilby said that there is another additional risk management tool. Kentucky law requires surety bonds for licensees which create another layer for financial protection for other sorts of failures.

Larry Thomas, President, Kentucky Soybean Association and Ryan Bivens, Chairman, Kentucky Soybean Promotion Board discussed the assessment fees. Mr. Bivens said that every bushel of soybeans sold in Kentucky is assessed a fee and the Board is responsible for handling the assessment. All the funds collected are used to produce, promote, and protect the soybean industry. Mr. Thomas stated soybean prices are severely depressed because of the market cycle. The tariffs have driven prices dangerously low on top of lower yields due to the weather. Grain elevators are normally the first purchasers of soybeans. There have been reports of grain elevators significantly changing their discount schedules at harvest when soybean prices were already low. Some grain elevators have been discounting considerably and inconsistently. In some cases, loads from the same field, planted and harvested at the same time, have been appraised significantly differently. At the insistence of some

grain farmers, samples were forwarded to a federal grain grader and the results came back with much lower damage than the elevator-graded sample. A system needs to be in place for grain to be graded in a more consistent manner. There is no oversight or regulation of grain grading unless the farmer requests that the grain be graded by a federal grader. The Association supports a tax exemption program similar to the Georgia Ag. Tax Exemption program which issues a farmer a card. This would eliminate a farmer from having to complete a form at every farm supply store and machinery dealership. The Association agrees with KDA in regards to the new language for Kentucky's grain laws.

In response to Senator West, Mr. Thomas said that he has not talked to the Department of Revenue about a tax exempt program.

In response to Representative Rothenburger, Mr. Thomas said that in Hardin County, no farmer has finished harvesting soybeans. Mr. Bevin estimated that 50 percent of soybeans are still in the field.

In response to Representative Tipton, Mr. Thomas said that the Association has not officially talked to lenders regarding payments or lack of payments on loans. If the trade issues with China can get settled soon, hopefully prices will rebound.

Dave Maples, Executive Vice President, Kentucky Cattlemen's Association, said that the cattle industry is experiencing tough times as well. Kentucky has a vibrant cattle industry with 38,000 beef cattle farmers. The Association is interested in clean meat or cultured meat products. The Association wants to see the Ag Development Board funds remain focused on Kentucky's agricultural industries. Since most cattle are shipped out-of-state, Kentucky's cattle industry needs to pay attention to electronic logging devices and hours of service requirements. The veterinarian slots at Auburn and Tuskegee are invaluable.

#### **Dairy Industry**

Maury Cox, Executive Director, Kentucky Dairy Development Council, explained that KDDC was established in 2005 to educate, promote, and represent Kentucky dairy farmers. Kentucky dairy farmers have increased milk production per cow over 5,700 lbs. in a year, which ranked Kentucky first in the nation in milk production for a five year period. Mr. Cox said that there are 525 permitted dairy farms with 55,000 milking cows. Losing dairy farms has now become a nationwide problem. Wisconsin has lost more than 500 dairy farms this year and has dropped to 8,700 farms. Kentucky producers produce 1 billion pounds of milk, 92 million gallons a year. Approximately 450 million pounds of that production goes to Tennessee processing plants and one plant in Charleston, West Virginia. There are only three fluid milk processing plants in Kentucky: Winchester Farm, Borden Dairy, and Prairie Farms. A couple of issues facing the industry are the lack of consumption of fluid milk and finding access to markets. There will be more farms to sell out in the near future. If producers were able to get low interest loans, some might be able to hang on until milk prices increase. KDDC does not support the pre-filed bill (BR 138) allowing sales of up to 20 gallons of unpasteurized or pasteurized milk that would be exempt from Kentucky licensing, permitting, and inspection.

In response to Senator West, Mr. Cox stated the consolidation of markets in the dairy industry is extreme. There was a large anti-trust lawsuit that involved several plants and was eventually settled out of court.

In response to Senator Givens, Mr. Cox stated that when KDDC was formed there were 1,400 dairy farms and Kentucky is down to 525 dairies. Senator Givens noted that the negative economic impact amounts to the loss of 10,000 jobs. Mr. Cox said that Prairie Farms decided that Kentucky was not a good place to milk cows.

In response to Representative Hale, Mr. Cox said that there are three plants in Kentucky. The Winchester Farm plant buys around 20 percent of its milk from Kentucky while the other 80 percent comes from northern Indiana. Winchester Farms sells primarily to Kroger.

In response to Chairman Heath, Mr. Cox said that the milk being sold to schools was recently raised to 1 percent milk. There has not been a lot of assistance from the Kentucky congressional delegation. There is a National Milk Federation.

In response to Senator West, Mr. Cox said there may be a correlation between serving skim milk and the drop in milk consumption among school children.

There being no further business, the meeting was adjourned.

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

### **Minutes of the 7th Meeting of the 2018 Interim**

November 15, 2018

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

The 7th meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, November 15, 2018, at 10:00 AM, in the Brown-Forman Room at the Kentucky History Museum in Frankfort, Kentucky. Representative Phillip Pratt, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Phillip Pratt, Co-Chair; Senators Perry B. Clark, Denise Harper Angel, Ernie Harris, Stephen Meredith, Wil Schroder, Reginald Thomas, and Max Wise; Representatives McKenzie Cantrell, Daniel Elliott, Al Gentry, Mark Hart, Joni L. Jenkins, Adam Koenig, Jerry T. Miller, Jason Petrie, Rob Rothenburger, Diane St. Onge, Walker Thomas, and Russell Webber.

Guests: Kate Shanks, Vice President of Policy Development, Kentucky Chamber of Commerce; Tim Gibbs, President and CEO, Ashland Alliance; Chuck Sexton, President and CEO, One East Kentucky; Marc Wilson, Partner, Top Shelf Lobby; Ben Bruebeck, Vice President of Regulatory, Labor, and State Affairs, Associated Builders and Contractors; Kevin Sell, CVO, United Group Services; Vivek Sarin, Executive Officer, Cabinet for Economic Development; Erran Persley, Executive Director of International Affairs and Business Development, Cabinet for Economic Development; Katie Smith, Commissioner of the Department for Financial Services, Cabinet for

Economic Development; Joe Lilly, Executive Director of the Office of Marketing and Public Affairs, Cabinet for Economic Development; Brian Mefford, Executive Director of the Office of Entrepreneurship, Cabinet for Economic Development; and Jessica Burke, General Counsel, Cabinet for Economic Development.

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

#### **Approval of Minutes**

A motion to approve the minutes of the October 18, 2018 meeting was made by Representative Diane St. Onge, seconded by Senator Stephen Meredith, and approved by voice vote.

#### **Kentucky Chamber of Commerce**

On behalf of the Chamber, Kate Shanks, the Vice President of Policy Development for the Kentucky Chamber of Commerce; Tim Gibbs, the President and CEO of Ashland Alliance; and Chuck Sexton, the President and CEO of One East Kentucky, discussed the importance of transportation infrastructure to economic development. Mr. Gibbs stated that the Commonwealth's competitive advantages and proximity to major markets makes the state attractive to companies considering relocation, and the flow of in state transportation is better than most states. However, after completing a survey of companies in northeastern Kentucky, he found that an overwhelming number of businesses utilize out of state railway services. Therefore, strategic investments have to be made to link all methods of transportation across the state. Mr. Sexton added that the perspective of the private industry has to be taken into consideration along with risk factors. There will be less risks for the private businesses if the state continues to invest in transportation infrastructure, especially in the improvement of Kentucky roadways which are the key to moving goods. Mr. Sexton said that investments in roadways and other modes of transportation have to be made ahead of future economic development opportunities. Ms. Shanks said this issue will be a top priority for the Chamber and business community for the upcoming legislation session.

#### **Project Labor Agreements**

Marc Wilson, a partner with Top Shelf Lobby; Ben Bruebeck, the Vice President of Regulatory, Labor, and State Affairs with the Associated Builders and Contractors; and Kevin Sell, the CVO of United Group Services, all spoke in favor of legislation that would eliminate government-mandated project labor agreements (PLAs). The legislation is also known as the Fair and Open Competition Act and was introduced during the 2018 Regular Session as HB 471. According to Mr. Bruebeck, eradicating government-mandated PLAs would benefit all of the state's construction industry, ensure taxpayer dollars are spent effectively, and result in more of the best possible construction projects built at the best possible price. Provisions in a government-mandated PLA can require that union employees be obtained which discourages some merit shop contractors from bidding on projects because this can be harmful to a company's current workforce that chooses not to belong to a union. Based on studies conducted in Massachusetts, Connecticut, New York, New Jersey, California, and Ohio, government-mandated PLAs



can increase costs between 12 and 18 percent. Twenty-three states have passed a Fair and Open Competition Act since 2011.

Mr. Sell made remarks based on his perspective as a merit shop contractor and Associated Builders and Contractors member. His company is excluded from some projects that require PLAs because United Group Services is not affiliated with a union. He noted that government-mandated PLAs contradict the passing of Right to Work laws and the repeal of prevailing wage. Mr. Sell said that industry employers take on all of the risk and liability while recruiting new workers in an industry workforce that has a shortage of skilled employees. The shortage is an issue for employers, employees, taxpayers, and many others, but the wording of PLAs does not aid in finding a solution.

Addressing a question from Representative Jerry Miller, Mr. Bruebeck said that if a government entity or quasi-governmental agency solicited bids for a project, a PLA could not be required in procurement documents. However, if a firm won the project contract during the bidding process, then they would be allowed to voluntarily enter into a PLA.

Replying to Representative Mark Hart, Mr. Bruebeck stated that the Fair and Open Competition Acts passed in Iowa, Michigan, Louisiana, and Idaho were challenged and upheld.

Answering a question from Senator Wil Schroder, Mr. Sell explained that the negotiating process begins with the government authority having jurisdiction over the project such as a city, a fiscal court, or a school board. Responding to a follow-up, Mr. Bruebeck clarified that government-mandated PLAs are not common in Kentucky.

Responding to Representative Joni Jenkins, Mr. Bruebeck stated he has reviewed five government-mandated PLA cases in Kentucky that occurred in the last 10 years.

Addressing Representative Diane St. Onge, Mr. Bruebeck said that government mandated PLAs exacerbate the skilled workforce shortage by excluding some workforce development and apprenticeship programs. He stated that union and nonunion members should be able to participate in taxpayer-funded projects. Mr. Sell added that his company does not continue any further if it is made aware that a project it's involved with bidding on requires a government-mandated PLA.

Representative Al Gentry expressed his support for states' rights and local government control and said he was given a better understanding of the proposed legislation by the responses to previous questions.

Replying to Senator Denise Harper Angel, Mr. Bruebeck said the legislation would impact public-private partnerships (P3s). Contractors operating under P3s would be getting state assistance, and therefore those firms would not be able to require a PLA for subcontractors. He said uncertainty lies in a situation where a firm voluntarily wants to use a PLA that is the actual general contractor in a P3, but the legislation can be drafted to address this issue.

Answering a question from Senator Reginald Thomas, Mr. Bruebeck confirmed that there is not a current state law that requires any government, either

local or state, to have a government-mandated PLA. Responding to a follow up, Mr. Bruebeck said that the legislation is a proactive measure.

Senator Stephen Meredith commented that although he supports control at the local level, government-mandated PLAs may eliminate transparency.

Addressing a question from Representative McKenzie Cantrell, Mr. Bruebeck said that although he previously referenced five government-mandated PLAs, there are likely more. He also confirmed that there was a controversial government-mandated PLA involved with the 2009 construction of Tiger Creek Elementary School in Carter County.

#### **Cabinet for Economic Development Update**

Cabinet leadership gave updates on its progress, described areas of emphasis, detailed the incentive program, and discussed goals for the upcoming legislative session. The Cabinet is the primary state agency responsible for encouraging job creation, business retention, and new investment in the state. Since the start of the current administration, there has been \$17.2 billion in new investments, more than 47,500 new jobs created, and more than 950 new projects started. Areas within the Cabinet include the Department of Business Development; International Affairs and Business Development; the Office of Entrepreneurship; the Office of Legal Services; the Office of Marketing and Public Affairs; the Office of Workforce, Community Development, and Research; and the Department for Financial Services. Each department head, excluding the Department of Business Development and the Office of Workforce, Community Development, and Research which are currently vacant, described their area of emphasis. Katie Smith, the Commissioner of the Department for Financial Services, did explain that the Department for Business Development is responsible for attracting new investment in Kentucky; and the Office of Workforce, Community Development, and Research is responsible for cultivating growth by developing relationships within the business community and connecting labor supply and employer demand. Erran Persely, the Executive Director of International Affairs and Business Development, said his office is responsible for assisting the state in attracting international investment. Brian Mefford, the Executive Director of the Office of Entrepreneurship, stated that his office works to cultivate an entrepreneurial and small business support system through an array of programs, initiatives, and partnerships. He highlighted the upcoming launching of an entrepreneurial networking program which is a collaboration with the University of Kentucky and University of Louisville. Joe Lilly, the Executive Director of the Office of Marketing and Public Affairs, spoke about the content his office produces to promote the Commonwealth. Jessica Burke, the General Counsel for the Cabinet, explained that her office handles all legal issues and provides general analysis of programmatic and internal administrative issues.

Commissioner Smith detailed her department which provides Cabinet wide services in areas of accounting; budgetary and fiscal affairs; incentive

program administration; compliance; and personnel and administrative functions. She went into further detail about the Cabinet's incentive program. All incentive programs are performance based, and each requires approval by the applicable board or committee. Each business participant is monitored for its progress and success. The Kentucky Economic Development Finance Authority (KEDFA) is responsible for awarding most of the financial incentives offered by the Cabinet. All approved incentive programs are listed and detailed on the Cabinet's website. For the upcoming legislative session Ms. Burke said the Cabinet plans to work with legislators to address fixes to HB 366 and HB 487 that were passed during the 2018 Regular Session, amendments to the Open Records Act, abolishing the Kentucky Industrial Revitalization Act program and rolling it into the Kentucky Reinvestment Act program, and amending the Kentucky Business Investment program.

Responding to an inquiry from Representative Diane St. Onge, Ms. Burke further explained that HB 366 that was passed during the 2018 Regular Session suspended the Angel Tax Credit program immediately while HB 487 suspended the program beginning January 2019. When these bills were reviewed jointly by the Legislative Research Commission's Reviser of Statutes, it was determined that the intent was to suspend the program immediately along with the Kentucky Investment Fund Act program which was not intended. Commissioner Smith added that the start back dates for the programs need to be fixed as well.

There being no further business, the meeting was adjourned at 11:44 a.m.

## **INTERIM JOINT COMMITTEE ON EDUCATION**

### **Minutes of the 5th Meeting of the 2018 Interim**

November 19, 2018

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

The 5th meeting of the Interim Joint Committee on Education was held on Monday, November 19, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Max Wise, Co-Chair; Representative John Carney, Co-Chair; Senators Julie Raque Adams, Danny Carroll, David P. Givens, Jimmy Higdon, Alice Forgy Kerr, Stephen Meredith, Reginald Thomas, Johnny Ray Turner, Stephen West, and Mike Wilson; Representatives Linda Belcher, Danny Bentley, Mark Hart, Mary Lou Marzian, Reginald Meeks, Charles Miller, Phil Moffett, Tim Moore, Kimberly Poore Moser, Melinda Gibbons Prunty, Steve Riley, James Tipton, Gerald Watkins, and Russell Webber.

**Guests:** Senator John Schickel; Dr. Randy Poe, Superintendent, Boone County Schools; Jim Waters, President and CEO, Bluegrass Institute; Eric Kennedy, Director of Government Relations, Kentucky School Boards Association (KSBA); Davonna Page, Board of Education Member, Russellville Independent Schools; Lauren Mitchell, Parent Representative, Site-Based



Decision Making Council (SBDM); TeAndra Parker, SBDM Member; Lucy Waterbury, Save Our Schools Ky; Wayne Lewis, Commissioner of Education; Amanda Ellis, Deputy Commissioner and Chief Academic Officer, Kentucky Department of Education (KDE); Rhonda Sims, Associate Commissioner, Office of Standards, Assessment and Accountability, KDE; Jennifer Fraker, Policy Advisor, Office of Standards, Assessment and Accountability, KDE; Krista Hall, Director, Division of Program Standards, KDE; Laruen Gallicchio, Office of Teaching and Learning, KDE; and Chad Collins, General Counsel, Kentucky High School Athletics Association (KHSAA).

LRC Staff: Jo Carole Ellis, Yvette Perry, Joshua Collins, Lauren Busch, and Chase O'Dell.

#### **Approval of Minutes**

Senator Meredith moved to adopt the minutes of the September 10, 2018, meeting. The motion was seconded by Senator West and passed by voice vote.

#### **Site-Based Decision Making Councils**

Senator John Schickel; Dr. Randy Poe, Superintendent, Boone County Schools; Jim Waters, President and CEO, Bluegrass Institute; Eric Kennedy, Director of Government Relations, KSBA; Davonna Page, Board of Education Member, Russellville Independent Schools; Lauren Mitchell, Parent Representative, SBDM Council; TeAndra Parker, SBDM Member; and Lucy Waterbury, Save Our Schools KY; discussed SBDM Councils.

Senator Schickel testified the two most important issues in Kentucky are the future of children and the handling of taxpayer money.

Dr. Poe said the Boone County school system is the third largest in the state and there is need for more parent empowerment across the board.

Courts have interpreted school boards have no authority over SBDM Councils. Dr. Poe said issues concerning the selection of textbooks and other district curriculum have arisen. With a 37 percent transient rate within the Boone County school district, he said schools within one mile of each other are using different text books.

Two additional classifications under the new accountability standards set by the KDE are Comprehensive Support and Improvement (CSI) schools and Targeted Support and Improvement (TSI) schools. Under CSI schools, a board of education is allowed to eliminate a SBDM council. However, that is not the case with TSI schools.

Dr. Poe testified if a teacher received a poor evaluation for not following board of education guidelines, it could be challenged by a SBDM council in a tribunal. He also said there is nothing a superintendent or board of education can do when a school chooses an instructional path that differs from the district, until the school goes into CSI.

Dr. Poe recommended the KDE be directed to promulgate appropriate Kentucky Administrative Regulations to ensure there is a clear-cut road to decision-making power when conflicts occur.

Mr. Waters testified that while there has been more than two decades of site-based governance in schools, there is still chaos and confusion concerning who can do what. The Bluegrass Institute has little reason to believe that continuing with the current governance model as it is will fulfill its statutory

mandate. The effects of SBDM councils on student success are questionable at best. The Bluegrass Institute is struggling to find meaningful impact that SBDM councils have on improving low-performing schools.

Mr. Waters said the priority schools program was abruptly ended when the new CSI program was launched by the KDE in conjunction with the state's latest assessment results. It was disconcerting that, when the CSI program was implemented, all the priority schools were released from their status.

Mr. Waters also testified having a SBDM council does not provide a guarantee of improving school performance. He further stated his belief that loss of the site-based authority is a good thing for both parents and children.

Mr. Waters stated while some progress has been made in Kentucky, it has been neither enough nor fast enough to close academic achievement gaps and ensure that the next generation is prepared to face the rigors of a competitive global marketplace.

Mr. Waters questioned whether teachers have the adequate time and training needed to serve on SBDM councils. He questioned whether it is reasonable to expect that each of the 1,253 public schools in Kentucky have the personnel required to manage curriculum and hiring effectively. He stressed that curriculum decisions are crucial in properly preparing students for their future.

Mr. Waters testified that it is difficult to get parents to run for SBDM councils. The Office of Education Accountability and KDE should investigate parental involvement as it relates to parents willing to serve on councils, specifically in lower-performing schools.

Mr. Waters testified that checks and balances are missing in many school governance areas.

Ms. Page testified she believes in the public-school model of education in the Commonwealth and said it is the most important function of state government. She has served both as a SBDM council parent representative and as a member of her district's board of education. SBDM councils and local boards play an important role in decision making.

Ms. Page said that the process for hiring principals does not always work well. A change in the principal selection process will create a more genuine and effective chain of accountability.

Ms. Page asked the legislature to allow superintendents to hire school principals. This would allow superintendents to build a team that would be the most effective in carrying out the district's mission.

Mr. Kennedy said everyone in the public-school system should be engaged. A better balance of authority between school boards and SBDM councils can bring in more community involvement.

Ms. Parker testified she started out as a parent on SBDM councils at the elementary, middle, and high school levels. It was invaluable to have a say in what went on at her school and the experience thrust her into becoming an educator. It is invaluable for parents and teachers to have a say in what goes on at their schools.

Ms. Mitchell stated she had been serving on SBDM councils for six years. Parental voice and community involvement is vital for success.

Ms. Waterbury testified superintendents wielded a lot of power in the past. SBDM councils came about because parent and teacher voices were needed in determining who the leadership of a school would be. In regards to the selection of principals, most SBDM councils select the candidate submitted by a superintendent. There should be a public service campaign that explains to parents the power they have in Kentucky schools.

Ms. Waterbury testified that priority schools and CSI schools do not have SBDM councils, and schools that are in TSI for three years will lose their SBDM councils.

Ms. Waterbury testified that SBDM, in addition to funding, moved Kentucky from the bottom in the nation in education to the middle and that SBDM councils provide opportunities for parents to become leaders in the community.

In response to a question from Senator Meredith, Ms. Page stated that serving on the district board of education can be frustrating at times because she does not have the ability to address the issues parents bring to her. Mr. Kennedy said being a school board member is often a thankless job, and there are many things board members are told they cannot do. Senator Schickel testified there is no compensation for serving on a school board. Mr. Waters added that parents are frustrated because by law, parents must be in the minority on a SBDM council. In response to a follow-up question from Senator Meredith, Mr. Kennedy said the KSBA is always trying to explain the role of a school board member and how to run in order to get great candidates interesting in running. Dr. Poe said superintendents are prohibited from getting involved in school board races and there must be a way to determine who has decision-making authority when conflicts arise.

In response to a question from Representative Belcher, Mr. Waters said he did not have information readily available to know whether test scores went up in schools where SBDM councils were removed. In response to another question from Representative Belcher, Dr. Poe said districts should have appropriate textbooks that cover the standards created by the KDE. He said he is not asking for the same textbooks district-wide, rather that textbooks be approved and meet standards. In response to another question, Dr. Poe stated his belief that regulations should be promulgated through the KDE.

In response to a question from Senator Wilson, Dr. Poe testified that some schools struggle to find parents to run for SBDM councils. Mr. Poe advocated for equal representation of teachers and parents on SBDM councils.

Senator Schickel added he had decided not to introduce a bill on the issue until after the committee meeting.

Representative Riley stated that during his time as principal and chairman of a SBDM council, he never had a vote. Principals should have more say on SBDM councils; it is troubling that principals can be fired by someone who did not hire them.

In response to Representative Hart, Senator Schickel said there will be a bill in the session regarding SBDM councils. There will likely be changes from last year's bill.

Representative Miller stated that SBDM councils are important to schools and that SBDM councils should remain.

Representative Marzian said the Kentucky Education Reform Act, with the help of parents, has changed education in a positive way. There are robust school board races in Jefferson County.

In response to Representative Miller, Dr. Poe said dialogue must include everyone involved and believes things cannot continue to operate the same.

#### **Statewide Academic Standards for Social Studies**

Wayne Lewis, Commissioner of Education, KDE; Amanda Ellis, Deputy Commissioner and Chief Academic Officer, KDE; Rhonda Sims, Associate Commissioner, Office of Standards, Assessment and Accountability, KDE; Jennifer Fraker, Policy Advisor, Office of Standards, Assessment and Accountability, KDE; Krista Hall, Director, Division of Program Standards, KDE; and Lauren Gallicchio, Office of Teaching and Learning, KDE, testified on statewide academic standards for social studies standards.

Ms. Ellis testified the standards revision process and requirements are outlined in 2017 Senate Bill (SB) 1. KDE has had several meetings with teachers discussing the revision of social studies standards.

Ms. Fraker stated that Kentucky Academic Standards for Social Studies will be incorporated by reference in 704 KAR 8:060.

Ms. Hall said groups of dedicated professionals and community members have participated in the standards revision process. Each writing team was composed of current and practicing classroom teachers, representation from institutions of higher learning, and community and business leaders. There were over 1,200 respondents during the public comment period in September. Seventy-eight percent of the respondents were classroom teachers. There were responses from 76 percent of the counties.

There were over 5,000 comments from respondents during the public comment period. Eight of the proposed standards received less than a 70 percent favorable rating from respondents.

Ms. Fraker testified that it was important to respondents that standards were organized by the disciplinary strands. There is concern amongst respondents about grade level content standards for grades K-3.

In response to a question from Senator Wise, Ms. Fraker stated that there were a wide variety of respondents in the public calls for feedback. She continued to say that KDE had specific focus groups for social studies teachers and placed a great deal of focus on involving the social studies community. In response to a follow-up question from Senator Wise, Ms. Gallicchio testified the proposed standards draft contains geography from kindergarten through high school. She said from kindergarten to eighth grade, standards all have a theme.

In response to a question from Senator Wilson, Ms. Fraker confirmed that the Standards and Assessment Process Review Committee was eliminated by the Governor through executive order and reestablished with three board members. In response to a follow-up, Commissioner Lewis said that KDE will ensure

that individuals giving feedback online will not be timed out. Ms. Ellis explained that KDE was unaware of a glitch in the online feedback system.

In response to a question from Representative Belcher, Ms. Ellis testified that if approved, the new standards will be implemented in the Fall of 2021. Once approved, there will be a full year for teachers to review and prepare materials before implementation in the following year.

In response to a question from Representative Carney, Ms. Flaker testified the proposed standards are available on a public comment page and the board portal page. In response to a follow-up question, Ms. Ellis stated the public comment period was advertised through emails from Commissioner Lewis, the front-page of the KDE website, and the Kentucky Teacher publication. In response to another follow-up question, Ms. Flaker said Kentucky teachers worked on the proposed standards.

In response to a question from Representative Watkins, Ms. Gallicchio testified the current graduation requirement for high school students is three credits of social studies. Ms. Ellis said it is up to the SBDM councils to decide the courses offered. Commissioner Lewis said that while no specific course is required, a U.S. history end-of-course assessment is administered.

In response to a question from Senator Carroll, Ms. Gallicchio said an entire strand within the standards focuses on communicating conclusions, and students are required to communicate knowledge and engage in civil discourse with classmates. In response to a follow-up question, Ms. Gallicchio said in the current proposed draft standards kindergarten through high school students will have to weave the content they are learning back to Kentucky.

In response to a question from Representative Carney, Ms. Sims testified a social studies test is administered in Grades 5 and 8, based on current standards. She said those tests would continue moving forward. There is a suspension of social studies testing at the high school level until the new standards are in place.

#### **Amendment to Administrative Regulation**

Chad Collins, General Counsel, KHSAA, was present to answer questions regarding changes to 702 KAR 007:065. No action was required on the proposed 702 KAR 007:065.

#### **Other Business**

In response to a question from Representative Belcher, Representative Carney stated a \$4,000 SEEK increase in the budget gave more flexibility to school districts.

With no further business to come before the committee, the meeting adjourned at 2:54 p.m.

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

### **Minutes**

November 19, 2018

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

The Child Welfare Oversight and Advisory Committee meeting was held on Monday, November 19, 2018, at 11:00 a.m., in Room 129 of the Capitol Annex. Senator Julie Raque Adams, Co-Chair, called

the meeting to order at 11:11 a.m., and the secretary called the roll.

Present were:

**Members:** Senator Julie Raque Adams, Co-Chair; Denise Harper Angel, and Whitney Westerfield; Representatives Angie Hatton, Joni L. Jenkins, and Suzanne Miles.

**Guests:** Alexa Craig, MD, Pediatric and Young Adult Neurology, Maine Medical Partners; Margaret Wile, Health Policy Specialist, National Conference of State Legislatures; Meghan McCann, Human Services Senior Policy Specialist, National State Conference of State Legislatures; Paul Robinson, MBA, President and CEO, Home of the Innocents; Randall Wallbaum, Kentucky Youth Advocates; Marian Hayden, Cull & Hayden.

**LRC Staff:** Ben Payne and Gina Rigsby.

### **Minutes**

A motion to approve the October 15, 2018 minutes was made by Senator Westerfield, seconded by Senator Harper Angel, and approved by voice vote.

### **Neonatal Abstinence Syndrome: A National and State Perspective**

Alexa Craig, MD, Pediatric and Young Adult Neurology, Maine Medical Partners, stated that an article published in *The New England Journal of Medicine* reported that the incidence of the neonatal abstinence syndrome (NAS), a drug-withdrawal syndrome that most commonly occurs after in utero exposure to opioids, is known to have increased during the past decade. However, recent trends in the incidence of the syndrome and changes in demographic characteristics and hospital treatment of these infants have not been well characterized. Another article in the *Journal of the American Medical Association* (JAMA) stated that gaps still exist, including a lack of clarity and consistency in how the syndrome is defined, measured, and managed. In addition, much of the research has focused on the infant in isolation from the mother, and many hospitals lack protocols to guide treatment. A March of Dimes article stated that in addition to opioids, using antidepressants (prescription drugs used to treat depression) and benzodiazepines (sleeping pills) can lead to NAS in a baby.

The gastrointestinal system and the brain are predominately affected because neither is being stimulated any longer by an opioid transmitted through the placenta to the baby. Metabolic, vasomotor, and respiratory manifestations include fever, frequent yawning, sneezing, sweating, nasal stuffiness, shallow respiratory rate, mottling, and tachypnea. Gastrointestinal manifestations include projectile vomiting, regurgitation, loose or watery stools, weight loss, poor feeding, and excessive sucking. Central nervous system manifestations include tremors, high pitched crying, sleep disturbances, increased muscle tone, excoriation, myoclonic jerks, irritability, and sometimes seizures. NAS babies are admitted to the neonatal intensive care unit (NICU) requiring a prolonged hospitalization.

The *JAMA Pediatrics* data from 2004 to 2013, report the rate of NAS (NICU) admissions went from 7 cases per 1,000 to 27 cases per 1,000 admissions and the median length of stay increased from 13 to 19 days. There is a disproportionate effect of the opioid

epidemic in rural areas.

In response to a question by Senator Raque Adams, Dr. Craig stated that it takes approximately one year to get a paper accepted and published in a medical journal after the article is written, so the information presented to the committee is the latest information available.

According to the JAMA, the cost to treat a NAS baby ranged from \$39,400 in 2000 compared to \$53,400 in 2009. The cost of all other births in 2000 was \$6,600 and \$9,500 in 2009.

Mothers who used Medication Assisted Therapy (MAT) want information about NAS but are not getting it from the obstetrician and addiction medicine provider. A survey showed that 55 percent of obstetricians/gynecologists and 57 percent of addiction medicine providers said it was their responsibility to educate patients about NAS. It does not take much for a person with a substance abuse disorder to feel guilty about a medical problem and believe he or she is being judged. NICU nurses are used to dealing with critically ill babies who need intensive medical therapy, not social situations where there is an intensive need for support.

An eat, sleep, console assessment is tailored to a baby to see if the baby can eat an ounce per feeding or breastfeed well, can the infant sleep for an hour without waking itself up, and can the baby be consoled within 10 minutes. If any answer is no, nonpharmacological care that include skin-to-skin contact with parents, decreased stimulation, swaddling when not being held, use of pacifiers, and breastfeeding for mothers who are not HIV or Hepatitis C positive. Maine's paradigm shift is from morphine being used to treat the baby to the parent consoling the child.

In response to questions by Senator Westerfield, Dr. Craig stated that a 2018 study shows there are no readmissions to emergency rooms or other hospitals. The data did not look at whether law enforcement is involved once a child goes home. Maine's hospital has not seen an increase in shaken babies or babies who have been caused physical harm by being sent home to an environment that is potentially unstable.

The Maine Medical Center completed a qualitative study of mother infant bonding in the hospital. The goals of the study were to identify barriers to bonding between mothers and their babies with NAS, and identify familial, community, and inpatient resources in place to support mothers and their babies with NAS. The main characteristics the mothers had were anxiety, bipolar disorders, depression, chronic headaches, Hepatitis C, HPV and/or STD, and PTSD/trauma. Substances used during pregnancy included cocaine, heroin, marijuana, and tobacco. Healthcare was initially just for the baby, now it has expanded to the mother/infant dyad, and should be expanded further to the baby/mother/father triad. A lot of women do not go into treatment programs because of the fear that child protective services will take their child. Mothers face barriers that include experiencing guilt, feeling judged, NAS scoring tools, and symptoms of NAS. Supports include reassurance from providers, male co-parents, and peers who have been through the experience to coach them, consistent education about NAS, and the care received in the hospital. Keeping mother and child together helps the mom

not to relapse as often.

In response to questions by Senator Raque Adams, Dr. Craig stated that problems with NAS babies are not noticed until a child starts preschool or kindergarten. Senator Raque Adams stated that legislation was enacted during the 2018 Regular Session to require that mothers and their babies are tested for Hepatitis C. Dr. Craig stated that mothers do not need extra pressure and guilt put on them just because their child is born with NAS. Providers need to look at the situation as a medical problem and partner with mothers instead of making the mothers feel guilty.

In response to questions by Representative Miles, Dr. Craig stated that in Maine, if a mother decides to breastfeed her child, she is encouraged not to continue to smoke marijuana. There is no study available that shows all the benefits of breastfeeding outweighs the bad side of marijuana exposure to the child. There is a Northeastern Neonatal Abstinence Syndrome database that contains over 2,400 mother/infant dyads that lists every drug taken by a mom while she is pregnant.

Margaret Wile, Health Policy Specialist, National Conference of State Legislatures (NCSL), stated that NCSL is a bipartisan membership organization that helps states with research, education, and technical assistance. Its mission is to improve the quality and effectiveness of state legislatures, promote policy innovation and communication among state legislatures, and ensure states have a strong, cohesive voice in the federal system. NCSL does not take a stance on state policy.

The Center for Disease Control and Prevention (CDC) found the incidence of NAS went from 1.5 cases per 1,000 births in 1999 to 6 cases per 1,000 births in 2013. In Kentucky during the time period, it went from .4 cases per 1,000 births to 15 cases per 1,000 births. West Virginia has the highest incidence at 35 cases per 1,000 births. According to a new study, an estimated 21,732 babies were born with NAS in the United States in 2012, a five-fold increase since 2000. Every 25 minutes, a baby is born suffering from opioid withdrawal. Approximately 86 percent of births to women who have a substance use disorder are unintended. California, Michigan, and Tennessee have sponsored legislation relating to NAS.

In response to a question by Senator Raque Adams, Ms. Wile stated that she would provide information on whether Tennessee requires local health departments to share information on NAS and access to contraceptives to women of childbearing age.

Prevention and intervention trends show an increased access to health care during pregnancy or postpartum, increased access to family planning service, increased access to MAT for expecting mothers, and increased efforts by Women Infants and Children (WIC) and executive branch agencies. Mississippi was the first state to be approved by the Centers for Medicare and Medicaid Services (CMS) to expand family planning services. Kentucky has created or funded drug treatment programs specifically targeted to pregnant women, provide pregnant women with priority access to state-funded drug treatment programs, and prohibit publicly funded

drug treatment programs from discriminating against pregnant women. Legislation has been introduced in Louisiana, New York, Missouri, and Ohio relating to treatment for mothers with or at risk of developing a substance use disorder (SUD) or newborns with NAS. A maternal and child health database showing all bills enacted relating to NAS and substance use disorder database will be available in January 2019.

Meghan McCann, Human Services Senior Policy Specialist, NCSL, stated that in 2016, there were approximately 437,000 children in foster care in the United States, the highest caseload since 2008. In the same year, more than 270,000 children entered care, the highest number since pre-2008. The number of children under the age of 1 entering foster care is increasing, and is now the highest percentage, by age group, of children entering foster care. In 2015, for the first time, the Adoption and Foster Care Analysis and Reporting System (AFCARS) provided specific data showing removals due to parent drug abuse. The top five reasons to remove a child from the home is neglect, drug abuse by parent, caretaker inability to cope, alcohol abuse by parent, or a parent's death.

The Child Abuse Prevention and Treatment Act (CAPTA) requires states to have policies and procedures for hospitals to notify child protection services (CPS) of all children born who are affected by illegal substance use or withdrawal symptoms resulting from prenatal drug exposure or indications of fetal alcohol syndrome disorder (FASD) and requires CPS agencies to develop a plan of safe care for every infant referred to its agency and address the health and substance use disorder treatment needs of the infant.

The CAPTA was amended by the Comprehensive Addiction and Recovery Act (CARA) of 2016. CARA removed the word illegal so CAPTA applies to all substance abuse, requires the plan of safe care to also address the treatment needs of affect family or caregivers, requires states to report in the National Child Abuse and Neglect Data System (NCANDS), requires states to develop a monitoring system to determine whether and how the local entities are providing referrals to and delivery of appropriate services for the infant and affected family or caregiver, and requires all children who are younger than three years old, who are substantiated victims of child maltreatment, to be referred to early intervention agencies that provide developmental disability services.

The 2018 federal Opioid Package set aside \$60 million in the CAPTA to support states in coordinating and implementing plans of safe care. Starting in 2018, states are eligible for federal matching funds when an at-risk child is placed in family-focused treatment or foster care. In 2020, states are eligible for funding to provide evidence-based substance abuse prevention and treatment services to families with children at risk of entering foster care that includes \$20 million in awards to states to develop, enhance, or evaluate family-focused treatment programs.

Twenty-four states and the District of Columbia include prenatal substance exposure in the definition of child abuse and/or neglect. Thirty-one states and the District of Columbia have specific procedures for reporting prenatal substance exposure. Connecticut,



Delaware, Maryland, New Hampshire, North Dakota, Oklahoma, Pennsylvania, and Virginia have statutes to define, coordinate, fund, or implement plans of safe care. Several states, including Kentucky, have implemented various procedures within agencies to address plans of safe care. Kentucky is one of the sites that the National Center on Substance Abuse and Child Welfare (NCSACW) provides In-Depth Technical Assistance. NCSACW works with selected sites to develop a scope of work for the in-depth technical assistance that includes working with the substance abuse, child welfare and court systems, as well as local tribes, to increase their collaboration and strategic plans for working together. NCSACW will study the progress and barriers learned in each site with the aim of broadly disseminating the lessons learned so as to further the collaborative efforts and linkages among alcohol and other drug services, child welfare, family courts and tribes.

Nineteen states and the District of Columbia include long-term alcohol or drug-induced incapacity of the parent as a ground for determining unfitness for purposes of termination of parental rights. Kentucky, Missouri, and Texas include prenatal substance exposure or neonatal abstinence syndrome in its grounds for termination of parental rights.

#### **Innovative Solutions to Achieve Positive Outcomes**

Paul Robinson, MBA, President and CEO, Home of the Innocents, stated that works the Home of the Innocents with the Department for Community Based Services (DCBS) in a collaborative problem-solving approach with synergistic communication. Synergistic communication allows both parties to be open to new possibilities and novel ideas that can lead to new insights and growth. The principles to the approach (1) focused on a fundamental shift, beyond short-term programmatic work, to longer term influences over policy, regulation, and systems-level change; (2) aligned the practices and perspectives of communities, health systems, and child welfare systems under a shared vision by drawing upon the strengths of each partner; and (3) used data from clinical, medical, and child welfare sources as a tool to identify key needs, measure meaningful change, and facilitate transparency to generate a new service for Kentucky's children. Systems changes include organization shifts and scaling that sustains practice and policy, implementation of supportive regulatory, legislative, and public policies, and sustained adequate funding.

Home of the Innocents operates the Children's Assessment and Transitional Service Center. The center's vision is to provide child centric, medically necessary and integrated services to children in out of home care. The goal of the program is to provide mental and medical health interventions and intensive assessments to help prepare children to transition to the appropriate placement in the least restrictive setting. Outcomes of the center include the reduction in number of placements, prompt and proficient placement, following placement best practices, limiting further trauma, and increased efficacy of caregiver training for the special needs children and youth being placed in care.

The Home of the Innocents recommends that the

Cabinet for Health and Family Services establish a Child Welfare Partner Committee (CWPC) to focus on a full range of child welfare contracted services in developing knowledge about improving outcomes for children and families in the child welfare system. A CWPC has the ability to unite individuals from public and private agencies to create better outcomes for Kentucky's children and families.

#### **Adjournment**

There being no further business, the meeting was adjourned at 12:50 p.m.

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

### **Minutes of the 5th Meeting of the 2018 Interim**

November 28, 2018

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

The fifth meeting of the Interim Joint Committee on Local Government was held on Wednesday, November 28, 2018, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Rob Rothenburger, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Rob Rothenburger, Co-Chair; Senators Ralph Alvarado, Christian McDaniel, Morgan McGarvey, Dorsey Ridley, Wil Schroder, and Dan "Malano" Seum; Representatives Danny Bentley, Ken Fleming, Kelly Flood, DJ Johnson, Adam Koenig, Stan Lee, Michael Meredith, Jerry T. Miller, Robby Mills, Steve Riggs, Attica Scott, Arnold Simpson, and John Sims Jr.

Guests: Elbert Bennett, Caldwell County Magistrate; Greg Helton, Knox County Circuit Court Clerk; Rob Sanders, Commonwealth Attorney 16<sup>th</sup> Judicial Circuit; Jimmy Pollard, Henry County Coroner; Martin Hatfield, Pulaski County Attorney; Gabrielle Summe, Kenton County Clerk; Tommy Turner, Larue County Judge/Executive; Mike Simpson, Oldham County Jailer; Bruce Todd, Henderson County Magistrate; Tim Popplewell, Russell County Property Valuation Administrator; Patrick Boggs, Mason County Sheriff; Mack Bushart, Kentucky Property Valuation Administrator Association; Tammy Vernon, Linda Lilly, Rebecca Morton, Lori Denhart, and Tess Sommer, Department for Local Government; Michael Kurtsinger and Bruce Roberts, Kentucky Fire Commission; Jim Henderson, Shellie Hampton, Tim Sturgill, and Roger Recktenwald, Kentucky Association of Counties; Tony Wilder, Kentucky Council of Area Development Districts; Vince Lang, Kentucky County Judge/Executives Association; J.D. Chaney and Bryanna Carroll, Kentucky League of Cities; William May, Kentucky County Clerks Association; and Judy Piazza, Finance Cabinet.

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

#### **Approval of Minutes**

Upon the motion of Senator Bowen, seconded by Representative Sims, the minutes of the October 24, 2018 meeting were approved.

### **Kentucky Association of Counties' Legislative Platform for 2019 Session of the General Assembly**

Caldwell County Magistrate Elbert Bennett, President of the Kentucky Association of Counties (KACo), provided an overview of some primary agenda items it planned to address in the 2019 Regular Session of the General Assembly which included transportation infrastructure funds and local tax reform.

Representatives of each of KACo's affiliate groups presented their particular priorities for session.

Knox County Circuit Court Clerk Greg Helton and President of the Kentucky Association of Circuit Court Clerks (KACCC), said that KACCC will introduce legislation to modify existing driver's license laws permitting a re-print of a license or ID card for those medically unable to be present in the clerk's office, and for those who are out of town and have lost their license or ID card. KACCC supports a mechanism to reinstate renewal notices of expired driver's licenses by the Transportation Cabinet. KACCC will also seek to increase jury duty pay.

Kenton County Commonwealth's Attorney Rob Sanders and Legislative Chair of the Kentucky Commonwealth's Attorneys Association (KCAA), discussed the success of the rocket docket program. KCAA will seek passage of a felony strangulation bill to combat domestic violence and sexual assault. KCAA will also monitor any criminal justice reform bills.

In response to a question from Representative Lee, Mr. Sanders said KCAA is not opposed to medical marijuana. KCAA does not want medical marijuana to be a gateway to the legalization of recreational marijuana.

Henry County Coroner Jimmy Pollard and Legislative Chair of the Kentucky Coroner's Association (KCA), said that KCA is proposing legislation to control the removal of prescription narcotic, non-scheduled and over the counter drugs from a scene and or residence of a coroner's case. It would include proper storage and disposal within a timely manner, and witnessed and proper documentation of the inventory of the drugs. KCA is also proposing legislation to implement the usage of volunteer deputy coroners.

In response to a question from Representative Rothenburger, Mr. Pollard stated that the coroners take the lead to dispose of drugs when on-scene.

In response to another question from Representative Rothenburger, Mr. Pollard said that a drop box is used at police departments for the disposal of drugs, or the drugs are picked up by the Drug Enforcement Agency.

Pulaski County Attorney Martin Hatfield and President-Elect of the Kentucky County Attorneys Association (KCAA), discussed the success of the rocket docket program and said KCAA will monitor any criminal justice reform legislation, track and advise on any public pension reform legislation, and support local control regarding the collection of child support.

In response to a question from Senator Alvarado, Mr. Hatfield stated that the KCAA has been proactive in drug treatment, and as president he will encourage all counties to adopt Casey's Law.

In response to another question from Senator Alvarado, Mr. Hatfield said state law requires county

attorneys to report their fee collection, and all should be transparent. The fees pay for office overhead and to supplement employees' pay. The fees are not used for county attorneys' salaries.

Kenton County Clerk Gabrielle Summe and President of the Kentucky County Clerks Association (KCCA) said that KCCA supports e-recording legislation, transportation infrastructure funding, election bills related to voter registration, minimizing postal costs, and absentee voting, legislation to help aid with recruitment and retention of precinct workers, and streamlining documents received from the Circuit Clerk, some of which relate to e-recording.

In response to a question from Representative Riggs, Ms. Summe said KCCA wants to have the conversation about early voting and report back.

In response to a question from Senator Schroder, Ms. Summe said that the road funding and fees relating to transportation the clerks process generally helps support the county clerks' offices.

In response to a question from Representative Miller, Ms. Summe said she would be glad to have the conversation about early voting in cases of emergency absentees.

In response to a question from Senator Bowen, Ms. Summe stated that someone can vote in person at the county clerk's office prior to Election Day.

In response to a question from Senator Seum, Mr. Summe replied that the county sets the training costs of poll workers, and pay during the Election Day is a different cost. Her office maintains a database of and sends letters of invitation to potential poll workers to draw upon.

In response to a question from Representative Lee, Ms. Summe said the cost is the same for the primary and general elections, which is a budgeted figure. Precinct lines need to be completed a certain number of days prior to the deadline for filing for candidacy for office.

In response to a question from Chairman Rothenburger, Ms. Summe said that the 700-voter guideline number was calculated using a 12-hour day with 3 minutes to vote. State law gives clerks some guidelines for poll books and poll workers, but the statutes could be improved. The new equipment can have positive effects on precinct size with some statutory adjustments.

In response to a question from Representative Riggs, Ms. Summe said there is a little flexibility in regards to poll worker party parity.

Larue County Judge/Executive Tommy Turner and Legislative Chair of the Kentucky County Judge/Executive Association (KCJEA), said that the counties' transportation infrastructure is crumbling. Many roads and bridges are in critical need of repair, reconstruction, or replacement. During this fiscal year, Larue County will supplement its road fund with approximately 25 percent of county road expenditures coming from general fund dollars. Construction materials, fuel, equipment, insurance and employee retirement cost have consumed available funds at a pace that does not allow counties to make needed repairs and improvements. Counties desire to work with the legislature to devise answers to this critical need. Not being able to afford a \$10,000 repair to a bridge can lead to further deterioration and cost

\$100,000 in several years. In five years, an entire quarter million dollar structure may need replacing.

The KCJEA feels it time to further implement criminal justice reforms in Kentucky. An issue often discussed is no money bail. There is great merit to the proposal, not only to counties and the Commonwealth, but also to the justice system. A stagnant approach to potential changes in the justice system is often maintained, but society is not stagnant.

Oldham County Jailer Mike Simpson, representing the Kentucky Jailer's Association (KJA), said that KJA supports legislation increasing the state per diem to offset costs and increase evidence based programming. KJA supports comprehensive bail reform.

In response to a question from Senator McDaniel, Mr. Simpson said he did not have the population numbers as it relates to inmates. There is a weekly report submitted with the count of inmates, but there may need to be better communication with regards to that report.

Henderson County Magistrate Bruce Todd and President of the Kentucky Magistrates and Commissioners Association (KMCA) said that the KMCA supports effective criminal justice reforms that reduce the financial burden on fiscal courts. It also supports Kentucky Infrastructure Coalition legislation for transportation funding. KMCA supports the reform of the local occupational license tax and local government tax reform in general.

Russell County Property Valuation Administrator (PVA) Tim Popplewell, and Mr. Mack Bushart, Executive Director of the Kentucky PVA Association, testified. Mr. Bushart said that the PVA Association supports legislation disallowing assessment based on the dark store tax theory. Mr. Popplewell said that the association supports legislation that contributes to fair and equitable taxation of watercraft documented with the federal government instead of being titled with state government which results in smaller tax collection revenue. There are also compliance issues involved with identifying registered craft.

Mason County Sheriff Patrick Boggs and President of the Kentucky Sheriff's Association (KSA) said that the KSA supports changes to the current sheriff's fee structure to align and make comparable with other states to assure adequate revenue, aligning state auditing methods with federal methods to take advantage of expedited auditing protocols that are available, and legislation that streamlines and expedites Kentucky Retirement Systems' pre-approval of rehires.

In response to a question from Representative Rothenburger, Sheriff Boggs stated that there has been no discussion on the details of the fee changes.

#### **2019 BR 12, An Act relating to local investments**

Representative Miller said that he has prefiled 2019 BR 12, which is the same as 2018 HB 75, sponsored by Representative Riggs. HB 75 passed both chambers but was vetoed by the Governor.

#### **Special Purpose Governmental Entity Compliance Reports**

Ms. Tammy Vernon, Cities and Special Districts Branch Manager with DLG, discussed Special Purpose Governmental Entities (SPGEs), DLG's role in monitoring them, and plans for transitioning to a

new automated registration system for SPGEs.

The SPGE compliance report includes data as of September 25, 2018. The compliance percentages will increase as the deadline approaches. There are approximately 9,622 individual records, five records for each SPGE, and compliance is by fiscal year.

Ms. Vernon presented the compliance figures listed in a PowerPoint presentation.

The SPGE program for the future includes active communication with the Commonwealth Office of Technology to implement the new automated system and have it working by the 2020-2021 fiscal year.

In response to a question from Representative Koenig, Ms. Lori Denhart, DLG Special District Team, said that the punishment for noncompliance is the withholding of funds and public notification of non-compliance.

In response to another question from Representative Koenig, Ms. Denhart said that stopping money is a big reason to comply, as is the publication of board member's names. In addition, there is no automated function to determine audit compliance, which is something the new system may help.

In response to a question from Senator Alvarado, Ms. Vernon stated that DLG does not have access to pull data relating to the total of taxes collected by SPGEs. Having more county judges/executive be interested in the data that DLG supplies would be beneficial for compliance because fiscal courts and cities do provide money to some SPGEs.

Senator Alvarado said the only accountability for SPGEs at present is through local government elected officials, but the officials do not have the authority to veto or approve tax increases.

Representative Riggs said that compliance does not guarantee good and efficient operation of special districts.

Representative Rothenburger said that training should be required for people that serve on the special district boards.

Mr. Michael Kurtsinger, Legislative Director for the Kentucky Fire Commission, stated that legislation passed during the 2018 Session increased the number of fire departments reporting to the Kentucky Fire Commission from 460 to 499. The Revenue increased from \$21 million to over \$30 million with the addition of those other fire departments. Only three percent were noncompliant in submitting SPGE reports. Letters were sent to all noncompliant fire departments and county judges.

In response to a question from Representative Rothenburger, Mr. Kurtsinger said that funding is withheld from noncompliant fire departments. He outlined steps the commission takes to achieve compliance.

There being no further business, the meeting was adjourned at 12:10 p.m.



# INTERIM JOINT COMMITTEE ON BANKING AND INSURANCE

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

November 27, 2018

### Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Banking and Insurance was held on Tuesday, November 27, 2018, at 10:00 AM, in Room 154 of the Capitol Annex. Senator Tom Buford, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Tom Buford, Co-Chair; Representative Bart Rowland, Co-Chair; Senators Julie Raque Adams, Jared Carpenter, Rick Girdler, Morgan McGarvey, Dennis Parrett, Dorsey Ridley, John Schickel, and Dan "Malano" Seum; Representatives Jim DuPlessis, Jim Gooch Jr., Dennis Keene, Stan Lee, Chad McCoy, Michael Meredith, and Steve Riggs.

Guests: Patrick O'Connor, Deputy Commissioner for Policy, Kentucky Department of Insurance; Charles Vice, Commissioner, Kentucky Department of Financial Institutions; and Steve Robertson, Frost Brown Todd, LLC.

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

### Minutes

A motion and second to approve the minutes of the October 23, 2018, meeting carried by voice vote.

### Department of Insurance Update

Patrick O'Connor, Deputy Commissioner of Policy, Kentucky Department of Insurance (DOI), provided an update on hospital data obtained during the review of the medical billing process under the Kentucky Personal Injury Protection (PIP) System. Aggregate data was obtained through three insurance companies reporting 98,962 total transactions, \$78,214,568 billed and \$54,846,225 allowed. Forty-eight percent of total transactions were paid at the billed amount. A substantial number of claims were not paid either due to exhaustion of PIP benefits or redirection of expenses at the individual's request. In order to compare the collected data to the Workers' Compensation Fee Schedule (WCFS) it was refined by eliminating hospitals not included in the WCFS cost-to-charge ratio, or had a zero percent WCFS ratio, and eliminating claims not paid. The WCFS uses a cost-to-charge ratio to reimburse hospitals. Hospitals included in the cost-to-charge ratio submit claim forms and receive a pre-determined percentage of billed charges ranging from ten to 60 percent with an average of 35.66 percent. After refining the data, 78,411 claims remained representing a billed charges total of \$60,114,298 and which were paid out at a total of \$53,856,081. Once the WCFS was applied and repriced the total that would have been paid for these services under the fee schedule decreased to \$19,973,808. The WCFS amount represented about 33 percent of PIP billed amount and 37 percent of the amount actually paid under PIP. Mr. O'Connor outlined the most commonly billed hospital procedures.

Deputy Commissioner O'Connor said hospital re-pricing occurs but much less frequently than non-hospital bills. Most hospital bills are paid using billed charges or, if PIP benefits have been redirected

or exhausted, by the patient. The WCFS cost-to-charge ratio significantly reduces amounts paid to hospitals. DOI reprocessing indicates the average amounts coincide with the overall cost-to-charge ratio average. The WCFS does however result in higher reimbursements than other fee schedules like Medicaid.

In response to Representative Gooch's question Mr. O'Connor said the next step would be analysis of cost versus reimbursement. The WCFS is developed based on profitability. Data indicates the adoption of the WCFS for PIP claims would result in a substantial reduction in reimbursement rates.

Responding to Senator Girdler, Mr. O'Connor said date of service was either not requested or was not available. Insurers reported bill dates, loss dates, and date received or paid. Claims with Current Procedural Terminology (CPT) emergency codes were presumed to be an approximate accident date. Senator Girdler said the PIP program subsidizes other programs like Medicaid and Medicare which underpay providers and providers who contract for lower amounts.

Deputy Commissioner O'Connor gave an update on DOI. Consumer Protection Division analysts are available to the public to review health insurance denials. He noted that open enrollment closes December 15. There have been 18,295 new plan enrollments on the health care exchange. The National Association of Insurance Commissioners' Life Insurance Locator Tool has successfully located approximately \$4.4 million in life insurance proceeds and annuity contracts for 421 Kentuckians since November 2016. The DOI is working on a regulation to House Bill 69 regarding medical necessity criteria. The agency is collaborating with the Department for Medicaid Services as required by statute. He said DOI's legislative priorities include an association health plan cleanup bill that will clarify statute language to permit these new associations under revised federal regulations in Kentucky. There is a regulatory sandbox proposal in discussion, and a NAIC accreditation bill that addresses the annual disclosure form and some supervision of a very simple revision to the insurance holding company system regulatory act that deals with internationally active insurance groups.

In response to Representative Lee, Deputy Commissioner O'Connor said the DOI does not regulate Employee Retirement Income Security Act (ERISA) plans therefore, the consumer protection division only investigates non-ERISA plan complaints. Analysts will investigate after the consumer has exhaust internal appeals with their insurance company.

### Check Cashing Licenses

Steve Robertson, Frost Brown Todd, LLC, representing PLS Financial Services provided an overview of the company and the products the company offers including check cashing, free money orders, prepaid debit cards, bill payment, and money transmission.

Mr. Robertson explained that PLS worked with the Department of Financial Institutions to create a new limited license for check cashing transactions that did not meet the definition of a deferred deposit transaction. PLS asks that the legislature delineate between a pure check cashing license and a deferred

deposit transaction license in statute. The state's moratorium on new issuances of deferred deposit transaction licenses was implemented and check cashing fell under that umbrella.

In response to Chairman Buford's question, Mr. Robertson said that while they are currently able to offer this service in Kentucky the concern is regulation interpretation may change and prohibit the service from being offered under the current moratorium.

### Department of Financial Institutions 2019 Legislative Proposals

Charles Vice, Commissioner, Department of Financial Institutions, discussed 2019 proposed legislation. The Consumer Loan Act is a modernization bill that will align KDFI supervisory authority with all industries the agency regulates. Currently, the primary regulatory authority of the department is license revocation which is considered a worst case scenario with a negative economic impact. KDFI held extensive discussions with industry leaders to reach a consensus on legislative language. The bill will give KDFI the authority to address unlicensed activity, give hearing rights to a company, make reports of examination confidential, allow for change in leadership control including access to funding, and additional flexibility for a licensee. The bill allows for more flexibility in recordkeeping requirements. It gives KDFI regulatory tools including bonding requirements, order issuance, and issue of restitution, fines, and penalties. The bill will prohibit unfair and deceptive acts and practices and will allow the use of the Nationwide Multistate Licensing System and Registry (NMLS) for licensing. The NMLS is a system owned and operated by the states. All mortgage and money transmitter licenses are processed through the NMLS. The bill would provide consistency in the licensing and registration processes for all nondepository industries. A separate bill will be submitted to address deferred deposit. Industry benefits include a one-stop concept for registration, online applications and collection of an electronic security bond as well as online payment processing and increased efficiency and accuracy. KDFI will benefit through efficiency and accuracy which in turn will increase volume of applications and renewals.

In response to Chairman Buford, Commissioner Vice said KDFI has not revoked any consumer loan company licenses this year. The agency has been working with two agencies. Commissioner Vice said he has not received opposition to the proposed legislation. He said there are fine recommendation levels that are consistent with other industries they regulate within the bill.

In response to Senator Seum, Commissioner Vice said every company that offers mortgage loans in Kentucky should be licensed through KDFI. If not, action is taken to stop them.

Responding to Chairman Buford, Commissioner Vice said PLS has followed the process correctly. There have been no complaints and appear to be very good operators within the state.

There being no further business, the meeting adjourned at 10:55 AM.



# INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

## Minutes of the 5th Meeting of the 2018 Interim

November 28, 2018

### Call to Order and Roll Call

The fifth meeting of the Interim Joint Committee on State Government was held on Wednesday, November 28, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Joe Bowen, Co-Chair; Representatives DJ Johnson, Co-Chair, and Jerry T. Miller, Co-Chair; Senators Ralph Alvarado, Christian McDaniel, Morgan McGarvey, Albert Robinson, and Wil Schroder; Representatives Kevin Bratcher, Tom Burch, McKenzie Cantrell, John Carney, Joseph Fischer, Derrick Graham, Mark Hart, Richard Heath, Dennis Horlander, Mary Lou Marzian, Phil Moffett, C. Wesley Morgan, Jason Petrie, Rick Rand, Jody Richards, Bart Rowland, Ken Upchurch, and Jim Wayne.

**Guests:** Kathryn Gabhart, Executive Branch Ethics Commission; Allison Ball and Noah Friend, State Treasury; Mike Harmon and Sara Beth Gregory, office of Auditor of Public Accounts; and Gerald Hoppmann and Melinda Hill, Finance and Administration Cabinet.

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

### Approval of Minutes

A motion to approve the minutes of the October 24 meeting was seconded and passed without objection, by voice vote.

### Executive Branch Ethics Commission – Discussion of 19 RS BR 420 (J. Miller), An Act Relating to Executive Branch Ethics

Representative Miller said he prefiled BR 420 to promote consistency in applying the executive branch Code of Ethics. The bill is similar to legislation that passed the House during the 2018 regular session but failed in the Senate because it included provisions relating to the KFC Yum Center. Those provisions have been removed from BR 420.

Kathryn Gabhart, Executive Director, Executive Branch Ethics Commission, discussed BR 420 and provided a handout summarizing the legislation. BR 420 amends KRS 11A.010 to expand and update the definitions of “officer” and “public servant” in the Code of Ethics. Members of the State Board of Elections, Parole Board, Workers’ Compensation Board, Kentucky Occupational Safety and Health Review Commission, and the Kentucky Claims Commission are coded in the personnel system as “salaried” and “full-time.” They receive a salary and health, retirement, and life insurance benefits and, with the exception of the State Board of Elections, are included in the current definition of “officer.” Board of Elections members receive benefits and a starting salary of \$12,600 per year but are not currently covered by the Code of Ethics. The new language would add the Board of Elections, and any salaried boards or commission created in the future, to the

definition of “officer” and “public servant.” The new language defines “salaried” and also adds full-time, nonseasonal contract employees to the definition of “officer” and “public servant.”

When asked by Representative Miller, Ms. Gabhart said that the five salaried boards/commissions are not paid on a per-meeting basis. The beginning annual salary is \$12,000 for the Kentucky Occupational Safety and Health Review Commission and is \$18,900 for the Kentucky Claims Commission.

Representative Miller said he hoped that a representative of the Secretary of State would participate in the discussion of BR 420. When he spoke to Secretary Grimes earlier in the day, she indicated she might be able to send someone to testify. Senator Bowen said he is disappointed that the state’s chief election officer or a representative of the Board of Elections did not attend the meeting. There was no further discussion, and Representative Miller thanked Ms. Gabhart for her testimony.

### Kentucky State Treasury – Legislative Agenda for the 2019 Session

Allison Ball, State Treasurer, was guest speaker. Noah Friend, General Counsel for the State Treasury, accompanied her. Ms. Ball said her first priority is protecting taxpayer dollars. During her tenure the Treasury has returned almost \$70 million in unclaimed property. The STABLE Kentucky program is continuing to grow and has been improved to conform with opportunities available at the federal level. There has been an increase in the amount of allowed contributions to STABLE.

Ms. Ball discussed her legislative agenda for 2019. She said financial literacy is a major cause for her. She is grateful for passage of HB 132, enacted during the 2018 regular session. HB 132 set as a requirement for public high school graduation completion of one or more courses or programs that meet financial literacy standards, beginning with the entering ninth grade class of the 2020-2021 school year. The first item on her “wish list” for the 2019 legislative session is passage of a bill to create a financial empowerment corporation in which Kentucky would partner with the private sector to provide more resources for financial literacy. The financial empowerment corporation would be designated as 501(c)(3) nonprofit and would be privately funded. Ms. Ball said she has agreements from the private sector for two-year funding. She has also created a Financial Empowerment Coalition that focuses on financial literacy empowerment and education.

Ms. Ball said the statutes relating to unclaimed property need to be updated. There have been changes since Kentucky enacted its version of the Revised Uniform Unclaimed Property Act via HB 394 (2018 regular session). The Treasury has been in discussion with other states regarding the best way to deal with unclaimed cryptocurrency. The Treasury’s proposal would be to liquidate it upon receipt, similar to the method for handling unclaimed stocks. This would probably be the safest way and easiest way to deal with digital property, an issue that needs to be addressed in the near future. The Treasury would also like to clarify the long accepted interpretation that mineral proceeds—oil, gas or coal—are not unclaimed property by having it codified in statute.

Claims for unclaimed property are currently paid from the abandoned property fund, which is a part of the general fund. The Treasury proposes creation of a separate and distinct nonseverable trust for unclaimed property. In the future all claims for unclaimed property could be paid from the trust. Under current accounting practices there is an unacceptable risk that the payment of claims could adversely affect the budget and the general fund. This risk could be eliminated by a trust to manage and pay claims. The trust would also help secure and protect people’s property. The Treasury has consulted with State Budget Director William Chilton and others regarding how to establish the trust.

Several states are allowing tax deductions for STABLE accounts as an investment incentive for people with disabilities and their family members. The Treasury plans to propose a \$5,000 individual deduction and a \$10,000 family deduction.

The Treasury is going to propose two simple “cleanup” bills. SB 126, enacted during the 2018 regular session, relating to the Commonwealth Council on Developmental Disabilities, cited an old federal law; a correction is needed to cite the modern version of the 2000 law. Legislation will also be proposed to codify continuance of the STABLE Kentucky program, which was launched by Treasurer Ball in December 2016.

Representative Miller complimented Ms. Ball for her work relating to financial literacy. He also commented that persons in the education field have spoken to him about the need for caution when proposing additional requirements on schools. There was no further discussion, and he thanked Ms. Ball for her testimony.

### Office of Auditor of Public Accounts – Legislative Agenda for the 2019 Session

Guest speakers were Mike Harmon, Auditor of Public Accounts, and Sara Beth Gregory, chief of staff in the Auditor’s office. They discussed activities of the agency and legislative proposals for 2019.

Mr. Harmon said that SB 144, enacted during the 2018 regular session, allows county clerks and sheriffs to satisfy statutory audit requirements and save money on their audit costs by entering into an agreed-upon procedures engagement (AUP) performed by the Auditor rather than a full financial statement audit. This lower cost option is only available to officials who did not have any reported findings in a prior audit. If there are risk factors, the Auditor’s office has discretion to perform a standard audit. The office is in the process of implementing SB 144 and has begun receiving applications for AUP audits from clerks and sheriffs. It is estimated that AUPs will cost 25-50 percent less than standard audits; they will also allow audit staff to operate more efficiently by having to spend less time on low-risk audits. In 2015, there were no negative findings for about half of county sheriffs’ and two-thirds of county clerks’ offices, which means they would likely qualify for an AUP.

During the 2017 regular session, HB 189 was enacted. It was known as the area development district (ADD) transparency bill. The Auditor’s Office worked on the legislation with Representatives Jim DeCesare and Susan Westrom, the Kentucky Chamber of Commerce, and the ADDs. HB 189 gives

the Auditor's Office the right of first refusal to perform the annual audits of area development districts. If a private firm performs the audit, the Auditor's Office has the right to review the working papers and the audit prior to release. For the first time, the Auditor's Office is reviewing ADD audits, starting with FY 2018. The review process has been smooth thus far, and the office will continue to work with the ADDs to ensure that the process is efficient for everyone. The Auditor is authorized to audit ADDs if there is a need to address concerns or more closely examine specific issues.

Mr. Harmon said his office's potential legislative agenda for 2019 is not yet finalized, but recruitment and retention of audit staff is a major issue. All audit staff are required by statute to have at least a bachelor's degree, and most are required to have completed at least 20 hours of accounting. It is a challenge to hire individuals with those qualifications who are willing to work for a starting salary of approximately \$33,500. In addition, the office is not allowed to interview college students for entry-level positions until they are within 30 days of receiving their degree. Private sector employers are not bound by this restraint. Internship programs are one of the best recruiting tools, but current law is an obstacle to hiring interns to assist with audit work. Mr. Harmon said he would like to propose legislation—which he would term the “auditor recruitment bill”—to amend KRS 43.030 to make the bachelor's degree requirement apply only to auditors who have merit employee status under KRS Chapter 18A. The statutory degree requirement would apply when a new auditor completes the six month initial probation. This would enable more competitive and improved recruiting of interns who can assist with audit work.

Mr. Harmon discussed the findings of the Auditor's special examination of the Administrative Office of the Courts (AOC), released in July 2018, and the special examination of the Kentucky Communications Network Authority and KentuckyWired, the statewide broadband project announced in 2014. For the first time in AOC's history, it was the subject of a comprehensive external audit or examination. One of the audit recommendations is that the General Assembly require an annual independent audit of AOC. The report on Kentucky Wired was released in September 2018. It revealed that the taxpayers of Kentucky are liable for almost \$1.5 billion over 30 years for a project that initially was supposed to be a \$30 million investment. One way to help avoid a similar situation in the future would be to reinstate a requirement that the General Assembly approve P3 (public/private partnership) projects with a cost higher than \$25 million. P3 legislation that was passed during the 2018 regular session postponed until 2020 the effective date of the P3 approval requirement. Another consideration would be to provide additional limitations and oversight requirements before bonds can be issued by KEDFA (Kentucky Economic Development Finance Authority). There are currently no limitations on the amount of debt that KEDFA can issue. The authority of the LRC Capital Projects and Bond Oversight Committee is limited and is subject to overrule by the Finance and Administration Cabinet secretary.

Mr. Harmon said that the Auditor's office stands ready to be a resource for legislators and would be happy to meet with anyone interested in filing legislation relating to the special examination reports. His office has an open door policy to address questions or concerns. Tips about waste, fraud, or abuse can also be reported via the SAFE-house link on the auditor.ky.gov website.

Representative Wayne commended Mr. Harmon and Ms. Gregory for their openness and for doing a good job. He said Mr. Harmon has a solid record of professionalism and that he should consider being more aggressive when promoting his legislative agenda. Senator Bowen also commended the speakers for doing excellent work.

Responding to questions from Senator Bowen, Mr. Harmon said costs for the majority of audits are paid by the entity being audited and that almost two-thirds of his agency's revenue comes from the audits they perform. Ms. Gregory said the hourly rate for audits is set each year, based on budget considerations and workload. For 2019, the hourly rate is \$84 for state agency work and \$65 for county audits. The rate disparity between state and county audits has been carried over from prior administrations.

Senator Bowen asked about audit charges when an entity with a good operating record becomes, not by choice, the subject of an audit that results in no negative. Ms. Gregory said that the bill for an audit generally reflects whether it was a clean audit or one with issues. There are not many situations when a bill is unreasonably large if the entity did not have problems. There is no charge when the office does an assessment of allegations that is not followed up with an audit.

Mr. Harmon said he believes the audit work of his staff is comparably as good as that of private firms, and it is done at lower cost. The bill for his office's audit relating to the University of Louisville was approximately \$185,000. By comparison, subsequent private auditing has so far cost over \$2 million.

There was no further discussion, and Representative Miller thanked the speakers for their testimony.

#### **Prefiled Legislation**

Representative Miller discussed 19 RS BR 202, An Act relating to reemployment of elected officials, which he prefiled on October 15. The bill would amend KRS 61.637 to provide that if an elected official participating in one of the systems administered by Kentucky Retirement Systems retires and is elected to the same office within 12 months of retiring, his or her retirement shall be voided. (Senator Bowen presided during Representative Miller's testimony.)

Representative Miller said this issue came to his attention when certain elected county officials retired after they learned they would not be opposed for reelection. They then returned to the same position after being reelected. In his opinion this action would violate the prohibition on retirees having a prearranged agreement for reemployment.

Senator Bowen said the incidents cited by Representative Miller had prompted public outcry in his district and other parts of the state. He applauded him for addressing the issue.

Senator McDaniel also commended

Representative Miller and said he looks forward to working with him to promote BR 202. He also wishes that it could apply retroactively.

Representative Wayne said he thinks that the filing of BR 202 is an excellent idea. When he asked whether the bill had been discussed during the 2018 regular session, Representative Miller said that, to his knowledge, the new language in BR 202 was not included in any previously filed legislation.

#### **TipLine.KY.gov**

Guest speakers from the Finance and Administration Cabinet (hereinafter referred to as Finance Cabinet) were Gerald Hoppmann, Executive Director, Office of Policy and Audit, and Melinda Hill, Chief of Staff. They provided laminated TipLine wallet cards for distribution to the committee and staff. The testimony included a PowerPoint presentation.

Ms. Hill said that Mr. Hoppmann spearheads the TipLine project. Calls and e-mails are continuing to be made through the tip line web portal, and the Finance Cabinet works with agencies across the state to resolve the issues that are reported.

Mr. Hoppmann said the project was launched in May 2017. To date, 378 reports have been filed. Reports come into the system primarily through the Internet and telephone. The system has received 300 calls so far, for a total of 4,115 minutes. The majority of these relate to human resources and financial matters. Seventy percent of the reports have been resolved; eight percent have been dismissed because there was insufficient evidence to substantiate the report.

Reports come in only to the Finance Cabinet or the Personnel Cabinet, via toll-free hotline, Internet or fax. The vendor is Red Flag Reporting, an ethics hotline service provider based in Akron, Ohio. The Finance Cabinet has 25 system users, and the Personnel Cabinet has two users. There are 25 other cabinet users who deal with personnel or human resources related issues; 22 other cabinet users handle nonpersonnel-related issues. Calls to the Finance Cabinet come in to the executive director of 11 internal offices. The cabinet may investigate the reports or refer them to other agencies. The caller making the report can choose to remain anonymous. The Personnel Cabinet's assistance on the tip line project has been instrumental and is appreciated.

The initial press release announcing creation of the tip line was followed by e-mail notifications from the Personnel Cabinet and a news editorial by the Finance Cabinet secretary. The Tipline logo appears on the Finance Cabinet, Personnel Cabinet, and Kentucky.gov websites. It is also advertised on social media and through wallet cards and distribution of posters to county and local government offices. The Finance Cabinet will continue working with other cabinets to promote the tip line and will be conducting additional training sessions for users of the system. A planning and customization team meets periodically to consider problems that may necessitate changes to the system's architecture. So far the system has worked successfully.

When Representative Miller asked about the timeline for continuance of pending cases, Mr. Hoppmann said that pending cases are routinely followed up after approximately two weeks in the system. The Finance Cabinet is in regular contact



with other cabinets that have been referred cases and works constantly to ensure resolution of reports. The goal is to resolve at least 75-80 percent of cases but to increase that percentage in the future. When reports initially do not provide sufficient information, a request for additional information is sent; if it is not received, the case is closed but can be reopened if the information is provided later. There were no further questions, and Representative Miller thanked Mr. Hoppmann and Ms. Hill for participating in the meeting.

#### **Departing Committee Members**

Representative Graham voiced appreciation for Representative Richards and Representative Wayne, who are retiring from the General Assembly. He said they have mentored him, and he complimented them for their achievements for their communities and the Commonwealth. Representative Miller also thanked them for their service and their dedication.

Representative Miller thanked his co-chair, Senator Bowen, who is retiring from the General Assembly, and the committee recognized him with a round of applause. Representative Miller expressed appreciation for the service of all the members of the committee who will not be returning in January.

Senator Bowen said he appreciates the opportunity to serve in the legislature and that it has been an honor and a pleasure to serve as chair of the State Government Committee. He expressed appreciation to committee staff and recognized Senator Schroder, who will succeed him as chair.

Business concluded, and the meeting was adjourned at 2:10 p.m.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

### **Minutes of the 7th Meeting of the 2018 Interim**

November 16, 2018

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

The 7th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Friday, November 16, 2018, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Myron Dossett, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Myron Dossett, Co-Chair; Senator Dennis Parrett; Representatives Phillip Pratt, Rick Rand, and Brandon Reed.

Guests: Linda Hampton, Executive Director, Governor's Office of Early Childhood (GOEC); Melissa Banks, Interim Assistant Director, Division of Childcare, Department for Community Based Services, Cabinet for Health and Family Services (CHFS); Paula Goff, Department for Public Health, CHFS; and Erin Mitchell, Communications Director, GOEC.

LRC Staff: Nathan Smith, Kelly Ludwig, Tanya Monsanto, and Rachel Hartley.

#### **Early Childhood Development**

Linda Hampton stated GOEC received \$24,516,100 in tobacco settlement funds for Fiscal

Year 2018. The majority of the funds are used for the Child Care Program and Health Access Nurturing Development Services (HANDS).

GOEC partnered with First Lady Glenna Bevin, the Kentucky Department of Agriculture, the Kentucky Association of Food Banks, and Lakeshore Learning to develop the book *Kids of Kentucky, What Do You Want to Be?* to support Kentucky Proud products, the No Kid Hungry campaign, and to promote quality efforts that advance the most critical years of a child's life.

GOEC also partnered with First Lady Glenna Bevin and Lakeshore Learning to develop the book *Kids of Kentucky, Who Is In Your Family?* to raise awareness regarding foster care, adoption, and the diversity of families in Kentucky.

The Early Childhood Institute was held in June of 2017 and the theme was "Leading the Way for Kids of Kentucky." There were 146 professional development sessions with over 25,000 hours of child care training.

Community Early Childhood Councils mobilize local community members to build innovative, collaborative partnerships to help Kentucky improve kindergarten readiness. A total of \$1,238,573.64 was awarded to 72 councils during the 2018-2019 grant cycle.

Kentucky All Stars is Kentucky's expanded five-star quality rating and improvement system serving all early care and education programs that receive public funding.

Melissa Banks stated the Division of Child Care has a budget allotment of \$8,718,144.42, and the majority of the funds go directly to providers through quality incentives with Kentucky All Stars. Stars For Kids Now was replaced with Kentucky All Stars in April of 2018.

Paula Goff stated Early Childhood Mental Health (ECMH) receives \$1,000,000 annually from the tobacco settlement funds. The services include consultations, trainings, evaluations, and therapeutic services for children from birth to five years old. ECMH served over 4,000 children and provided training to over 1,000 education staff in Head Start, childcare, and state-funded preschool.

Health Access Nurturing Development Services (HANDS) is a statewide home visitation program. In Fiscal Year 2018 HANDS served over 5,000 families. The program is designed to assist overburdened parents during the prenatal period until the child's third birthday.

Connect the Dots is a joint collaboration between multiple early education and mental health specialists in Kentucky. It highlights four easy to remember steps to address challenging behaviors, and trainings are available to anyone who works with children ages two to five years old.

The Healing Empowering Actively Recovering Together (HEART) program serves pregnant and parenting women with opioid use disorder and babies with neonatal abstinence syndrome. The program is a weekly support group experience.

In response to a question from Representative Dossett, Ms. Goff stated HANDS is a voluntary program, but there are referrals from doctors and health departments. The HEART program began in September 2018.

Documents distributed during the meeting are available in the LRC Library and at [www.lrc.ky.gov](http://www.lrc.ky.gov)

There being no further business, the meeting was adjourned.

## **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**

### **Minutes of the November Meeting**

November 13, 2018

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

The November meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, November 13, 2018, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative David Hale, Co-Chair; Senators Julie Raque Adams, Perry B. Clark, and Alice Forgy Kerr; Representatives Mary Lou Marzian, Jason Petrie, and Tommy Turner.

Guests: Lindsay Hughes Thurston, Secretary of State; Chris Hunt, Farrah Petter, Auditor of Public Accounts; Sharron Burton, Personnel Cabinet; Todd Renner, Lisa Swiger, Department of Revenue; Leanne Diakov, Board of Medical Licensure; Chris Garland, Evan Jones, Department of Fish and Wildlife Resources; Clint Quarles, Department of Agriculture; Amy Barker, Ashley Short, Department of Corrections; Todd Allen, David Cook, Department of Education; Beverly Dearborn, Anthony Hudgins, Division of Unemployment Insurance; Steve Humphress, Lee Walters, Department of Alcoholic Beverage Control; Tim House, Steven Milby, David Startzman, Department of Housing, Buildings and Construction; Cannon Armstrong, Doug Hardin, Department of Charitable Gaming; Lee Guice, Donna Little, Jonathan Scott, Brandon Smith, Department for Medicaid Services; Stephanie Brammer-Barnes, Molly Lewis, Office Inspector General; Suzette Kimbell, Office of Secretary; Julie Brooks, Eric Perry, Department for Public Health; Mary Carpenter, Elizabeth Caywood, Jessica Peay, Brian Hubbard, Maribeth Schneber-Rhemrev, Todd Trapp, Department for Community Based Services; Ervin Klein, Nancy Galvagni, Sheila Schuster, and Ben Carter.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

The Administrative Regulation Review Subcommittee met on Tuesday, November 13, 2018, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 4:100 & E. Evaluation of precinct election officers. Lindsay Thurston, senior advisor, represented the Secretary of State.

Senator Kerr congratulated Ms. Thurston on her recent election as a Fayette County judge.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 4 to comply with the drafting requirements of KRS



Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

AUDITOR OF PUBLIC ACCOUNTS: Audits

45 KAR 1:050. Audits of fiscal courts. Chris Hunt, general counsel, and Farrah Petter, audit manager, represented the auditor.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 5, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL CABINET: Office of the Secretary: Personnel Cabinet, Classified

101 KAR 2:210 & E. Plan Year Handbook for the Public Employee Health Insurance Program. Sharron Burton, general counsel, represented the cabinet.

In response to a question by Co-Chair Harris, Ms. Burton stated that this administrative regulation was a formality to codify requirements already disseminated.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Income Tax; General Administration

103 KAR 15:050. Filing dates and extensions. Todd Renner, executive director, Office of Tax Policy and Regulation, and Lisa Swiger, tax policy research consultant, 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, 2, 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.

103 KAR 15:060. Estimated tax, amended declarations; short years.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 15:180. Kentucky new markets development pro-gram tax credit.

In response to questions by Co-Chair Harris, Mr. Renner stated that the new market development program tax credit was part of a federal program to develop underdeveloped areas. Kentucky's program essentially piggybacked onto the federal pro-gram. Because funding was allocated in blocks, this administrative regulation had to be updated to reflect the new time period of the next funding block.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 15:195. Endow Kentucky Tax Credit. Income Tax; Corporations

103 KAR 16:381. Repeal of 103 KAR 016:380. Income Tax, Individual

103 KAR 17:010. Residence.

In response to a question by Co-Chair Harris, Mr. Renner stated that this administrative regulation and

103 KAR 17:020 were amended to update definitions for clarity commensurate with House Bill 487 from the 2018 Regular Session of the General Assembly.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 7 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 17:020. Combined individual returns.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 17:060. Income subject to taxation; portions.

A motion was made and seconded to approve the following amendment: to amend the RELATES TO paragraph and Sections 2 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Income Tax; Withholding

103 KAR 18:050 & E. Withholding statements.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 18:081. Repeal of 103 KAR 018:080 and 103 KAR 018:160.

103 KAR 18:110. Voluntary withholding.

103 KAR 18:120. Security for compliance; bonds.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 18:150. Employer's withholding reporting requirements.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Medical Licensure

201 KAR 9:260. Professional standards for prescribing and dispensing controlled substances. Leanne Diakov, general counsel, represented the board.

In response to a question by Senator Clark, Ms. Diakov stated that the National Transportation Safety Board recommended that each state's administrative regulations pertaining to persons who prescribe or dispense controlled substances should establish that

the physician, prescriber, or dispenser shall have the duty to inform the patient of the effect on the patient's medical condition and ability to operate any mode of transportation.

In response to a question by Co-Chair Harris, Ms. Diakov stated that other agencies, such as the Board of Nursing and the Board of Podiatry, had made or were making similar changes in their administrative regulations.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Hunting and Fishing

301 KAR 3:100. Special commission permits. Chris Garland, assistant director, Division of Wildlife, and Evan Jones, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

DEPARTMENT OF AGRICULTURE: Industrial Hemp

302 KAR 50:080. Materials incorporated by reference. Clint Quarles, staff attorney, represented the department.

In response to questions by Senator Clark, Mr. Quarles stated that, in addition to hemp oils, other products being researched included liners and interior automobile parts, packaging materials, an additive to plastics (or in lieu thereof), insulation replacement, and an additive to concrete to increase psi. Additionally, hemp roots were sometimes used in items such as salves.

A motion was made and seconded to approve the following amendment: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:020 & E. Corrections policies and procedures. Amy Barker, assistant general counsel, and Ashley Short, corrections program administrator, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to clarify various provisions, update edition dates, and comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:999. Corrections secured policies and procedures.

This administrative regulation was reviewed and amended, without objection and with agreement of the agency, by the sub-committee in closed session pursuant to KRS 61.810(1)(k), 61.815(2), and 197.025(6).

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Chief State School Officer

701 KAR 5:140. District of innovation. Todd Allen, deputy general counsel, and David Cook,

director, Division of Innovation and Partner Engagement, represented the department.

In response to questions by Representative Petrie, Mr. Cook stated that Kentucky currently had six (6) districts of innovation. At the high point of the program, there were ten (10). Amendments to this administrative regulation were for the purpose of allowing individual schools to become schools of innovation in order to promote the program.

In response to a question by Co-Chair Harris, Mr. Cook stated that schools and districts of innovation had broader flexibility for creative instruction.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Workforce Investment: Office of Employment and Training: Unemployment Insurance  
787 KAR 1:010 & E. Application for employer account; re-ports. Beverly Dearborn, workforce development manager, and Anthony Hudgins, assistant director, represented the office.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Conduct of Business; Employees

804 KAR 5:021. Repeal of 804 KAR 005:020. Steve Humphress, general counsel, and Lee Walters, counsel, represented the department.

Transportation of Alcoholic Beverages

804 KAR 8:050. Identification of vehicles used to transport alcoholic beverages.

Department of Housing, Buildings, and Construction: General Section

815 KAR 2:010. Continuing education. Tim House, deputy commissioner; Steven Milby, commissioner; and David Starts-man, general counsel, represented the department. Ervin Klein, legislative agent, Independent Electrical Contractors of Kentucky and Southern Indiana, appeared in opposition to 815 KAR 35:060 and 35:090.

In response to a question by Co-Chair Harris, Mr. House stated that the department was revising continuing education requirements for consistency among the nine (9) licensure pro-grams. For the plumbing industry, the department believed that six (6) annual continuing education hours were as effective as eight (8).

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

815 KAR 2:020. Continuing education course and provider approval.

A motion was made and seconded to approve the

following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

815 KAR 2:030. Vehicle identification.

815 KAR 2:040. Fees and refunds.

Building Code Enforcement: Elevator Safety

815 KAR 4:030. Elevator licensing.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 3, 5, and 7 through 9 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend the licensure application forms to change: (a) the criminal conviction statement for clarity; and (b) the KHEAA statement. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 4:071. Repeal of 815 KAR 004:040, 815 KAR 004:050, 815 KAR 004:060, and 815 KAR 004:070.

Kentucky Building Code

815 KAR 7:070. The Kentucky Certified Building Inspector Program.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 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.

Division of Heating, Ventilation, and Air Conditioning: Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 8:010. Licensing requirements for master contractors and journeyman HVAC mechanics.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 4, 7, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend the licensure application forms to change: (a) the criminal conviction statement for clarity; and (b) the KHEAA statement. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 8:030. Apprentice HVAC mechanic registration and certification requirements.

In response to questions by Co-Chair Harris, Mr. House stated that the original requirement established that anyone practicing HVAC work shall register with the cabinet as an apprentice; however, the department did not have statutory authority for an official HVAC apprenticeship program. The department amended this administrative regulation to make the registration voluntary but would prefer not to regulate an apprenticeship program at all due to recordkeeping and processing requirements.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO 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.

815 KAR 8:091. Repeal of 815 KAR 8:020, 815 KAR 8:035, 815 KAR 8:050, 815 KAR 8:060, 815 KAR 8:090, and 815 KAR 8:095.

Division of Plumbing: Boilers and Pressure

Vessels

815 KAR 15:080. Boiler and pressure vessel licenses.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph, Sections 1 through 3, and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Plumbing

815 KAR 20:030. Plumbing licenses.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph, Sections 2 through 4, and material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:041. Repeal of 815 KAR 20:012, 815 KAR 20:015, 815 KAR 20:018, 815 KAR 20:032, 815 KAR 20:034, and 815 KAR 20:040.

Division of Fire Prevention: Fire Protection, Sprinkler Contractors, and Inspectors

815 KAR 22:011. Repeal of 815 KAR 022:010.

Building Code Enforcement: Manufactured Homes and Recreational Vehicles

815 KAR 25:001. Definitions for 815 KAR Chapter 025.

In response to questions by Co-Chair Harris, Mr. House stated that a B1 seal indicated that an inspection had been conducted on a used manufactured home, the results of which were that the home was habitable. A B2 seal indicated that an inspection had been conducted on a used manufactured home, the results of which were that the home was uninhabitable and for salvage. A new manufactured home would have a HUD seal. A used manufactured home with a B2 seal may have improvements and be reevaluated for a B1 seal.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 25:020. Recreational vehicles.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; Sections 2, 3, and 7 through 9; and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 25:040. Fire safety requirements in manufactured and mobile homes.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 25:050. Administration and enforcement



of manufactured housing construction standards.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; Sections 1 through 9, 11, and 13; and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 25:060. Licensing and certifications with manufactured homes and mobile homes.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; Sections 1, 3, and 6; and material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 25:081. Repeal of 815 KAR 025:070 and 815 KAR 025:080.

815 KAR 25:090. Site preparation, installation, and inspection requirements.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY and Sections 2 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 25:100. Alternative dispute resolution and mediation program.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Electrical Division

815 KAR 35:015. Certification of electrical inspectors.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 35:020. Electrical inspections.

815 KAR 35:060. Licensing of electrical contractors, master electricians, and electricians.

A motion was made and seconded to approve the following amendments: to amend material incorporated by reference to clarify checkbox statements regarding convictions and student loan default. Without objection, and with agreement of the agency, the amendments were approved.

Mr. Klein stated that Senate Bill 78 from the 2018 Regular Session of the General Assembly authorized a path to electrical licensing if an individual completed two (2) years of verifiable experience in the electrical trade and a minimum of two (2) years in an electrical training course. The licensee shall then complete the remaining electrical training required

within four (4) years of licensure. The Independent Electrical Contractors of Kentucky and Southern Indiana requested that language be added to this administrative regulation to clarify that the two (2) years of verifiable experience and the two (2) years in an electrical training course run consecutively, not concurrently. This was the intent expressed with the sponsor during the development of Senate Bill 78. The Independent Electrical Contractors of Kentucky and Southern Indiana also requested that language be added to this administrative regulation to require those obtaining licensure pursuant to this new pathway to submit information regarding progress toward completion of the remaining electrical training with each application renewal.

In response to a question by Co-Chair Harris, Mr. House stated that it would not be beneficial to defer consideration of this administrative regulation and 815 KAR 35:090 to the December 2018 subcommittee meeting. These were not apprenticeship pro-grams.

815 KAR 35:080. Electrical code of ethics.

815 KAR 35:090. Electrical Training Program standards.

Mr. Klein stated that the Independent Electrical Contractors of Kentucky and Southern Indiana requested that course requirements be revised commensurate with the U.S. Department of Labor's apprenticeship program requirements. This would lead to problems for licensees.

Mr. House stated that the department did not have statutory authority for apprenticeship programs. The program established in 815 KAR 35:090 was an educational program, not an apprenticeship program.

815 KAR 35:101. Repeal of 815 KAR 035:100.

Department of Charitable Gaming

820 KAR 1:001. Definitions. Cannon Armstrong, commissioner, and Doug Hardin, staff attorney, represented the department.

In response to a question by Co-Chair Harris, Mr. Hardin stated that all issues of concern had been worked out with stake-holders.

A motion was made and seconded to approve the following amendment: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

820 KAR 1:005. Charitable gaming licenses and exemptions.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 4 through 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:011. Repeal of 820 KAR 1:010, 1:015, 1:016, 1:017, 1:026, 1:027, 1:028, 1:029, 1:033, 1:034, 1:036, 1:044, 1:056, 1:058, 1:100, 1:110, 1:120.

820 KAR 1:025. Reports.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:032. Pulltabs.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, 7, 13 through 16, 19 through 21, and 23 through 33 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Sections 26 through 28 to make changes to the point of sale requirements, device construction requirements, and software construction requirements. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:042. Bingo.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 5, 7 through 9, 11 through 17, and 20 to comply with the drafting and formatting requirements of KRS Chapter 13A and make technical changes; and (2) to amend Section 14 to remove the time constraint requirement on the sale of paper or electronic pulltabs prior to the start of a bingo session and replace it with a prior approval requirement. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:050. Raffles.

A motion was made and seconded to approve the following amendment: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

820 KAR 1:055. Charity fundraising event standards.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:057. Recordkeeping.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 4 through 8, 10, 12, 14, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A and make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:060. Prohibited conduct.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:125. Gaming inspections.

820 KAR 1:130. Administrative actions.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A and make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:135. Disposal of gaming supplies.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through



3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Policy and Operations: Medicaid

895 KAR 1:001. Definitions for 895 KAR Chapter 001. Lee Guice, director, Division of Policy and Operations; Donna Little, deputy executive director, Office of Legislative and Regulatory Affairs; Jonathan Scott, regulatory and legislative adviser; and Brandon Smith, executive director, Office of Legislative and Regulatory Affairs, represented the division. Nancy Galvagni, senior vice president, Kentucky Hospital Association, appeared in support of the subcommittee amendment to 895 KAR 1:050. Dr. Sheila Schuster, executive director, Advocacy Action Network, appeared in opposition to 895 KAR 1:020.

In response to questions by Representative Marzian, Mr. Smith stated that there had been litigation regarding these administrative regulations and the division was currently involved in a waiver reauthorization process with CMS. Proceeding with this package of administrative regulations was not premature because these administrative regulations would only become effective if CMS approved Kentucky's waiver and a funding source was available. If only a portion of the requirements were approved by CMS, the division would file an emergency administrative regulation.

Representative Marzian requested to be recorded as voting in opposition to 895 KAR 1:001, 1:010, 1:015, 1:020, 1:025, 1:030, 1:035, 1:040, 1:045, 1:050, and 1:055.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:010. Eligibility for Kentucky HEALTH program.

A motion was made and seconded to approve the following amendments: to amend Sections 3 through 6, 10, and 11 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:015. Premium payments within the Kentucky HEALTH programs.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:020. PATH requirement for the Kentucky HEALTH program.

Dr. Schuster stated that the Advocacy Action Network was opposed to this administrative regulation, which relied entirely on an internet-based system for reporting community engagement compliance. Broadband was not accessible in all parts of Kentucky, and users had limited financial resources. Kentucky had stopped nonemergency transportation services, which might have enabled users to have internet access via local libraries. Recipients might

be denied benefits and services for failure to report due to lack of internet access. While the cabinet stated there would be other communication options, this administrative regulation did not have reporting provisions other than via internet. The Advocacy Action Network requested that language be added to include alternative provisions.

In response to a question by Co-Chair Harris, Dr. Schuster stated that Medicaid recipients were not required to report community engagement compliance until these requirements become effective.

In response to a question by Senator Raque Adams, Dr. Schuster stated that the Advocacy Action Network supported a written format as an alternative to internet reporting.

In response to questions by Representative Marzian, Mr. Smith stated that the division did not believe there was a need to defer consideration of this matter. Studies demonstrated that internet access was a key feature for improving health outcomes. Rather than removing internet reporting requirements, the division planned to have training opportunities for users. Medically frail individuals were exempt from these reporting requirements. DCBS offices were being prepared to respond in person and via telephone to assist users. If a user misses a compliance reporting deadline, a three (3) month notice would be sent to the recipient to address the issue. Additional outreach by telephone was an additional possibility.

In response to questions by Co-Chair Harris, Mr. Smith stated that home visits to assist users were a possibility but were not directly mandated. Telephonic and written correspondence was also available.

In response to questions by Representative Petrie, Mr. Smith stated that assistance would also be available from Workforce Development career centers. Users who were homebound and did not have readily available internet access were exempt from internet reporting requirements. The number of users who might need access was currently indeterminable. This administrative regulation did not expressly provide for alternatives to internet reporting for those not exempted. If a user missed a reporting deadline, there was an outreach process to assist with compliance.

A motion was made and seconded to approve the following amendments: to amend Sections 3 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:025. Beneficiary premiums.

A motion was made and seconded to approve the following amendments: to amend the TITLE, the RELATES TO paragraph, and Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:030. Establishment and use of the MyRewards program.

A motion was made and seconded to approve the following amendment: to amend Sections 3 and 6 through 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:035. Covered services within the Kentucky HEALTH program.

A motion was made and seconded to approve the following amendment: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:040. Deductible accounts within the Kentucky HEALTH program.

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:045. Accommodation, modifications, and appeals for beneficiaries participating in the Kentucky HEALTH program.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:050. Enrollment and reimbursement for providers in the Kentucky HEALTH program.

Senator Raque Adams stated that the proposed subcommittee amendment was at the request of the cabinet in conjunction with the Kentucky Hospital Association for the purposes of clarifying requirements.

Ms. Galvagni stated that the Kentucky Hospital Association was in strong support of the subcommittee amendment.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1, 2, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 4(2) to establish that: (a) a hospital seeking reimbursement for non-covered services may use its consent for services form to comply with the written agreement requirement if it provides informed consent and is signed and dated by the beneficiary; and (b) the beneficiary reimbursement procedures for non-covered services do not apply if complying with 42 U.S.C. 1395dd until the beneficiary has been stabilized and do apply after a beneficiary has been stabilized if billing a suspended Kentucky HEALTH beneficiary. Without objection, and with agreement of the agency, the amendments were approved.

895 KAR 1:055. Designation or determination of medically frail status or accommodation due to temporary vulnerability in the Kentucky HEALTH program.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 and 3 through 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Certificate of Need: State Health Plan 900 KAR 5:020 & E. State Health Plan for facilities and services. Molly Lewis, deputy inspector general, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Section 2 to update the edition date of the State Health Plan;

and (2) to amend the State Health Plan incorporated by reference to insert the review criteria for magnetic resonance imaging equipment under Diagnostic and Therapeutic Equipment and Procedures. Without objection, and with agreement of the agency, the amendments were approved.

Certificate of Need

900 KAR 6:020. Certificate of need application fee schedule.

Medical Review Panels

900 KAR 11:010 & E. Medical review panels. Suzette Kimbell, branch coordinator, and Donna Little, deputy executive director, Office of Legislative and Regulatory Affairs, represented the division.

Department for Public Health: Division of Health Care: Health Services and Facilities

902 KAR 20:300. Operation and services; nursing facilities. Stephanie Brammer – Barnes, regulation coordinator, represented the Office of Inspector General.

Department for Public Health: Division of Public Health Protection and Safety: Radiology

902 KAR 100:018. Repeal of 902 KAR 100:017, 902 KAR 100:060, and 902 KAR 100:090. Julie Brooks, regulation coordinator, and Eric Perry, radiation health specialist, represented the division.

In response to a question by Co-Chair Harris, Ms. Brooks and Mr. Perry stated that this package of administrative regulations was for compliance with federal updates from the Nuclear Regulatory Commission.

902 KAR 100:022. Licensing requirements for land disposal of radioactive waste.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:052. Specific domestic licenses of broad scope for by-product material.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A.

902 KAR 100:070. Packaging and transportation of radioactive material.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 100:072. Medical use of byproduct material.

A motion was made and seconded to approve the following amendment: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

902 KAR 100:100. Licenses for industrial radiography and radiation safety requirements for industrial radiographic operations.

A motion was made and seconded to approve the following amendment: to amend Section 1 to comply

with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

902 KAR 100:142. Licenses and radiation safety requirements for well logging.

A motion was made and seconded to approve the following amendment: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Department for Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:025 & E. Payment for nursing facility services provided by an intermediate care facility for individuals with an intellectual disability, a dually-licensed pediatric facility, an institution for mental diseases, or a nursing facility with an all-inclusive rate unit. Jonathan Scott, regulatory and legislative adviser, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend the TITLE to clarify the subject matter; and (3) to amend Section 7(1)(c) to require a nursing facility with a distinct part brain injury unit to be accredited after the first year of participation by the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission. Without objection, and with agreement of the agency, the amendments were approved.

Department of Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 3:025. Technical requirements. Elizabeth Caywood, deputy commissioner; Bryan Hubbard, commissioner; and Maribeth Schneber-Rhemrev, director, represented the division. Ben Carter, senior litigation and advocacy counsel, Kentucky Equal Justice Center, appeared in opposition to these administrative regulations.

In response to questions by Representative Petrie, Mr. Hubbard stated that a noncustodial parent meant the parent who did not have custody of the child and who likely did not reside with the child. The noncustodial parent had been shown to be the parent of the child and had a legal obligation to remit money to support the child. Interaction with the noncustodial parent and the child was varied, depending on family dynamics. These administrative regulations were in compliance with recent changes to domestic law.

Mr. Carter stated that the Kentucky Equal Justice Center, as well as Kentucky Voices for Health, Kentucky Center for Economic Policy, ACLU, and Catholic Conference of Kentucky were opposed to these administrative regulations because this was the wrong approach. The listed stakeholders advocated ensuring that noncustodial parents paid child support; however, these requirements actually incentivized noncustodial parents not to pay. Failure to pay child support was already a crime; therefore, these requirements were redundant. These requirements would increase food insecurity in areas that were already suffering. This program would increase pressure on the poor but have little impact

on child-support payments. This program would have a disproportional impact on Eastern Kentucky. These requirements might also have a negative impact on those who were or had been incarcerated because incarcerated people are often behind on child-support payments. A three (3) month compliance window was inadequate. This program was not expected to prove successful from a cost – benefit calculation.

In response to a question by Co-Chair Harris, Mr. Hubbard stated that in order for a SNAP benefit suspension to apply, there had to be an active current support order and the noncustodial parent would not have paid the current full support for the present month and would have had an arrearage obligation of \$500 or greater. The age of the youngest child shall be less than eighteen (18) years. In order to have SNAP benefits reinstated, the noncustodial parent shall no longer have a child-support case, the youngest child shall reach eighteen (18) years, the non-custodial parent shall pay the full balance due (including arrearage), or the arrearage balance is below \$500. There were exemptions, such as for those in a drug treatment program, certain phases of incarceration, etc.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 through 6 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 3 to add additional exemptions for participation by individuals who are delinquent in court-ordered support payments. Without objection, and with agreement of the agency, the amendments were approved.

921 KAR 3:035. Certification process.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, 5, and 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Protection and Permanency: Child Welfare

922 KAR 1:411. Repeal of 922 KAR 001:410. Laura Begin, regulation coordinator and liaison; Mary Carpenter, manager, Adoption Branch; and Elizabeth Caywood, deputy commissioner, represented the division.

Child Welfare

922 KAR 1:560 & E. Putative father registry and operating procedures.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 4 and 6 to comply with the drafting requirements of KRS Chapter 13A and make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or re-moved from the November 13, 2018, subcommittee agenda:

DEPARTMENT OF STATE: Kentucky Registry of Election Finance: Electronic Voting Systems

32 KAR 1:030 & E. Election finance statement forms; campaign contributions or expenditures in excess of \$3,000.

FINANCE AND ADMINISTRATION  
CABINET: Department of Revenue: Income Tax;



## Miscellaneous

103 KAR 19:010. Computation of income; estates and trusts.

**BOARDS AND COMMISSIONS:** Board of Pharmacy

201 KAR 2:370. Pharmacy services in long-term care facility (LTCF).

Board of Chiropractic Examiners

201 KAR 21:015. Code of ethical conduct and standards of practice.

201 KAR 21:045. Specialties.

**TOURISM, ARTS AND HERITAGE CABINET:** Department of Fish and Wildlife Resources: Game

301 KAR 2:095. Importation of cervid carcasses and parts.

**ENERGY AND ENVIRONMENT:** Department for Environmental Protection: Division for Air Quality: Permits, Registrations, and Prohibitory Rules  
401 KAR 52:050. Permit application forms.

401 KAR 52:070. Registration of air contaminant sources.

**TRANSPORTATION CABINET:** Department of Vehicle Regulation: Division of Driver Licensing

601 KAR 2:030 & E. Ignition interlock.

**PUBLIC PROTECTION CABINET:** Workers' Compensation Funding Commission

803 KAR 30:010. Special fund assessments.

803 KAR 30:021. Repeal of 803 KAR 030:020.

Real Estate Authority: Board of Home Inspectors

815 KAR 6:001. Definitions for 815 KAR Chapter 6.

815 KAR 6:010. Licensing requirements.

815 KAR 6:030. Standards of conduct, complaints, and discipline.

815 KAR 6:040. Education requirements and providers.

815 KAR 6:101. Repeal of 815 KAR 006:020, 815 KAR 006:080, 815 KAR 006:090, and 815 KAR 006:100.

**CABINET FOR HEALTH AND FAMILY SERVICES:** Office of Inspector General: Long-term Care

900 KAR 2:021. Repeal of 900 KAR 002:020.

900 KAR 2:040. Citations and violations; criteria and specific acts.

Food and Cosmetics

902 KAR 45:005. Kentucky food code.

902 KAR 45:007. Repeal of 902 KAR 045:006 and 902 KAR 045:140.

902 KAR 45:090. Home-based processors and farmers market home-based microprocessors.

Department of Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:010. Independent non-relative adoptions.

922 KAR 1:100 & E. Public agency adoptions.

922 KAR 1:360 & E. Private child care placement, levels of care, and payment.

The subcommittee adjourned at 2:50 p.m. The next meeting of the subcommittee is tentatively scheduled for December 11, 2018, at 1 p.m.

## MEDICAID OVERSIGHT AND ADVISORY COMMITTEE

### Minutes

November 27, 2018

#### Call to Order and Roll Call

The Medicaid Oversight and Advisory Committee meeting was held on Tuesday, November 27, 2018, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Ralph Alvarado, Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Julie Raque Adams, Danny Carroll, Morgan McGarvey, and Stephen Meredith; Representatives Joni L. Jenkins and Melinda Gibbons Prunty.

**Guests:** Carol Steckel, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services; Brandon Smith, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services; Maik Schutze, Executive Advisor, Office of Health Data and Analytics Cabinet for Health and Family Services; John Inman, Chief of Staff, Department for Medicaid Services, Cabinet for Health and Family Services; Russ Ranallo, Chair, Medicaid Hospital Technical Advisory Committee; Vice President, Financial Services, Owensboro Health; Nina Eisner, CEO, Ridge Behavioral Health System, Lexington, Kentucky; Pam Ryan, Utilization Review Director, University of Kentucky Healthcare; Lawrence Ford, Chair, Kentucky Association of Health Plans, Senior Director, Government Relations, Anthem Blue Cross Blue Shield; J. Leon Claywell, R. Ph.D; Beverly Loy and Kim Dykes, The Adanta Group Community Mental Health Center; and Terri Thomas, Harbor House of Louisville.

**LRC Staff:** DeeAnn Wenk, CSA, Dana Simmons, and Becky Lancaster

#### Update on Pharmacy Benefit Manager Data Analysis

John Inman, Chief of Staff, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS), stated that DMS and the Office of Data Analytics conducted data collection as required by the 2018 Senate Bill (SB) 5. The original data collection was received from all the Medicaid managed care organizations (MCOs) in August. The original data that was returned to CHFS complied with SB 5 but was incomplete and vague. CHFS determined that a useful data analysis from first round of data collection was not possible. CHFS and DMS developed a new data collection instrument. The new data instrument was forwarded to the MCOs in August for submission in November. Internal and external analyses are being conducted and results are expected by early January 2019.

Maik Schutze, Executive Advisor, Office of Health Data and Analytics, Cabinet for Health and Family Services, stated that the Pharmacy Services Administration Organization (PSAO) are administrative service organizations that allow independent pharmacies to come together and purchase in a group setting. There are three types

of pharmacies: retail, independent, and common ownership. Drugs are categorized into three groups: brand, generic, and specialty drugs. Brandon Smith, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services, stated that other states such as Ohio, Arkansas, and West Virginia have issued reports within the last year that have excluded data or were unable to analyze such data. CHFS hopes to provide a more detail report with numbers on the incoming data and the trends that follow.

In response to questions and comments from Senator Meredith, Mr. Smith stated that CHFS is not contracted directly with the PBMs and communication regarding the PBMs goes through the MCOs that are contracted to CHFS. MCOs are willing to comply and work with subcontractors. Many conversations and much research was focused on the how to combine information from different MCOs that have various PBMs and diverse definitions of similar terms in the data. Mr. Inman stated that CVS Caremark does work with the majority of the MCOs. Express Scripts is another large PBM. Mr. Smith stated that Kentucky also uses a third PBM for the fee-for-service population. Mr. Schutze stated that CHFS did have some concerns about the data quality because DMS was looking at the data with a limited amount of information available in the initial data template. CHFS approached the MCOs because the data did not seem realistic but are now confident that data will be corrected with the next submission. CHFS built statistical tools that will help give a better sense of how reliable the data is from the MCOs and PBMs.

Mr. Inman stated that he learned there is a negotiated rate between the MCOs and the PBMs. The PBMs can capitalize on pricing and rebates and that is how they can expand or narrow their profit margins. Mr. Smith stated that because MCOs and PBMs operate as competitors and have separate contracts with different operators at the MCO level and provider level, there is more disparity with the definitions of the data than originally expected. Mr. Schutze stated that the challenge is how to demonstrate or observe the differences in the data that is provided. Mr. Smith stated that CHFS has also gained knowledge from independent pharmacists on understanding definitions and what they mean to specific partners and in different parts of the state. He stated that there are times when providers and DMS have adversarial relationships on particular issues but the relationships overall have been fairly positive.

In response to questions and comments from Senator Carroll, Mr. Inman stated that in regards to indirect fees, it will be hard for the data collection tool to determine how complete the data is because there are no previous benchmarks or other data to put the new information into context. There are enforcement mechanisms for contract compliance within the contracts with the MCOs. The independent consultant should have a preliminary analysis on the new template that CHFS provided in early December.

In response to questions and comments from Representative Gibbons-Prunty, Mr. Smith stated that independent pharmacists are not forced or legally required to enter a PSAO, but many often find a PSAO



to be an economic reality that is a good idea. The independent pharmacies face tremendous challenges across the state particularly in rural communities.

In response to questions and comments from Senator Alvarado, Mr. Inman stated that the data CHFS has received does not show if PBMs are paying themselves more than they are paying independent pharmacies for the same prescriptions. Mr. Smith stated that the incoming data will be able to give CHFS an understanding on the types of pharmacies and the payment differentials. He stated that part of the statutory requirements and data collection does include an analysis of individual PBMs that have fiduciary interest or common ownership with providers at the pharmacy level. Mr. Inman stated that CHFS has a meeting scheduled with the West Virginia pharmacy team to discuss how they completed data analysis regarding PBMs. The MCOs and PBMs relationship with CHFS has been easy to manage with points of conflict but continues to improve. CHFS has held MCOs accountable on certain issues, discussed policy and operation changes, but that is normal with any business partner.

In response to questions and comments from Senator Meredith, Mr. Smith stated that CHFS and DMS have the ability to require data from the PBMs to be submitted but that functions through the contractual relationship with the MCOs. The MCO claim data is valuable because the MCOs process claims data for many individuals and serves as another check point on whether or not CHFS trusts the incoming data. The data is confusing because it goes through many individual providers and different MCOs' formularies using different methodology. There is a sense of urgency within CHFS leadership, DMS frontline and program staff because the data involves a lot of money, providers, and members.

In response to questions and comments from Representative Jenkins, Mr. Schultze stated that the new data submissions should include detail about retail specialty mail order prescription drugs.

#### **Approval of Minutes**

A motion to approve the minutes of the August 15, 2018 meeting was made by Senator Meredith, seconded by Representative Jenkins, and approved by voice vote.

#### **Medicaid Managed Care Organizations Report: Overview**

Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services, stated that according to the Milliman Report, Kentucky had the highest estimated profit margins in the nation in calendar year (CY)2015. Kentucky was reported as having an estimated profit margin of 11.3 percent, compared to the national average of 2.6 percent. CHFS brought in an independent contractor to do a thorough analysis of the rates and rate setting methodology. The analysis resulted in CHFS renegotiating the rates with the MCOs which created savings that has decreased Kentucky's MCOs profit margins significantly. The CY2017 Milliman report shows an estimated profit margin of 3.1 percent, compared to the national average of 0.9 percent. The nation average decrease can be explained based on the number of plans across the nation that reported a loss, driving the overall average down.

The MCOs' rates assume a one percent margin but MCOs can obtain higher profitability through administrative cost efficiencies. In the state fiscal year (SFY)2017, DMS implemented a minimum medical loss ratio (MLR) requirement of 90 percent. Actuaries and financial analysts use the MLR as a measure of premium adequacy. In SFY2017 based on data obtained by DMS actuaries, the MCOs had a composite MLR of 93.4 percent, all MCOs were above the required 90 percent. The formula used by DMS is consistent with the Centers for Medicare and Medicaid Services (CMS) methodology, which is different from the Milliman MLR formula.

Stephanie Bates, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that DMS is delaying the release of the request for proposal (RFP) to allow more time for development. Commissioner Steckel stated that DMS wanted to have time to strengthen the contract. DMS has good partnerships with the MCOs but DMS will verify the information received and will confirm that penalties are imposed if the MCOs are not following the contracts. The Advisory Council for Medical Assistance (MAC) meets once every two months and gives all provider groups an opportunity to raise issues.

In response to questions and comments from Senator Carroll, Mr. Bechtel stated that the Kentucky Hospital Association (KHA) has a report with an estimate of the costs to the state during the MCOs' two years of high profit margins. In January 2018, DMS under estimated the number of people that would apply and receive Medicaid coverage during the expansion. DMS will be researching how to streamline the credentialing verification process without stifling the MCOs' creativities and innovations. For the new RFP, DMS wants to improve members' health status by measuring quality by outcomes. DMS will research program integrity. Ms. Bates stated there will be outcome based language and value based payments that could filter to the providers. Commissioner Steckel stated that ongoing problems with invalid codes should not be happening. She stated that the best way to resolve claim issues is to send DMS staff member specific claim information.

In response to a question from Representative Jenkins, Mr. Bechtel stated he would send a copy of his presentation to the Medicaid Oversight and Advisory Committee staff for distribution.

In response to questions and comments from Senator Meredith, Commissioner Steckel stated that reducing the number of MCOs in Kentucky to three instead of two is preferable to create competition between the MCOs. DMS is not required to have five MCOs and is considering reducing the number of MCOs in the new RFP.

In response to questions and comments from Senator Alvarado, Commissioner Steckel stated that she is concerned with provider led entities but is open to consider other types of managed care entities other than the formal MCOs that are in place. The Department of Insurance (DOI) would have the current uninsured rate for Kentucky. In the 1915(C) Kentucky Health waiver redesign, DMS is reviewing how to look at the population in the waiver programs. Waiver program members have a high acuity

level, different providers, and various community service needs. DMS wants to be able to establish the definitions of terms across the waivers to create continuity throughout the different waiver programs. The process of reviewing a coordinated care system is a slow process that should include discussions with providers and recipients.

#### **Hospitals and Medicaid Managed Care Organizations**

Russ Ranallo, Chair, Medicaid Hospital Technical Advisory Committee, Vice President, Financial Services, Owensboro Health, stated that the annual report produced by KHA on the MCOs' performances covers the MLR of the MCOs, quality ratings, prior authorization denials, complaints, and prompt payments. KHA, MCOs, and DMS staff meet once a month discuss and track issues raised by the hospitals. The overall average of the number of days that issues are outstanding is the lowest since the beginning of 2018. Typically, hospitals bring issues to the meeting however, the MCOs can also recognize an issue and put it on the list to be tracked. The trend in the rate of issue days per 10,000 members shows consistent performance by Anthem and good improvement by other MCOs with exception of Humana Care Source. At Owensboro Health, Medicaid is about 20 percent of the business but the administrative time spent on Medicaid takes up 75 percent of the time.

Prior authorization denial issues have been discussed in the Technical Advisory Committees (TAC) meetings. Mr. Ranallo found that one MCO was responsible for two-thirds of the prior authorization denials in surgery. He asked for prior authorization lists from all the MCOs and each list was very different. One MCO had 14,000 items on its prior authorization list. He stated that MCOs are approving procedures but denying supply charges for supplies used during a procedure. There are also coding issues among MCOs even when using the American Hospital Association coding guidelines. The appeal of a code is being reviewed by a qualified physician but not a coder creating more denials.

Pam Ryan, Utilization Review Director, University of Kentucky Healthcare, stated that in 2017, University of Kentucky Healthcare had 11 completed state fair hearings and 2 in 2018. They currently have 12 hearings pending from 2017 and 4 from 2018 for lack of receiving a hearing date. University of Kentucky Healthcare is losing money in the state fair hearings due to the costs for lawyers, administration, and physician advisors. They continue to appeal in hopes of changing the behaviors of the MCOs. Hearing officers can only process Interqual criteria qualified cases. It can take approximately 9 to 12 months or longer to get an admission to state fair hearing. The reviewers do not consistently review the entire chart or use Interqual criteria properly to determine inpatient status. The hearing officers have no clinical or Interqual experience. For each hearing, the hearing officer must be taught how to use Interqual criteria. The hearings typically last three to four hours.

Nina Eisner, CEO, Ridge Behavioral Health System, Lexington, Kentucky, stated that medical necessity criteria for behavioral health providers is even more complex because there are five different sets of criteria that must be followed. The denial is

appealed and is usually overturned at the IPRO level. Now the MCOs are taking behavioral health providers to state fair hearings to challenge that IPRO decision. For a behavioral health provider to hire an attorney to go to a state fair hearing is most likely more costly than the total cost of the denied days. Behavioral health providers feel the need to fight for medically necessary care to give the best outcome to the patient.

In response to questions and comments from Senator Alvarado, Ms. Eisner stated that state fair hearings have advanced more quickly through the system for her than other providers. Ms. Ryan stated that the biggest delay in the appeal process is the large volume of denials and their limited amount of staff that can work the denials. She stated that getting a hearing date is also a challenge. Providers are not allowed to lump similar case denials together for one larger appeal but each denial must be appealed separately.

#### **Adjournment**

There being no further business, the meeting was adjourned at 12:27 PM.

## **PUBLIC PENSION OVERSIGHT BOARD**

### **Minutes**

November 26, 2018

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

The 8th meeting of the Public Pension Oversight Board was held on Monday, November 26, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Jerry T. Miller, Co-Chair; Senators Jimmy Higdon, Christian McDaniel, Gerald A. Neal, and Dennis Parrett; Representatives Ken Fleming, DJ Johnson, James Kay, Arnold Simpson, and Russell Webber; J. Michael Brown, John Chilton, Timothy Fyffe, Mike Harmon, and James M. "Mac" Jefferson.

Other Legislators attending: Representative Derrick Graham.

Guests: David Eager, Executive Director, and Karen Roggenkamp, Deputy Executive Director, Kentucky Retirement Systems; Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement Systems, and Edward Koebel, EA, FCA, MAAA, Cavanaugh Macdonald Consulting, LLC; and Donna Early, Executive Director, Judicial Form Retirement System.

LRC Staff: Brad Gross, Bo Cracraft, and Angela Rhodes.

#### **Approval of Minutes**

Representative Kay moved that the minutes of the October 22, 2018 meeting be approved. Senator Bowen seconded the motion, and the minutes were approved without objection.

#### **Actuarial/Financial Update - Kentucky Retirement System**

David Eager, Executive Director, Kentucky Retirement Systems (KRS) discussed the plans' recent actuarial valuations. Measured by funding status, three of the five pension retirement funds saw improvement, while two fell slightly. Altogether, the

combined funded level of the pension funds fell by just 7 basis points, compared to a 500 basis point drop the prior year. The insurance funded levels increased significantly. While projections on the pension side are positive, caution should be given, since contributions are based on a percent of payroll model, with the Kentucky Employees Retirement System (KERS) experiencing a 3.9 percent decline in payroll.

Mr. Eager reviewed the basis of which the June 30, 2018 valuations were conducted. No assumption changes have been made since the 2017 valuations. He reviewed recent legislation and benefit changes that were incorporated in the process, including HB 185, HB 200, HB 265, and HB 362. SB 151 will not be included in the valuation until the courts make a final ruling, but staff are prepared to implement. The closed amortization period continues to drop a year with each valuation and is currently 25 years.

Mr. Eager discussed valuation results. Investment returns ranged from 7.4 percent to 9.3 percent, with the lowest being the KERS nonhazardous and the highest being some of the health insurance funds. In total, plan assets grew \$410 million more than expected, with \$279 million in pension and \$131 million in insurance funds. All five insurance plans showed funding level improvements, with favorable premiums experience and increased member contributions leading to a decline of \$0.91 billion in the unfunded liability. The pension funds combined unfunded liability increased by \$0.46 billion, caused primarily by lower payroll and higher retirements. Results showed that the KERS and State Police Retirement System (SPRS) hazardous pension plans were becoming more stable, largely due to additional general fund appropriations received in 2017 and 2018. Mr. Eagers discussed changes in active membership across all plans and said this was due to covered payroll declining or remaining flat. Maintaining or increasing KERS nonhazardous contributions is critical. The plan has \$2 billion in assets, covering approximately two years of benefit payments.

In response to a question from Representative Miller regarding specific areas where a decline in active membership is occurring, Mr. Eager identified universities as an employer that is outsourcing more. Karen Roggenkamp said that, with more retirements than expected, a lag in hiring replacements could be a driver.

In response to questions from Senator Bowen regarding County Employees Retirement System (CERS) hazardous membership and payroll growth, Ms. Roggenkamp stated that CERS did have a slight decline in hazardous members. Regarding a comparison of payroll growth, Mr. Eager stated that CERS did not see payroll growth decline like KERS, however it only grew 0.6 percent compared to their assumption of 2 percent.

In response to questions from Senator Higdon about level dollar funding, Mr. Eager said that the declining payroll growth is leading to fewer contributions, given they are paid on a percent of payroll method, which is causing further funding issues. Senator Higdon suggested KRS further educate the Public Pension Oversight Board (PPOB), and Mr. Eager noted an upcoming presentation in

December, where KRS will be accompanied by the systems actuary.

In response to Senator Bowen's earlier question regarding the decline in the hazardous membership, Senator McDaniel referenced recent General Assembly action that reduced or eliminated the requirement for employers to pay pension contributions on certain exempted retirees. Legislators were cautioned of potential issues, which included not only a lack of contributions, especially as the exempted group has been expanded, but also a shortage of new officers as a result of employers instead hiring retired officers.

In response to a question from Mr. Chilton regarding level dollar funding, Mr. Eager stated it was fair to say that, if actual payroll had remained flat, KRS would have received funding close to a fixed level dollar amount.

Mr. Eager discussed comments from the systems actuary, GRS Consulting, with regards to the valuation. GRS stated it was imperative for the state and participating employers in the systems to contribute the actuarial determined contribution every year in order to improve the systems' financial security. GRS suggested that KRS should investigate an alternative method of allocating the amortization cost to participating employers that is not associated with covered payroll.

Ms. Roggenkamp reviewed a breakdown of the unfunded accrued liability (UAL) and funding ratios for each system compared to FY 2017. Compared to the prior year, the total pension UAL increased slightly, while the insurance plans total UAL significantly declined. The combined UAL across both pension and insurance dropped by \$0.45 billion. A comparison of funding ratio showed a slight decline for pensions and an increase for insurance.

In response to a question from Representative Miller regarding the systems funding levels bottoming out, Mr. Eager stated that the improved contribution rates, notably in KERS NH, will be a positive factor, but how the plans perform from an investment perspective will also dictate outcome.

Ms. Roggenkamp reviewed recommended employer contribution rates from the 2017 and 2018 valuations, compared to the FY2019 budgeted rates. Pension contributions had slightly increased in the 2018 valuation, while insurance rates had dropped. Certain quasi-KERS nonhazardous agencies had remained at the 2018 budget rate of 49.47 percent. HB 362 had capped the CERS contribution rates to no more than a 12 percent increase annually.

Ms. Roggenkamp reviewed the results of a sensitivity analysis that is included in the valuation process for both the pension and insurance funds to measure how funding and contribution rates are impacted by changes in the discount rates and payroll growth assumptions.

Ms. Roggenkamp reviewed trends within the two largest plans, KERS and CERS nonhazardous. Benefit costs have declined; Tier III normal cost rates were much lower than Tier I. Active member contributions help pay for retiree benefits and, in both KERS and CERS, there is a trend of active membership declining or remaining flat, while the retired membership continues to grow. Retirees represented 73 percent of the existing UAL of KERS, while the plans' active to



retired ratio is 0.76. While not as significant, CERS is moving in a similar direction, with 59 percent of the liability represented by retirees and a 1.32 active member to retiree ratio.

Ms. Roggenkamp reviewed a chart of payroll growth for the past 10 years in the CERS and KERS nonhazardous funds. In 2018, the actual payroll growth for KERS nonhazardous was -3.9 percent versus an assumption of 0.0 percent. In CERS, payroll growth for CERS nonhazardous was 0.6 percent, but still below the assumption of 2.0 percent.

In response to a question from Senator McDaniel regarding the active retiree ratio for KERS nonhazardous membership, Mr. Eager agreed that Tier II and Tier III members were not creating much unfunded liability, which was part of differential. However, he said that everyone who is retired currently most likely falls into the Tier I structure. For the near future, as more Tier I members retire, the trend will likely continue.

Ms. Roggenkamp provided projections for the KERS and CERS nonhazardous plans. If all the assumptions were realized, at the end of 20 years, the KERS nonhazardous pension plan was projected to be 69 percent funded, and the CERS nonhazardous pension would be 82 percent funded. On the health insurance side, the KERS nonhazardous insurance plan would be 94 percent funded, and the CERS nonhazardous insurance plan would be 84 percent funded.

In response to a question from Senator Bowen regarding at what funding level a plan is considered healthy, Mr. Eager stated, that in his opinion, a healthy plan would be 100 percent funded. Some in the industry would point to 80 percent as healthy, but most actuaries would still say fully funded is the goal.

Mr. Eager provided a cash flow update and began by discussing some early trends for FY 2019. Combined pension plans saw an increase in value of \$298 million in the first quarter of FY 2019. Within the KERS funds, KERS pension plans are benefiting from the higher contribution rates and the plans have positive cash flow without investment income or asset returns. Approximately \$30 million in contributions were lost due to quasi agencies only paying the prior year's rate. On the CERS side, assets increased for the quarter, but investment gains and income are driving the growth. Without investments, cash flow was negative; the 12 percent employer contribution phase was the driver.

Mr. Eager reviewed a summary of active membership versus retirees for the nonhazardous funds and SPRS. In all three plans, active membership declined while the number of retirees increased. The decline in active membership was driving lower payroll growth, even negative with regards to KERS, and below the assumed payroll growth for the two largest nonhazardous funds.

In response to a question from Representative Miller regarding the timeframe considered when evaluating the payroll growth assumption, Ms. Roggenkamp stated KRS considered the last 10 years of payroll growth. Mr. Eager added that future expectations were also considered when setting assumptions.

Mr. Eager reviewed cash flow information for

each of the pension plans that included cash inflows, cash outflows, net cash flow before gains/losses, and change in net plan assets for the FY ended on June 30, 2018, compared to June 30, 2017, and the quarter ended on September 30, 2018 compared to September 30, 2017.

In response to a question from Representative Miller as to actuarial back loading, Mr. Eager stated that would likely be determined by funding, but hoped there would be no more actuarial back loading.

In response to questions from Senator McDaniel regarding the permanent pension fund and any payouts, Mr. Eager deferred the question to Mr. Chilton. Mr. Chilton stated that he believed there was a contribution made of the permanent pension fund into the plans, which was part of the increased contribution in FY 2018. Ms. Roggenkamp added that KRS received some direct appropriations above the ARC in 2017 and 2018, but she did not believe any permanent pension fund payments were received. Mr. Chilton said he would ask budget staff to review.

In response to comment from Senator Higdon regarding unrealistic assumptions, Mr. Eager responded that, in his opinion, using more appropriate assumptions would have produced higher contribution rates, which even if not fully funded, would likely have resulted in higher contributions.

#### **Actuarial/Financial Update – Teachers' Retirement System**

Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement Systems (TRS) and Edward Koebel, Consulting Actuary, Cavanaugh Macdonald Consulting, LLC presented a financial and actuarial update.

Mr. Barnes reviewed results from the recently completed actuarial valuations, comparing funding values and unfunded liabilities to the prior year. Funding levels of both the pension and insurance funds had improved from 2017, largely driven by strong asset growth. Mr. Barnes provided results for the accounting based, Governmental Accounting Standards Board (GASB), valuations and called attention to a significant funding improvement on the pension side. The improved funding was largely the result of the additional funding received by TRS and the current budget commitment.

In response to a question from Senator McDaniel regarding the GASB valuations, Mr. Barnes said the additional contributions received, along with the General Assembly's commitment to pay the full contribution in the current budget, have resulted in the TRS GASB funding values increasing by 20 percent.

Mr. Barnes provided a quarterly investment performance update as of September 30, 2018. The funds' performance for the first quarter of the fiscal year was 3 percent, while the trailing 1- and 10-year returns were 8.89 percent and 8.79 percent respectively. Over a longer time frame, the fund had returned 6.48 percent over the past 20 year period, which includes the dot com bubble and the great recession, and 8.45 percent (compounded gross return) for the last 30 years.

Mr. Barnes reviewed first quarter cash flows for the pension plan for the current fiscal year compared to 2018. The additional funding received has reduced

the need to sell assets and improved cash flow. Strong investment returns, both realized and unrealized, have resulted in asset growth from the prior year.

Edward Koebel, Cavanaugh Macdonald Consulting, LLC, discussed key findings from the 2018 valuations and a review of key economic assumptions for TRS. He reviewed several key findings from the 2018 valuations. There was a strong investment return, along with increased funding have resulted in funded assets of approximately \$20 billion. There was negative cash flow, but it is not abnormal for a mature plan like TRS to have negative cash flow as long as the ratio of contributions to benefit payment is within reason. TRS had received at least 97 percent of the additional required funding since fiscal year 2017, with \$475 million received in FY 2018, and the current biennium budget has included effectively full funding. The additional funding received is shown in the improved funding of the plan. The funding ratio increase for the fourth year out of the last five, while the unfunded actuarial accrued liability (UAAL) remained at \$14.3 billion and is scheduled to be paid off completely over the remaining 26-year period at an annual payment of approximately \$872 million.

In response to questions from Senator Higdon and Senator McDaniel regarding the UAAL payment, Mr. Koebel stated that the \$872 million dollar payment is calculated based upon the funding policy that TRS has in place. The TRS board' funding policy took the 2014 existing, legacy UAAL amount and began amortizing it over a 30-year period, while each year after any new gain or loss is paid off over a 25-year period. Thus, the \$872 million is the accumulation of the UAAL payment.

In response to a question from Senator Higdon regarding the amortization period, Mr. Koebel confirmed that TRS utilized an open amortization period, which effectively reamortized the debt each year. However, the board moved to a closed period in 2014, and each additional year is also on a closed period.

In response to a follow up question from Senator McDaniel, Mr. Barnes clarified that the \$872 million is not an additional contribution required above what is currently included in budget. A portion of the statutory rate was contributed and applied to a portion of the \$872 million payment. However, not all was covered, so TRS began asking for an additional contribution above the statutory rate to fully fund the \$872 million requirement. Mr. Koebel stated that the full contribution requirement consists of two pieces: (1) a normal cost, which is annual accruals for active members' benefits and (2) the amortized payment for UAAL, which in this case is \$872 million. The normal cost and a portion of the UAAL payment were covered by statutory contributions, but an additional amount of a \$500 million is needed to completely fund the entire actuarially determined rate.

In response to a follow-up question from Senator McDaniel regarding how much additional money TRS would be asking for in the next budget biennium, if experience was similar to assumptions, Mr. Barnes and Mr. Koebel referenced the past couple of budget cycles and pointed out that the total required contribution was fairly stable. While future experience is tough to forecast, Mr. Barnes and Mr.



Koebel indicated the current amount should be a good guess, if existing assumptions were met.

Mr. Koebel reviewed key economic assumptions, including the investment rate of return and payroll growth rate. He reviewed TRS' most recent experience study conducted as of June 30, 2015, which served to set the current assumptions. The TRS board of trustees and Cavanaugh Macdonald Consulting, LLC, conduct an experience study every five years to review current economic and demographic assumptions and recommend modifications where appropriate. The Actuarial Standards of Practice guides the development of assumptions. The study also considers current actuarial methods.

Mr. Koebel discussed the price inflation assumption, which is the building block upon which the investment return and payroll growth assumptions are based. During the 2015 study, the board considered historical consumer price index increases (CPI), as well as forward-looking estimates, before settling on an assumption of 3 percent, which was a reduction from 3.5 percent previously.

In response to a question from Representative Miller regarding changing assumptions between the experience studies, Mr. Koebel stated that assumptions tend to remain static and generally no changes are made for five years. Mr. Barnes said that, every two years, when TRS goes through budget requests, the actuaries review the past actual system experience, which could result in an increased budget request for the next two-year period.

Mr. Koebel discussed the review of the systems' investment return assumption. His firm's approach incorporated capital market assumptions from the systems' consultant and the board-approved target asset allocations to model a range of expected returns over the next 20 to 30 years. Median expected return at the time was just over 7.5 percent, which resulted in TRS maintaining their assumption at 7.5 percent.

Mr. Koebel summarized TRS' most recent experience study in the context of a review of the systems' wage inflation (payroll growth), noting that the assumption prior to 2015 was 4 percent, which was 50 basis points above the price inflation rate. A chart showed an average price inflation and wage inflation over the last 50 years and stated that, given the reduction in the inflation rate, the board adopted a recommendation to reduce the wage inflation assumption to 3.5 percent.

Representative Miller referenced the PFM study, which identified actuarial back loading as a significant factor in accumulating unfunded liabilities, and distributed a summary of TRS payroll growth over the past 20 years, which fell short of the system's assumption. Mr. Barnes said that the PFM report identified actuarial assumptions and actuarial back loading as both causes for the growth, along with previous budgets that were not able to support the full funding requests.

Mr. Koebel discussed potential causes of UAAL, which included (1) granting initial benefits or granting benefit increases for services already rendered, (2) actual experience, which is less favorable than assumed, (3) contributing less than the full actuarial contribution rate, and (4) changes in actuarial assumptions or methods. Mr. Koebel

discussed how plans amortize UAAL and how it has become a major component of the actuarial required contribution rate in recent years. Plans have several options, which may include one base or multiple bases, amortization periods that are open or closed, different time periods, and whether the payment is calculated on a level dollar or level percent of pay method.

Mr. Koebel summarized the differences between the level dollar and level percent of pay methodologies. Level dollar is more like a traditional mortgage, which requires more dollars today but the same total payment across the time period. Level percent of pay requires fewer dollars today, but as payroll grows, so will the total dollars in contributions. Utilizing a level percent of pay model is more consistent and better for budget purposes because the hope is that payroll will continue to grow over a period of time.

Representative Miller commented that this expectation is the reason why the system is where it is. The system has assumed 3.5 and 4 percent payroll growth for the past ten years, while actual payroll has just been 1.3 percent.

Mr. Barnes said that level percentage of pay is the most common method of amortizing the unfunded liability. TRS anticipates inflation, and unlike KRS, it believes membership will continue to grow as the population grows and teachers are needed for the classrooms. As a result, TRS allocates amortization payments according to that increase in payroll growth and largely inflation. Utilizing a level percent of pay model does not put undue pressure on the current taxpayer.

Representative Miller said that hope is not a plan, and the committee must deal with the facts.

Senator Higdon said that there are several reasons for the growth in UAAL. In a 2014 study conducted by Flick Forna, a consultant estimated that approximately 20 percent of the growth was due to funding, while about 50 percent was the result of changing assumptions and reamortizing the debt each year.

Mr. Barnes said that in 2008 TRS saw payroll growth of 7.23 percent. It decreased to 1.97 percent in 2009 and over a 20-year period the average is 3.08 percent.

In response to questions from Mr. Jefferson in regards to distinguishing between wage inflation, price inflation, and cost of living adjustments (COLA) and each one's potential impact on cash flows from state and funded status, Mr. Koebel stated that the COLA assumption is set in statute, while the price inflation is provided just to give more detail to the building block approach used in developing the investment return assumption. It is typical for wage inflation to be higher than price inflation, given seniority, merit, and promotional increases in compensation.

In response to a follow-up question regarding how much weight is placed on consultant capital market assumptions, Mr. Koebel identified time horizon as a consideration that is made. Consultants tend to model the next 5 to 10-year horizon, which is why they are typically a little shorter than the actuary.

In response to questions from Mr. Chilton regarding assumed individual salary increases,

Mr. Koebel stated the valuation assumed member increases, and the assumption was slightly higher than inflation, which represented positive reviews, merit increases, and promotions. In regards to recent changes, the individual salary increases assumption was reduced during the 2015 experience study, largely to reflect the lower inflation assumption. In regards to the increase in the assumed real rate of return above inflation in 2015, the system was expecting higher real returns. The changing asset allocation of TRS and its transition into higher returning, alternative asset classes, such as private equity and real estate, is a driver for the increased expectation.

Senator McDaniel urged TRS to consider alternative payroll growth assumptions and approaches to evaluating. Teachers are a somewhat unique population, and membership and individual salaries will grow as population grows. He suggested considering an assumption that would still reflect the unique population of teachers, while also not relying on such growth in population or total payroll.

Mr. Barnes said that several factors should be considered in setting assumptions. If payroll growth is lowered, it would mean actuaries would also assume lower individual salaries, and with that, the retirement benefits will also be lower. This could potentially create a situation where the UAL is actually understated due to individual salaries being higher than expected.

Representative Miller said that TRS has been understating the unfunded liability by utilizing a payroll growth rate above actual. The General Assembly desires to fully fund pensions, but to do that requires legislators to know the facts. Mr. Barnes said that TRS is trying to forward the correct information.

In response to questions from Senator Bowen regarding changes SB 151 would make to the amortization of UAAL, Mr. Barnes stated that SB 151 would make payroll growth irrelevant in FY 2021 because it would require level dollar. Moving to the level dollar method would result in more contributions in the short term.

Mr. Barnes discussed the previous month's PPOB meeting. The TRS board has decided to move ahead with voluntary electronic voting and is planning to have it implemented by December.

#### **Actuarial/Financial Update – Judicial Form Retirement System**

Donna Early, Executive Director, Judicial Form Retirement System (JFRS), discussed the judicial and legislator pension funding progress and state contributions. She compared each fiscal year dating to 2014 for both the defined benefit and hybrid cash balance plans. Over the five-year period, the plans' funded status continued to increase and the state contributions continued to decrease.

Ms. Early reviewed cash flow for the judicial and legislator plans, discussing cash inflows, outflows, net cash flow before asset gain/losses, realized/unrealized investment gains/losses, and net plan assets with comparison of the fiscal years since FY 2016/2017. JFRS is unique in that there is never more than the allowable membership, and the only individuals eligible are members of one of the state's four courts or a member of the General Assembly. There were no

state appropriations for the legislators' plan for the current budget biennium.

Representative Miller asked the members to not forget that the PPOB's required list of recommendations to the General Assembly will be reviewed at the PPOB December meeting. He directed members to give their proposed recommendations to staff.

With no further business, the meeting was adjourned. The next regularly scheduled meeting is Monday, December 17, 2018.

## **DIABETES MEDICAL EMERGENCY RESPONSE TASK FORCE**

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

November 7, 2018

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

The 3rd meeting of the Diabetes Medical Emergency Response Task Force was held on Wednesday, November 7, 2018, at 10:00 AM, in Room 171 of the Capitol Annex. Representative Danny Bentley Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

**Members:** Senator Ralph Alvarado, Co-Chair; Representative Danny Bentley, Co-Chair; Senator Reginald Thomas, Representatives Mary Lou Marzian and Addia Wuchner; Gregg Bayer, Chad Burkhart, Robert Couch, Brooke Hudspeth, Chuck O'Neal, and Troy Walker.

**Guests:** Representative Donna Mayfield; Jenny Goins, Commissioner, Matthew Hall, Deputy Commissioner, and Sharron Burton, Deputy Executive Director, Personnel Cabinet; Theresa Renn, BSN, RN, CDE, MLDE, Manager, Kentucky Diabetes Prevention and Control Program, Department for Public Health, Cabinet for Health and Family Services; Randy Lawson, Professional Firefighters Association; and Angela Lautner, Founder, Group Leader, KOI#insulin4all (Kentucky, Ohio, and Indiana).

**LRC Staff:** Chris Joffrion and Becky Lancaster.

#### **Kentucky Employees' Health Plan Diabetes Value Benefits Program and the Diabetes Prevention Program**

Jenny Goins, Commissioner, Department of Employee Insurance, Personnel Cabinet, stated that 20 million Americans have diabetes and 85 million Americans have prediabetes. Kentucky Employees' Health Plan (KEHP) members have a higher incidence of diabetes than the state and local government and the private sector's benchmarks. The KEHP Diabetes Prevention Program (DPP) is a Centers for Disease Control and Prevention (CDC) certified, year-long program that is covered at 100 percent by the KEHP. DPP participants attend a class once a week for six months then once a month for another six months. The KEHP DPP participants have an average of five percent weight loss, an activity average of 196 minutes per week, and an A1C level of 5.63 at the end of the program. There is a CDC certified provider in every county of Kentucky.

The KEHP Diabetes Value Benefit program was implemented on January 1, 2016. If you have diabetes,

KEHP covers members' prescriptions and supplies without having to pay into the deductible and in some cases without a copayment. In 2015, before the KEHP Diabetes Value Benefit program was implemented, there were 19 new optimally medication adherent members. After implementation, there were 1,865 new optimally medication adherent members in 2016. In 2016, there was a 14 percent increase in prescription costs and a 7 percent decrease in medical costs for people participating in the KEHP Diabetes Value Benefit program. The Consumer Driven Health Plans (CDHPs) had the highest increases for diabetic prescriptions. As reported by CVS/Caremark, the average medication possession ratio (MPR) increased since the inception of the value benefit design. KEHP continues to outperform benchmarks for diabetes adherence. Early indications of healthcare claims of the KEHP diabetic population show positive results.

In response to questions from Senator Alvarado, Commissioner Goins stated that it did not take much to convince Anthem to allow the KEHP to cover the test strips for members with diabetes. KEHP is a self-insured plan. The KEHP staff researched the needs of the members and the cost savings for all involved parties.

In response to questions from Mr. Burkhart, Commissioner Goins stated that DPP is for a KEHP member that has not been diagnosed as a diabetic. If a KEHP member has been diagnosed with diabetes the Diabetes Self-Management Education and Support program (DSMES) can help to educate them about diet and exercise. The Diabetes Value Benefit is available to all KEHP members.

#### **Approval of Minutes**

A motion to approve the minutes from the October 8, 2018 meeting was made by Senator Alvarado, seconded by Representative Marzian, and approved by voice vote.

#### **Cabinet for Health and Family Services Diabetes Prevention and Control Program**

Theresa Renn, BSN, RN, CDE, MLDE, Manager, Kentucky Diabetes Prevention and Control Program, Department for Public Health, Cabinet for Health and Family Services, stated that there are 449,324 Kentuckians diagnosed with diabetes. The National Health Interview Survey estimates there are 1.1 million Kentuckians with prediabetes. Diabetes is associated with complications that threaten both the length and quality of life. In 2016, Kentucky had the fourth highest diabetes mortality rate in the nation. Mortality rates are significantly higher for black men and women. In 2017, the total estimated cost of diagnosed diabetes in the United States was \$327 billion. The estimated cost of diabetes in Kentucky in 2017 was \$5.16 billion.

The Kentucky Diabetes Prevention and Control Program (KDPCP) is a network of state and local partners working to reduce the number of new cases of Type 2 diabetes as well as to reduce the sickness, disability, and death associated with diabetes and its complications. KDPCP partners with local Health departments closely, the Kentucky Diabetes Network, and over 45 local coalitions. Diabetes prevention and control activities are supported by the CDC and state funding. The KDPCP is working to improve awareness of prediabetes and diabetes through

community mobilization and partnerships. The KDPCP continues to offer professional education, support, data collection and reporting.

Kentucky ranks eighth in the nation in the number of DPP organizations and eleventh in the number of DPP participants. Kentucky has provided 10 national and state presentations regarding its DPP efforts, and has provided technical assistance to approximately 20 other states regarding DPP. KDPCP work was included in the CDC Emerging Practices document. In Kentucky there were 2 in-person DPP sites in 2012 and as of June 2018 there are 87 in-person DPP sites. DSMES program's overall access to nationally accredited programs has increased across the state. The Department for Public Health's DSMES program, Healthy Living with Diabetes, achieved national accreditation status in 2016 and is growing. Kentucky is one of a few states that has licensure for diabetes educators.

The Kentucky Diabetes Resource Directory has 11 categories searchable by county, adjacent county, or state. The Kentucky Diabetes Resource Directory allows entities or persons to enter and update records. The KDPCP completes monthly updates with an emphasis on DPP and DSMES. The Kentucky Diabetes Report is required by legislation. The report requires the Department for Public Health, Department for Medicaid Services, Office of Health Data and Analytics, and the Personnel Cabinet with KEHP, to produce a report given to the legislature in each odd numbered year. The report aims to establish a collaborative process across state agencies. Kentucky was the first state to pass and implement the requirement for the report. The Kentucky Diabetes includes: data about diabetes in Kentucky, what each agency is currently doing individually, what the agencies are doing together, and recommendations regarding diabetes in Kentucky. The next report will be released in January 2019.

In response to questions from Senator Alvarado, Ms. Renn stated that the Department for Public Health does not have data on how many people are referred to the Kentucky Diabetes Prevention and Control Program. The Healthy Living program is nationally accredited and the department does have data regarding outcomes and referral sources.

In response to questions from Ms. Hudspeth, Ms. Renn stated that the CDC oversees the much of the diabetes prevention efforts that sets the standards for DPP. DPP has 16 core sessions and monthly maintenance sessions for a year. The diabetes self-management program is usually completed in two to four sessions.

In response to a question from Representative Bentley, Ms. Renn stated that there are over 500 licensed diabetes educators in Kentucky.

#### **Discussion and Approval of the Task Force Findings and Recommendations**

Representative Bentley made a motion to strike from the draft memorandum language starting on page three, line three, "DKA occurs when an individual's blood glucose level exceeds 350 mg/dL, and HHNS occurs when an individual's blood glucose level is elevated to between 600 mg/dL and 1200 mg/dL." and to insert "DKA and HHNS cause severe metabolic derangements, and it is not possible for



first responders to diagnose these conditions in the field.” The motion was seconded by Senator Alvarado, and approved by voice vote.

Representative Bentley made a motion to insert “hypokalemia and” into the draft memorandum language on page four, line two. The motion was seconded by Representative Marzian and approved by voice vote.

Mr. Bayer made a motion to remove “one-time” from the draft memorandum language on page six, line one. The motion was seconded by Mr. Burkhart and approved by voice vote.

Mr. Walker made a motion to strike “and” from page seven, line six, and to insert “and address nondisclosure agreements, or gag clauses, that would prevent a pharmacist from discussing lower-cost options with a patient” in the draft memorandum language on page seven, line nine. The motion was seconded by Mr. Bayer and approved by voice vote.

Mr. Bayer made a motion to insert “of EMS reimbursement concerns related to non-transported patients and” in the draft memorandum language on page 7, line 14. The motion was seconded by Mr. O’Neal and approved by voice vote.

Representative Bentley made a motion to strike “KEHP’s” from the draft memorandum language on page 6, lines 9 and 16, to insert “national” on page 6, lines 9 and 16, and to insert “KEHP’s” on page 6, lines 10 and 16. The motion was seconded by Mr. Walker and approved by voice vote.

Representative Marzian made a motion to authorize the co-chairs to approve an additional statement discussing the differences in Type 1 and Type 2 Diabetes that would be later drafted and inserted. The motion was seconded by Mr. O’Neal and approved by voice vote. The following statement was drafted and inserted into the memorandum after the task force had adjourned, “7. Diabetes-related programs often do not distinguish between Type I and Type II diabetes in their name or program related literature. Instead, these programs typically refer to diabetes generically. In patients with Type I diabetes the pancreas does not produce insulin. Insulin is necessary for the body to breakdown and use glucose. According testimony from medical professionals, glucose is a necessary fuel source for the brain. In patients with Type II diabetes, the pancreas produces some insulin. However, the amount of insulin produced is either insufficient to meet the needs of the body, or the body’s cells are resistant to the insulin preventing the body from properly breaking down glucose. The symptoms produced by Type I and Type II diabetes, as well as the recommended course of treatment, are not the same. The common practice of generically referring to diabetes, without differentiating the two types, may suggest the need for enhanced public education efforts to ensure that the differences between the Type I and Type II diabetes are better understood.”

Representative Marzian made a motion to insert “encourage increased transparency by pharmaceutical companies regarding the price of all drugs sold and distributed in the Commonwealth,” into the draft memorandum on page seven, line one. The motion was seconded by Dr. Couch and approved by voice vote.

Representative Marzian made a motion to accept the draft memorandum as amended, seconded by Mr. Bayer. After a roll call vote of 10 yes votes, 0 no votes, and 0 pass votes, the amended memorandum was approved by the task force.

#### **Adjournment**

There being no further business, the meeting was adjourned at 11:54 AM.

## **PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

### **Minutes**

#### **2018 Interim**

November 8, 2018

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

The Program Review and Investigations Committee met on Thursday, November 8, 2018, at 10:00 AM, in Room 131 of the Capitol Annex. Representative Lynn Bechler, Chair, called the meeting to order. Representative Chris Fugate led the audience in prayer, Representative Bechler led the audience in the Pledge of Allegiance, and the secretary called the roll.

Present were:

Members: Representative Lynn Bechler, Co-Chair; Senators Perry B. Clark, Dan “Malano” Seum, Stephen West, and Whitney Westerfield; Representatives Chris Fugate, Adam Koenig, Steve Riley, Rob Rothenburger, Arnold Simpson, and Walker Thomas.

Legislative Guest: Representative James Tipton.

Guests: Dr. Aaron Thompson, President, and Dr. Bill Payne, Vice President for Finance Administration, Council on Postsecondary Education.

LRC Staff: Greg Hager, Committee Staff Administrator; Whitney Davis; Christopher T. Hall; Van Knowles; Jean Ann Myatt; Sarah Ortkiese; Jonathan Roenker, Chief Economist; Jeremy Skinner; William Spears; Shane Stevens; Susannah Stitzer; Joel Thomas; Scott Tremoulis; Richard Schufelt, Graduate Fellow; and Kate Talley, Committee Assistant.

#### **Minutes for October 11, 2018**

Upon motion by Representative Simpson and second by Senator Westerfield, the minutes for October 11, 2018, meeting were approved by voice vote without objection.

#### **Staff Presentation: Tuition, Fees, And Other Costs At Kentucky Public Universities**

Mr. Tremoulis said that the objectives of the report were to examine the Council on Postsecondary Education’s (CPE) tuition and mandatory fee rate setting process; tuition, fees, and associated costs; sources of financial aid; and average net price for Kentucky’s eight public universities. Comparisons were made to universities in seven surrounding states and the other 15 member states of the Southern Regional Education Board (SREB). Costs are adjusted for inflation in 2015 dollars unless otherwise noted.

CPE changed its process for setting tuition and mandatory fees after academic year (AY) 2009. Universities no longer proposed their own annual tuition and fee schedules but adopted tuition and mandatory fee ceilings requested by CPE. Increases in the average annual rate of tuition and fees have been lower in the period following the change.

Mr. Spears said that a university’s total cost of

attendance is the sum of its tuition, fees, books, supplies, room, board, and other expenses. Total cost does not include financial aid. AY 2015 total costs for the University of Kentucky (UK) and University of Louisville were more than \$25,000. The total cost for Kentucky State was less than \$19,000. Total costs for the other universities were about \$20,000 to \$21,000. Louisville’s total cost increased the least since AY 2000, about 32 percent. Kentucky State’s increased the most, about 88 percent.

The average total cost for in-state students to live on campus in Kentucky increased 64 percent from AY 2000 to AY 2015. Kentucky’s average cost has been similar to the average of universities in SREB states since AY 2007. Kentucky’s average cost remains lower than the cost of universities in surrounding states, but the gap has been narrowing since AY 2005. Despite cost increases, the number of first-time, full-time students entering Kentucky universities paying in-state rates has increased by 26 percent since AY 2000. The number of students paying out-of-state rates increased by 72 percent, a much larger increase than in surrounding and SREB states.

Mr. Tremoulis said that the Kentucky average net price, total cost minus average financial aid, was nearly \$12,000 in AY 2015, an increase of more than 14 percent since AY 2007. Average total cost in AY 2015 was more than \$21,000, up 23 percent since AY 2007. Average net price also increased in surrounding and SREB states. In AY 2015, the average was more than \$12,000 in SREB states and more than \$13,000 in surrounding states.

As a percentage of Kentucky median household income, net price in AY 2015 ranged from 18 percent at Kentucky State to more than 35 percent at UK and Louisville. Since AY 2007, net price as a percentage of median income increased for all universities except Kentucky State.

Ms. Davis said that the percentage of Kentucky university students receiving state grant aid and the amount received have been relatively stable over time. In AY 2015, approximately 70 percent of students received such aid; the average amount was just over \$2,000. The percentage and amount for institutional grant aid—aid from the universities—has been increasing. In AY 2015, 59 percent of students received such aid; the average amount was \$6,900. In surrounding states, the percentage of students receiving state aid is lower, but the average amount is higher. For institutional aid, the percentage and amount are higher in Kentucky.

Kentucky median student loan debt was relatively stable until fiscal year (FY) 2008. Median debt increased by 54 percent to \$24,000 per college graduate in FY 2015. Median debt is similar in Kentucky and surrounding and SREB states.

The default rate for those with student loan debt, approximately 11 percent in FY 2015 in Kentucky, has declined in recent years in Kentucky and surrounding and SREB states. Repayment rates have also declined. This implies that deferments and forbearances by students have been increasing.

In response to questions by Representative Bechler about who pays in-state tuition, Mr. Tremoulis stated that universities have reciprocity agreements with other states regarding in-state tuition. Mr. Spears said

that these agreements are generally between specific universities in Kentucky and other states. For example, students who reside in a specific county may be part of an agreement to get Kentucky in-state tuition. SREB has an academic common market with agreements whereby students can receive in-state tuition in out-of-state schools provided that they enroll in specified academic programs. He said that he did not know what percentage of Kentucky students who receive in-state tuition are from outside Kentucky but that he would check into it. Representative Bechler asked whether it has been broken down as to whether all students receiving in-state tuition are here legally. Mr. Spears said that staff could look into this.

In response to questions from Senator Westerfield, Mr. Tremoulis said a data source used for the report includes numbers on tuition alone. In the report, tuition and mandatory fees were combined. Staff will check to see whether data are available on tuition relative to other revenue sources.

Sen. Seum said that he filed a bill about 4 years ago to freeze tuition. He did not see anything in the report about how students' tuition, and ultimately debt, are being used for contributions to the scholarship fund. Ms. Davis stated that the report used data on the amounts of student loan debt from the US Department of Education, which does not indicate how the funds were used. Sen. Seum said that 17 percent of his granddaughter's debt went to the scholarship fund to pay for someone else's education.

In response to questions by Representative Tipton, Ms. Davis said that some material in the report covers all undergraduate students and undergraduates who graduate. The presentation covers loan debt only for those who graduate. Mr. Spears confirmed that tuition and fees increased more in the period 2001 to 2007 than in the period since. He did not know whether this was related to increased enrollment.

In response to a question from Representative Rothenburger, Mr. Tremoulis said that the report did not cover whether universities offer programs allowing students to work off indebtedness. Ms. Davis stated that many students participate in work-study programs, mostly through the Kentucky Higher Education Assistance Authority, which is considered aid. Types of student aid were not broken out for the study; most students receive multiple forms of assistance. Representative Rothenberger said that more students are taking dual-credit courses. He asked how this would affect student loan debt. Ms. Davis said that the study covered first-time, full-time students; the data did not include high school students taking college dual-credit courses. Representative Rothenberger said that his understanding is that high schools have agreements with local universities, so that the cost for dual-credit courses is less than if taken at the university. This should help to reduce student indebtedness.

Representative Koenig said that slide 13 seemed to indicate that median household income in Kentucky has increased more than the net price of Kentucky universities as a percentage of income. Slide 7 indicates that total cost for University of Louisville students increased the least since 2000. Slide 13 seems to indicate Louisville's price increased the most. He

asked how this could be the case and whether the differences in time period would explain this. Mr. Tremoulis said that staff would have to investigate this further to provide an answer. Representative Becher said that the change in percentages of income since 2007 shown in slide 13 is percentage point change, which is lower than what percentage change would be. Only household income is shown as a percentage change.

Representative Riley said that mandatory meal plans and housing fees should be included as costs. He has received complaints from parents about having to complete the Free Application for Federal Student Aid form knowing that they are unlikely to qualify for aid.

In response to questions from Representative Bechler, Mr. Spears stated that tuition and fees are rising at a higher rate than inflation. Ms. Davis stated that the decrease in the payment rate for students with loans was due in part to those defaulting but also to an increase in deferrals or forbearances of loan payments.

Senator Westerfield explained that defaulting on a loan is missing scheduled payments. Deferral is a contract between the loan parties to postpone payments for an agreed-upon period of time. There are conditions for deferrals, and total deferral time is limited.

Dr. Thompson said that the report was comprehensive and fact based and its findings were as expected. It covered standard affordability indicators, included trends, and used appropriate comparison groups. He discussed several core issues related to the cost of higher education, challenges to affordability, efforts to maintain affordability, the cost of public universities in Kentucky (recent trends and comparisons to other states), areas of concern, and potential solutions. One of the challenges to affordability is that campuses have had to take on more of the costs of maintenance and operation of facilities. One of the efforts to increase affordability is to get more students graduating and more quickly. One area of concern is the growing student loan debt, which is especially a problem for students who do not graduate. He concluded by saying that Kentucky higher education can do a lot without more state funding, but could do more with it.

Representative Bechler asked whether CPE was looking into making recommendations as to which degree programs should and should not be offered. Kentucky institutions of higher education are often offering degree programs for which graduates do not have a usable credential. Dr. Thompson agreed that there are some needs in the state that higher education should address better with graduates from particular programs. However, any credential can be made more usable once we offer more employability parts to it. More input from employers would be beneficial. The key is designing the infrastructure of all degrees so that employers, students, and universities understand that each degree is a usable credential.

Representative Bechler commented that universities seem to be doing a lot of new buildings on campus, including residence halls. He asked how this contributes to the costs for students. Dr. Thompson said that many of the residence halls are built using

public-private partnerships, not state funds. The new construction often results in higher costs, but parents and students are demanding the improved facilities. Dr. Payne said that housing costs are included in the overall costs of attendance. Kentucky compares favorably to other states.

In response to a question from Representative Bechler, Dr. Payne said that the different time periods used for some slides in the presentation was because of the data sources used.

In response to a question by Senator Seum, Dr. Thompson stated that CPE has the ability to deny increases in tuition and fees and has done so. Senator Seum commented that when he asked the previous CPE president how many people at UK make at least \$250,000, the list of names was over nine pages. He was told that most worked in research and development but was not told what the return was on this. Dr. Thompson said that high salaries or expensive programs are often related to research and development. He stated that CPE could probably do a better job of providing information on the return on investment at the line-item level. Dr. Thompson said that UK has been able to increase need-based scholarships to help offset tuition increases. He said that there needs to be more transparency about net price. In response to a question from Sen. Seum, Dr. Thompson said that 7 percent of total university budgets is from general fund appropriations. Sen. Seum said that when the General Assembly reduced general fund appropriations by 6 percent, the University of Louisville claimed that its budget was cut by 6 percent. The university increased tuition by 6 percent. Mr. Payne said that tuition at Kentucky universities has increased, but not enough to offset net general fund appropriation cuts.

Representative Tipton said the increasing pension costs for comprehensive universities and community colleges is a concern, as Dr. Thompson noted in his presentation. In response to questions from Representative Tipton, Dr. Payne stated that more need-based scholarships would be worthwhile, especially if coupled with a completion program to help recipients finish school. More appropriations would help. Dr. Thompson stated that primary and secondary education should work with CPE to ensure that incoming students are better prepared for college. In recent years, universities have moved to a corequisite model in which students are provided wraparound services as they take courses. This is an alternative to remedial courses for which students received no credit even though they were paying for the courses. Beginning next fall, no university can offer developmental courses; Kentucky Community and Technical College System campuses can offer one per student. Shortening the time required for a degree would help to decrease student costs.

In response to a question from Representative Rothenburger about why online courses cost as much as taking courses on campus, Dr. Thompson stated that costs include the expense to develop online courses. The amount of interaction required is also included. The cost of virtual courses is decreasing and should decrease further.

In response to a question from Representative Fugate, Dr. Thompson stated that not all universities



have consultants who recruit students for virtual courses. He can find out which ones do and provide information on costs. Universities that have such consultants likely do so for specialized programs. He said that he did not know whether this cost was passed on to other students.

In response to a question from Representative Simpson as to why tuition does not include mandatory fees, Dr. Thompson stated that CPE takes mandatory fees into account with tuition. An information technology fee is an example of a mandatory fee; an individual course fee is an example of a discretionary fee. It is important for tuition and fees to be simple and transparent.

Representative Bechler that it is a disservice to other students and taxpayers when Kentucky Education Excellence Scholarships are provided to students who are not performing at grade level. He commended the new policy of not providing remedial courses.

Representative Bechler said that committee members would be contacted about whether there will be a December meeting. If the committee does not meet in December, it would likely meet during the 2019 session.

The meeting adjourned at 11:59.

## **SCHOOL SAFETY WORKING GROUP**

### **Minutes of the 7th Meeting of the 2018 Interim**

November 19, 2018

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

The 7th meeting of the School Safety Working Group was held on Monday, November 19, 2018, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Max Wise, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative John Carney, Co-Chair; Senators Danny Carroll, Alice Forgy Kerr, and Johnny Ray Turner; Representatives John Blanton, George Brown Jr, and Brandon Reed; Jon Akers, Joe Bargione, Keith Griesser, Jerry Humble, Andy Smith, and Henry Webb.

LRC Staff: Yvette Perry, Joshua Collins, Lauren Busch, and Christal White.

Co-chair Carney reported receiving highly positive feedback from school districts in Kentucky about the committee's broad-based approach to school safety.

#### **Approval of Minutes**

On a motion by Representative Reed and a second by Senator Turner, the minutes of the October 9, 2018 meeting were approved by voice vote.

#### **Liberty Mutual Insurance**

Mr. David Livingston is an underwriter with Houchens Insurance Group, a group who works with Liberty Mutual to provide insurance coverage to school districts across Kentucky.

Presenters for Liberty Mutual Insurance included Chad Miller, Public Entity Client Services Manager; Brad Busby, Kentucky Underwriting Manager;

Megan Allman, National Marketing and Distribution Manager; and Doug Jenkins, Senior Corporate Counsel.

Ms. Allman said Liberty Mutual Insurance will share helpful information with the committee while avoiding discussions violating antitrust laws. Discussions on school violence in Kentucky, the legislative position, school safety recommendations, Liberty Mutual armed staff guidelines, and mental health are topics will be covered.

In 2017-2018, more than 3,659 incidents occurred in K-12 schools in the United States (U.S), a 62 percent increase from the previous school year. Threats ranged from shootings, unspecified threats, bomb threats, and gun/bomb threats. Social media threats ranged from educational institutions, commercial buildings, open spaces, residences, places of worship, healthcare buildings, and government offices.

Liberty Mutual complies with school safety through prevention, protection, mitigation, response, and recovery and utilize the United States Department of Education (USDE) Readiness and Emergency Management for Schools (REMS) for insuring schools. Mr. Miller said an important element regarding school safety is "if you hear or see something, speak up immediately." Following a disturbing social media encounter, a New Jersey mom recently foiled events aimed toward two Central Kentucky schools. All social media threats are thoroughly investigated and tip lines and safety and security apps allow the filing of anonymous reports.

Commonly targeted areas identified strategic access points such as stairways, poorly lit areas, and unsecured areas. Facility design and improvement must address physical barriers, natural surveillance, limited point of entry access, adequate lighting, alarm systems and sensors, video surveillance, technological advancements, and signage.

Mr. Busby said Liberty Mutual prefers schools to hire school resource officers (SRO), local or retired police officers, or private security due to similar training and job duties. Threat extinguishers, similar to fire extinguishers but less lethal, are attached to a wall and relay direct signals to local police when used. Mr. Busby said Liberty Mutual will insure schools that arm teachers; however, the final determination is made by school districts, budgetary concerns, and reaction from the local community.

School boards authorizing employees to carry firearms must have a board-adopted policy consistent with all controlling laws and recommendations provided by state education associations. School policy must be created, reviewed, and approved by the school's legal counsel and updated on an annual basis. To improve school safety, administrators must proactively identify individuals likely to carry firearms, create a communication plan, and respond to media inquiries.

Mr. Busby said the nationally recommended ratio for middle and high school students is one school psychologist to 700 students and is considered extremely high. He suggested hiring additional counselors and nurses for screening purposes and hiring deans to foster student relationships and instill a sharing culture. Mr. Busby suggested partnering with community health centers and local state

agencies, such as the Youth Risk Based Surveillance System (YRBSS) which monitors student physical and mental health behaviors. Kentucky ranked higher than national averages in incidences of electronic bullying, bullying on school property, bringing weapons on school property, or being threatened with a weapon on school property.

In response to a question from Mr. Akers, Mr. Busby said Liberty Mutual does not provide flat rates for schools which arm teachers but rates are based on risk assessment and questionnaire answers provided by school district staff. In response to a follow-up question, Mr. Livingston said the history of school safety and extent of on-going trainings are taken into consideration when rates are computed. Mr. Akers said the Kentucky Center for School Safety (KCSS) has serious concern in arming teachers. Mr. Akers said Kentucky had 271 SROs last year but currently have 405 across the state.

Responding to a question from Dr. Bargione, Mr. Miller said the best practices for emergency management and prevention are limited access entry points, barricades, shatterproof resistant film, hardened doors, and inside locks on classroom doors. Liberty Mutual Risk Control Department shares safety tips and recommendations and refers schools to the Department of Homeland Security, the USDE, and state board of education for other recommendations. From a risk control standpoint, Ms. Allman said Liberty Mutual employs field representatives who specialize in K-12 education and partner with local police departments. Liberty Mutual employees attend active shooter events and trainings and gather information to share with other districts.

In response to a question by Senator Carroll, Mr. Jenkins said a specific formula is not used when insurance policy rates are calculated but are based on application information received. He said schools taking active safety measures and participating in school safety programs are offered discounts. Responding to a follow-up question from Senator Carroll, Mr. Livingston said rates differ with building age, location, staffing needs, number of students, and the school's risk. Mr. Busby said insurance companies use proprietary questions and rates but they aren't exact. Although all insurers look at the same variables, the rating on each variable may differ.

In response to a question by Senator Wise, Mr. Busby said former military personnel will fall under the same preferred status as SROs and former law enforcement.

Responding to a question by Representative Brown, Mr. Busby said the school must inform first responders of individuals authorized to carry firearms, identified by colored vests, or another means of recognition. Representative Carney said apps on communication devices can color code the location of those carrying, but agrees vests are a good idea.

Responding to a question from Senator Carroll, Mr. Busby said pepper spray extinguishers and panic rooms are being discussed. Mr. Miller said technology companies are inventing new items and schools are installing door barriers, bullet-proof doors, and shatter-film on exterior and classroom windows. Mr. Busby said trained dogs have been implemented in some schools.

Senator Wise recognized employees of the Kentucky Office of Homeland Security, Director John Holliday, Assistant Director Mike Sunseri, and Lyndsey Hicks.

#### **Jefferson County School District**

Dr. Marty Pollio, Superintendent of Jefferson County Public Schools (JCPS), said while facility improvements and security emergency management are important elements relating to school safety, a comprehensive approach to positive student-teacher relationships and mental health support is critical. A comprehensive approach embraces a three-layered approach of academic support, social and emotional support, and medical support.

Sense of belonging is one of the most predictive indicators for student success and safety whereas a lack of belonging is one of the most predictive factors for discipline or academic issues in school. Research supports positive student-teacher relationships and student engagement as critical factors for a sense of student belonging. Dr. Pollio said the fourteen academies in Louisville have initiatives focusing on student belonging, being on a pathway within a career academy, and building business partnerships with students. Additionally, responsibilities have been added to the school counselors' roles that are not typically within the scope of their duties.

JCPS schools are required to implement three pillars: improved culture and climate, backpack of success skills, and racial equity. The six systems of a strong instructional learning climate within JCPS schools are standards implementation, effective use of data, instructional planning and practice for deeper learning, monitoring progress by analyzing student work, academic and behavioral support, and instructional feedback and professional learning.

Dr. Pollio focused on System 5, academic and behavioral support and intervention for every student. JCPS provides a system of high support and high expectations for student success. The foundation for academics in JCPS is the backpack of success skills, which specifically identifies what students need to know and do upon graduation. JCPS has an intense focus on reading, literacy, and math to build a successful foundation. A common Measure of Academic Progress (MAP) assessment is used in all JCPS schools to ensure students have meaningful experiences in the classroom to develop their graduate profile of communication, collaboration, innovation, being a culturally competent citizen within the community, and being an academic persistent learner. With a meaningful learning experience in the classroom, every student can defend their readiness for the next level at the end of 5<sup>th</sup>, 8<sup>th</sup>, and 12<sup>th</sup> grades. Attaining levels of literacy and numeracy is critical for students to feel a sense of belonging and correlates strongly with safety and security. Schools implement behavior supports and intervention through racial equity, school back pack programs, increased mental health, and therapeutic supports. During the next budget cycle, Dr. Pollio said he will ask the board to support funding for mental health and therapeutic support for all 155 schools in Jefferson County.

Dr. Pollio said JCPS has a highly trained crisis team providing support in family or community tragedy events. JCPS has over 350 mental health

counselors, psychologists, and school counselors to disperse to other districts and provide counseling relating to student or staff deaths, school shootings, suicides, or other crisis-related events. The crisis team also provides training for personnel in other Kentucky districts.

In response to a question by Senator Wise, Dr. Pollio said JCPS's hard approach is to provide a SRO at all schools. JCPS currently has only 27 SROs in 155 schools. Dr. Pollio said JCPS's approach is to increase security and ensure officers address student support as it relates to security. Responding to a follow-up question, Dr. Pollio said JCPS has over \$1 Billion in facility needs that have been neglected for decades. While renovations allow school security issues to be addressed, Dr. Pollio said his approach includes comprehensive school safety needs for mental health and trauma informed care.

Responding to a question by Representative Carney, Dr. Pollio said facility security must include architecturally safe designs. KCSS completed an assessment on JCPS schools focusing on safety issues, facility needs, and implementing recommendations.

In response to a question by Mr. Akers, Dr. Pollio said JCPS's corrective action plan for positive behavioral intervention systems (PBIS) was once misconstrued as an option for implementation in the past. School administrators and SBDM councils are now required to make recommendations regarding the method of positive culture and climate and behavior intervention implementation in their prospective schools.

In response to a question from Dr. Bargione, Dr. Pollio said academic success occurs when intense focus is placed on outcome, literacy, numeracy, social and emotional behavior, attendance, culture, and climate. Without all factors considered, academic indicators are not addressed. He encouraged every superintendent and principal to focus on systems of support.

In response to Senator Carroll's question, Dr. Pollio said JCPS has not yet recruited any retired police officers as substitute teachers. Regarding advice on crafting legislation, Dr. Pollio said a comprehensive approach with focus on the hard side as well as the soft side of school safety, ensuring mental health, trauma-informed medical supports for students, and staff training is crucial. He said persuading teachers in an authentic way is critical in shaping legislation.

#### **Roles and Training for Law Enforcement**

Presenting were Dr. Terry Brooks, Kentucky Youth Advocates (KYA); Judge Steven Teske, Chief Judge, Juvenile Court of Clayton County, Georgia; Pastor Edward Palmer, Chair, Subcommittee on Equity and Justice for All Youth; and Donovan Fornwalt, Council for Developmental Disabilities.

Dr. Brooks spoke on law enforcement and mental and behavioral health services in schools. He praised the committee for not looking through a simplistic lens when dealing with the complex issue of school safety and clarity in addressing issues as needed. With many unique districts in Kentucky, local autonomy has been recognized and superintendents have been given practical hints on school safety from a facility standpoint. Kentucky Youth Advocates advocate a direction that is creative and refreshing regarding

law enforcement and behavioral and mental health services in schools.

After being appointed, Judge Teske noticed an extraordinary number of arrests and referrals from school campuses. He said prior to Georgia introducing SROs in the mid-nineties, the school district had referred only 49 students to juvenile court. By 2003, the juvenile court referrals lunged to 1,400 cases, with 92 percent being misdemeanor or low-level offenses. Graduation rates fell to a low of 58 percent, juvenile crime rates soared, and school safety was becoming an issue. SROs were blamed for creating the problem and Judge Teske admitted Georgia's failure was lack of proper training.

After realizing the current approach and style of SROs affected decreased school safety, Judge Teske met with school administrators and chiefs of police who managed SRO programs. Positive changes were made and SROs were charged with providing positive student engagement. Judge Teske said school justice partnership models surround students in a positive and engaging manner though forming relationships with students. By reducing unnecessary school arrests and suspensions, applying positive student engagement, redirecting behavior with restorative programs and practices, and using PBIS, Georgia's graduation rates increased every year. As a result, Judge Teske report decreases in juvenile filings by 71 percent, felony filings by 45 percent, and residential burglaries by 62 percent. Judge Teske said Kentucky's investment in SROs will be best served by changing the culture of policing in schools by using a positive approach. The confidence and trust built as a result encourages students to feel comfortable with a trusted adult.

Pastor Palmer, a strong voice on justice for all kids, agreed that culture, climate, and racial equity are essential elements to school safety. Pastor Palmer spoke of racial disparities and referred to Senate Bill 200, which reduced the number of students committed to the Department of Juvenile Justice (DJJ) by 60 percent. Ninety percent of referred students succeeded and never recidivated while forty percent of kids who did not successfully complete diversion did not recidivate. However, 40 percent of African American and minority students continue to dominate DJJ referrals. Research indicates that minority kids bear the brunt of expulsion and suspensions, facilitating their involvement in DJJ's system. Research also shows disproportion among African American students who are removed from school due to suspension and referrals as a contributing factor to achievement gaps. Pastor Palmer encouraged training SROs to move beyond racial and ethnicity inequities and disparities, as well as those affecting poor families and mentally challenged students. He said SROs can better impact kids in a positive way by understanding the cultural nuances minority populations bring into schools. Moving forward, Pastor Palmer suggested including these groups in diversity training. Along with school culture, Dr. Brooks said their goal is to highlight targeted training around minorities and vulnerable students and make an impact on kids with disabilities.

Mr. Fornwalt thanked the work group for their methodical approach to school safety. He said schools and students represent a broad spectrum of human



behavior and experience and paying attention to school culture and climate and the capacities of school personnel has never been more important than in today's society. Children with developmental disabilities have difficulty regulating emotions to focus on learning and often lack the skills necessary to regulate behavior or recognize their actions and consequences. This poses unique challenges for teachers, administrators, and SROs. Instances of students who defy school personnel create anxiety for teachers and administrators and can result in disruption of lesson plans.

Mr. Fornwalt said children with developmental disabilities are 300 percent more likely to be sexually violated, although the rate of investigation and conviction is astoundingly rare. Therefore, victims of sexual and other forms of violence are likely to engage in poorly adaptive behaviors. As addressed throughout the presentation, more time and attention should be spent on trauma informed care. Teachers and SROs can help if new approaches are taken and a more clear understanding of what drives behavior. Because many students are stuck in a cycle of problematic behavior, SROs need a variety of intervention strategies for coping skills, oversensitivity to stress, overactive fight or flight response, self-regulation and impulse control. Understanding the teenage brain and its development is necessary for anyone in a position to discipline these students.

Officers should be armed with compassion and knowledge to understand the nature of particular disabilities and be able to recognize all behavior is a form of communication, especially bad behavior. Mr. Fornwalt is aware JCPS has had a shameful past regarding students with disabilities who have been victimized by violence and ignorance. Inappropriate restraint and solitary confinement continue to be problematic. Discipline of kids with disabilities and incidents of violence were and are at the center of that crisis. Mr. Fornwalt praised Dr. Pollio's willingness to embrace accountability and tackle systemic failures. He said the Council on Developmental Disabilities is prepared to help SROs learn the techniques and perceptions necessary to protect Kentucky's children. Kids with disability should not be perceived as a threat but embraced as part of the school family.

In response to a question by Senator Carroll, Judge Teske said after school-based arrests decreased 54 percent during the first year, the lieutenant challenged officers to engage in students with the greatest needs. The School Justice Partnerships (SJP) agreement and the Association of School Resources Officers (NASRO) training program aligned completely and has been replicated by 41 states in multiple jurisdictions and was adopted by the National Council of Juvenile Family Court Judges and the Office of Juvenile Justice and Delinquency Prevention. School access partnerships are unique within each school and have a core element but each curriculum is developed based on individual school needs. Senator Carroll said training needs to go far beyond basic police training and address training specific to schools. He suggested looking at DOCJT, developing specific training for SROs, and modeling after successful states.

Mr. Akers said SROs assigned to schools engage

in basic training and advance training is offered at night as to not remove officers during the school day. Kentucky has 405 SROs, an increase of 134 officers throughout the state.

#### **Health Services Funding in Schools**

Dr. Terry Brooks, KYA; Makhak Kalra, Lead Policy Health Analyst, KYA; and Eva Stone, District Health Coordinator, Jefferson County School District; and Deputy Secretary Christy Putnam, Cabinet for Health and Family Services discussed health services funding in schools.

Dr. Brooks said although wide endorsement for behavioral and mental health services for children is present, concern regarding budgetary issues remain. KYA reached out to CHFS to form a partnership to provide services through available federal funding.

Ms. Kalra said KYA believes schools are safer when students have access to quality, effective health care for issues such as depression, anxiety, and trauma. When schools offer accessible health care services students can quickly receive preventive treatment before more serious and costly problems arise.

An opportunity many states are utilizing is federal funding allowing schools to leverage school-based health services, including comprehensive behavioral health screenings, therapeutic counseling for trauma-related incidents, and intense behavioral health services. Utilizing federal Medicaid dollars can offer schools flexibility and resources to fund health professionals in schools. Most educational leaders realize the importance of having behavioral health providers in schools but struggle with funding. This opportunity allows schools to opt into federal funding used to place qualified health professionals in schools and provide services covered under Medicaid. While matching funds are required to receive federal funding, existing expenditures in school districts can be utilized effectively to satisfy the match.

Ms. Kalra said connecting children to critical health services will help eliminate barriers for families and allow children to focus on learning. Research shows children have difficulty focusing when experiencing health problems within the classroom.

Ms. Stone said needs in rural and urban settings are alike except students in urban areas are exposed to more violence. She said it is important to include all health professionals within a school if federal funding is received. Ms. Stone reviews compliance rates regarding school health physical exams and dental screenings and said a lack of screenings indicates a lack of access to medical care. Although programs are in place, this is an opportunity to integrate systems and ensure children are connected to medical care.

Early screening, detection, referrals, and early intervention are needed to provide a more cost effective method and to prevent students from becoming chronically absent and disengaged. Health encompasses emotional, physical, and social health. The state provides structure for social health through the Family Resource Youth Services Center (FRYSC), who completes a periodical needs assessment. She suggested adding a couple of questions to the FRYSC needs assessment that could trigger risk for adverse childhood exposure and could initiate an early intervention process.

Dr. Brooks said House and Senate Leadership

suggested he provide a presentation to the Cabinet for Health and Family Services (CHFS) relating to Medicaid funding. CHFS displayed openness to this way of supporting schools. Ms. Putnam said CHFS immediately began discussion on how to best reach out for partners and best leverage the funds. She said the federal government recently relaxed restrictions around health funding for schools, allowing CHFS to amend their state plan and school districts to opt in to the funding. CHFS is working with the FRYSC Director and looking to KDE for a strategic identification process to expand throughout districts across the Commonwealth and draw down additional federal funds. School districts are currently expending state and local dollars on these health care services which can be used to match federal funding and expand health services. CHFS believes adult health outcomes could be beneficial as adults become more engaged in children's health and become more aware of preventable conditions.

Dr. Brooks said the idea of federal funding was spurred due to the group's work with awareness of the need for behavioral and mental health support.

In response to a question by Senator Wise, Ms. Putnam said she has challenged the CHFS internal team to meet a timeline of the 2019 school year for these federal funds to be in place.

In response to a question from Senator Carroll, Ms. Putnam said the draw down is a 70-30 match. In response to follow-up questions, Ms. Putnam said having the FRYSC in place helps trigger the need for additional screenings if needed. Dr. Brooks said he sees it as a chance for Kentucky schools to claim previously untapped federal dollars. Ms. Putnam said opportunities through the Every Student Succeeds Act also loosen restrictions as to what can be spent on mental health and school nursing. She said Kentucky also has some programs where health departments are partnering with schools and hospitals where school districts could have a variety of resources to choose from as these services grow.

Responding to a question from Senator Carroll, Dr. Brooks said local autonomy allows districts to opt for a more traditional approach. He envisions a process where every school can build this free care money into their local schools.

Dr. Bargione expressed thanks for the creative partnership between KYA and CHFS as a means of additional funds to address the needs of young people. In response to his question, Ms. Stone said funding comes when providers bill for services. In areas with higher percentages of FRLP, KCHIP eligibility is increased and the higher reimbursement rate allows services to be provided in underserved areas. She said physical and behavioral health are included and oral health can and should be included and will make Kentuckians healthier. Medicaid billing in July will provide increased reimbursement, giving an opportunity to get increased physical and behavioral health services into rural areas. She said funding will be available for students with health issues even if the student and their family are not Medicaid eligible. A school nurse would see all students regardless of ability to pay and the Medicaid portion will be billed.

In response to a question by Representative Carney, Ms. Stone said KYA doesn't have statistics

on the number of private contractors or students with access to services but can work to provide those figures. She said providers come into schools for therapeutic services and a screening could show the need to refer students for behavioral health services with typical billing. Representative Carney said it is an appropriate place to start screening.

#### **Other Business**

The final meeting of the SSWG will be Tuesday, December 11, 2018, at the Mountain Arts Center in Prestonsburg at 1 p.m.

Agenda items considered will be the Kentucky Office of Homeland Security to discuss trends and grants on the federal level. Senator Carroll suggested someone from the State Interagency Council. Senator Kerr said she would like to hear testimony from the JCPS school nurse who had seen 1,700 students within a few weeks of the school year to help understand the issues students are experiencing, and Mr. Akers suggested testimony on specific intervention programs Dr. Pollio mentioned earlier. Senator Wise said student committee representative Ms. Nasim Mohammadzadeh had previously requested that the Student Voice Team present.

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

## **TASK FORCE ON TAX EXPENDITURES**

### **Minutes of the 5th Meeting of the 2018 Interim**

December 13, 2018

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

The 5th meeting of the Task Force on Tax Expenditures was held on Thursday, December 13, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Ken Fleming, Co-Chair; Senator Wil Schroder; Representatives Jason Petrie, Diane St. Onge, James Tipton, and Susan Westrom.

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

#### **Approval of Minutes**

Representative St. Onge moved that the minutes of the October 25, 2018, meeting be approved. Representative Fleming seconded the motion, and the minutes were approved by voice vote.

#### **Discussion of Recommendations**

The first task force recommendation would sunset all tax expenditures by June 30, 2020, except for the top 10 tax expenditures by dollar value. Representative Fleming stated that the top 10 expenditures were not recommended for sunset because the expenditures affect a significant number of individuals in the Commonwealth. Financial and social impacts must be examined when considering elimination of an expenditure.

The second recommendation would establish a Tax Expenditures Oversight Board. The oversight board would analyze all expenditures, particularly those that will sunset in 2020.

The third recommendation outlined items that would give more substance to the Tax Expenditure

Analysis report that is published by the Office of State Budget Director.

The fourth recommendation would require the Department of Revenue to establish a process of collecting information under a unified system.

The fifth recommendation would require each budget bill to contain a summary of the tax expenditure analysis.

The sixth recommendation would require any new tax expenditure presented to the General Assembly to have an automatic sunset clause of five years.

With no further business, the meeting was adjourned.

## **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

### **Minutes**

November 20, 2018

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

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, November 20, 2018, at 1:00 PM, in Room 169 of the Capitol Annex. Representative Larry Brown, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Larry Brown, Co-Chair; Senators Julian M. Carroll and Rick Girdler; Representatives Dennis Horlander and Steven Rudy.

Guests: Ken Marks, System Director of Facilities and Support Services, Kentucky Community and Technical College System; Scott Aubrey, Director, Division of Real Property, Department for Facilities and Support Services; Donna McNeil, Executive Director, Kentucky Infrastructure Authority; and Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Katherine Halloran, Committee Staff Administrator; Julia Wang, Legislative Analyst; and Jenny Wells Lathrem, Committee Assistant.

#### **Approval of Minutes (October 16, 2018)**

A motion was made by Representative Rudy to approve the minutes of the October 16, 2018 meeting. The motion was seconded by Senator Girdler and approved by voice vote.

#### **Correspondence and Information Items**

Ms. Halloran reported correspondence and information items. The first were the postsecondary notices of intent to use the public-private partnership (P3) and alternative construction contracting project delivery methods. Pursuant to KRS 45A.077, the University of Kentucky (UK) submitted the request for proposal (RFP) utilizing the P3 project delivery method for the mixed use Improve Campus Parking and Transportation System (Parking Structure #5), and pursuant to KRS 45A.180, Northern Kentucky University submitted the RFP utilizing either the construction management at-risk or construction manager-general contractor project delivery methods for the Construct/Acquire New Residence Hall 2016-2018 project.

UK Healthcare purchased two items of medical equipment with restricted funds, a \$1.1 million computed tomography (CT) scanner for Good Samaritan Hospital and a \$2.5 million robotics assisted surgical system for Chandler Hospital.

The Kentucky Community and Technical College

System (KCTCS) purchased a \$1.2 million Driver Simulator for the Kentucky Fire Commission with the commission's restricted funds. \$1 million was authorized in HB 200 with the residual funds from KCTCS's Equipment Pool authorization.

Lastly, the Louisville Authority submitted its annual report pursuant to KRS 65.4931(3), and Section 8.22 of the Loan Agreement for the Series 2017 bond issue.

#### **Lease Report from KCTCS**

Mr. Marks reported a lease modification for the KCTCS System Office Building extending the current expiration date of December 1, 2023 through June 30, 2024 to amortize \$5 million in renovation costs. The \$50,290.30 current monthly rent will average that amount over the extended term.

Representative Brown asked about KRS 45.763 approval in the appropriations bill for the \$5 million borrowed by the City of Versailles for the renovations and the change from KCTCS's initial plan of acquiring the System Office Building through paying off the City of Versailles's Series 2016 bond issue. Mr. Marks stated that KCTCS is considering the arrangement a lease under KRS 56.813 and that KCTCS is not obligating any money outside the biennium.

A motion was made by Representative Rudy to approve the lease modification, seconded by Senator Carroll, and approved by unanimous roll call vote.

#### **Lease Report from the Finance and Administration Cabinet**

A motion was made by Senator Carroll to roll the four lease renewals into one roll call vote, seconded by Representative Rudy, and approved by voice vote.

Mr. Aubrey reported four lease renewals under the same terms and conditions. The first was for the Unified Prosecutorial System in Jefferson County, \$16.55 per square foot, through June 30, 2020.

The second was for the Department of Alcoholic Beverage Control in Franklin County, \$7.93 per square foot, though June 30, 2022.

The third was for the Cabinet for Health and Family Services in Letcher County, \$9.26 per square foot, through June 30, 2020.

The last renewal was for the Department for Libraries and Archives in Franklin County, \$10 per square foot for the office space, \$5.41 per square foot for the warehouse space, through June 30, 2027.

A motion was made by Representative Rudy to approve the four lease renewals, seconded by Senator Carroll, and approved by unanimous roll call vote.

#### **Report from the Office of Financial Management**

A motion was made by Representative Rudy to roll the KIA Fund A loans and one of the Fund B loans (City of Murray) into one roll call vote, seconded by Senator Carroll and approved by voice vote.

Ms. McNeil submitted various loan requests. The City of Butler (Pendleton County) requested a \$93,331 increase to its Fund A (Clean Water State Revolving Fund Loan Program) loan for a \$1,080,574 total loan amount. The [Sewer System Rehabilitation] project will correct infiltration and inflow issues with the wastewater collection system and includes the rehabilitation of a lift station. The increase is for the paving contract to repair damage during construction from heavy equipment. The monthly sewer rate,



effective July 2018, is \$37.03 for 4,000 gallons. The proposed rate increase, effective July 1, 2019, is \$38.61 for 4,000 gallons. The system has a CPI [Consumer Price Index] clause. The term is 20 years at 1.75 percent.

The City of Murray (Calloway County) requested a \$1.45 million Fund A loan. The [Combined Sewer] project will reduce infiltration into the wastewater collection system and eliminate a sanitary sewer overflow by replacing manholes and rerouting sewer around the city. The sewer rate, effective July 2018, for 4,000 gallons is \$42.84 inside the city and \$67.89 outside the city. The term is 20 years at .50 percent.

The City of Murray requested a \$1.5 million Fund B (Infrastructure Revolving Loan Program) loan. The loan will reimburse the city for a portion of the construction costs for the [Clearwell at Water Treatment Plant] project, the demolition and construction of a new one million gallon clearwell with a high service pump station projected to be complete in January 2019. The reimbursement will offset a possible rate increase as debt service will be due in 2020 for the wastewater treatment plant expansion. The drinking water rate, effective July 2018, for 4,000 gallons is \$20.97 inside the city and \$32.08 outside the city. The term is 20 years at .50 percent interest.

Representative Rudy moved to approve the Fund A loans and the Fund B loan (City of Murray), seconded by Representative Horlander, and approved by unanimous roll call vote.

Laurel County Water District #2 submitted a \$445,000 Fund B loan request, matching a Section 531 U.S. Army Corp of Engineers grant at 25 percent. The grant will fund the [Fariston Water Storage Tank] project, a new 500,000 gallon elevated storage tank for Greer Industrial Park near London which will improve service for approximately 1,200 existing customers and enhance the level of fire protection. The water rate, effective March 14, 2016 is \$25.08 for 4,000 gallons. The proposed increase to \$31.33 for 4,000 gallons will require Public Service Commission (PSC) approval and will also fund two US Rural Development projects. The term is 30 years at .50 percent.

Representative Brown suggested that the motion to approve the Fund B loan be contingent upon PSC granting a Certificate of Public Convenience and Necessity and approving a water rate increase sufficient to maintain a 1.1 debt service coverage ratio.

Senator Carroll moved to approve the Fund B loan, contingent upon PSC granting a Certificate of Public Convenience and Necessity and approving a water rate increase sufficient to maintain a 1.1 debt service coverage ratio. The motion was seconded by Representative Rudy, and approved by unanimous roll call vote.

#### **New Debt Issue**

Mr. Barrow submitted the Kentucky Higher Education Student Loan Corporation (KHESLC) Student Loan Backed Notes to be issued in one or more tranches for the acquisition of Federal Family Education Loan Program (FFELP) loans, which have at least a 97 percent federal guarantee. The transaction differs from prior transactions in that the specific loan portfolios to be acquired are not yet identified.

This transaction will utilize \$325 million of the \$460 million authorized by KHESLC's Board of Directors for fiscal year 2019 debt issuance.

In response to queries from Representative Brown regarding rehabilitated FFELP loans, Mr. Carlson said that although the FFELP program was discontinued, there are still legacy FFELP loans. If one defaulted on a FFELP loan, then one may rehabilitate by making nine on-time payments within a ten month time period. Upon rehabilitation, the Kentucky Higher Education Assistance Authority, the guarantee agency, would sell the rehabilitated loan to a FFELP lender such as KHESLC. FFELP loans are federally guaranteed at either 97 or 98 percent depending on the first disbursement date or at 100 percent with special circumstances such as death or disability.

A motion was made by Senator Carroll to approve the new debt issue, seconded by Representative Horlander, and approved by unanimous roll call vote.

#### **Previous Debt Issues**

Mr. Barrow next reported the Kentucky Asset/Liability Commission (ALCo) Agency Fund 2018 Direct Loan/Project Note issue. Proceeds from the direct placement note financed the remaining \$27.7 million of KCTCS's BuildSmart capital projects. There were two prior bond transactions for the BuildSmart program. The BuildSmart program had legislation authorizing KCTCS to assess a fee of up to \$8 per credit hour for debt service. Due to enrollment fluctuations, the amounts collected could not be projected with certainty. Therefore, the variable rate transaction, 70 percent of the 3-month LIBOR plus one percent, was structured so that additional principal could be paid upon fee receipts. A similar structure was used for the unemployment insurance trust fund as well as other transactions. KCTCS already made two principal payments totaling several million dollars.

Information on the Kentucky Housing Corporation (KHC) Tax-Exempt Conduit Multifamily Housing Revenue Bonds (J.O. Blanton House Apartments Project), Series 2018; financing the acquisition, rehabilitation, and equipping of a multifamily residential rental facility containing 256 units located in Louisville, was included in the meeting materials.

#### **School District Bond Issues with School Facilities Construction Commission (SFCC) Debt Service Participation**

A motion was made by Representative Rudy to roll the school district bond issues into one roll call vote, seconded by Senator Carroll, and approved by voice vote.

Mr. Barrow submitted three school district bond issues with School Facilities Construction Commission (SFCC) debt service participation for projects [in Kenton, Mercer, and Muhlenberg Counties]. The total estimated issuance amount was estimated at \$11.2 million, with SFCC's just under 40 percent portion of approximately \$4.3 million. No tax increases were necessary to pay debt service for any of the bond issues.

A motion was made by Representative Rudy to approve the school district bond issues, seconded by Senator Carroll, and approved by unanimous roll call vote.

Representative Brown thanked the committee,

saying that it has been a great honor to serve as co-chair.

Representative Rudy commented that he has been on the committee for several years and that Representative Brown, amongst the best of the chairmen, will be missed.

With there being no further business the meeting adjourned at 1:28 p.m.

## **TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE**

### **Minutes**

December 11, 2018

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

The 8th meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Tuesday, December 11, 2018, at 10:00 AM, in Room 129 of the Capitol Annex. Senator C.B. Embry Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator C.B. Embry Jr., Co-Chair; Senators Paul Hornback and Dennis Parrett; Representatives Phillip Pratt, Rick Rand, and Brandon Reed.

Guests: Warren Beeler, Executive Director, Governor's Office of Agricultural Policy (GOAP); Bill McCloskey, Deputy Executive Director, GOAP; and Paulette Akers, Director, Division of Conservation.

LRC Staff: Tanya Monsanto, Kelly Ludwig, Nathan Smith, Donna Barney, and Rachel Hartley.

#### **Governor's Office of Agricultural Policy Report**

Warren Beeler summarized the approved guideline revisions adopted by the Agricultural Development Board that will be effective for applications at the January meeting. All projects have legal agreements and are approved on a reimbursement basis.

There are new additions to the County Agricultural Investment Program (CAIP) including annual trainings and a prohibition on members of scoring committees receiving funds.

In response to a question from Senator Parrett, Mr. Beeler stated you cannot be a member of the scoring committee and approve funds for your own project at the county level.

Bill McCloskey described the Agricultural Development Board's projects for October under the program. Mr. McCloskey highlighted programs including CAIP, Next Generation Beginning Farmer, and Shared-use Equipment.

Requested program amendments discussed included:

Adair County Cattlemen's Association requested an additional \$18,000 in Adair County funds for CAIP. The board recommended approval, which would bring the program total to \$169,000.

Adair County Cattlemen's Association requested an additional \$3,600 in Adair County funds for the Youth Program. The board recommended approval, which would bring the program total to \$29,850.

Hancock County Conservation District requested a change in the limit for the Youth Program maximum award from \$200 to \$1,500. The board recommended approval.

Projects discussed included:

The Hopkins County Extension District Board was approved for up to \$215,000 in state funds and \$35,000 in Hopkins County funds for a farmers market structure as part of the Danny Peyton Outdoor Education Center and Farmers Market in Madisonville.

David R. and Mollie S. Appelman were approved for up to \$68,502 in state funds and \$1,000 in Mason County funds to implement on-farm water management practices according to the On-Farm Water Research Development and Demonstration project guidelines.

The LaRue County Board of Education was approved for \$60,000 in LaRue County funds to construct a greenhouse at the high school.

Two Rivers Fisheries, Inc. requested \$100,000 in Ballard County funds and \$250,000 in state funds to construct a fertilizer processing room. The board denied the request.

Grundy Hemp Co. LLC requested \$43,250 in state funds to construct guttered greenhouses for growing hemp plants for farmers in the 2019 growing season. The board denied the request due to the status of hemp related to the farm bill.

Mr. McCloskey also described the Agricultural Development Board's projects for November under the program. Mr. McCloskey highlighted programs including CAIP, Next Generation Beginning Farmer, On-Farm Energy Program, and Youth Agriculture Incentives Program.

Requested program amendments discussed included:

Buffalo Trace Area Development District, Inc. requested an additional \$21,052 in Mason County funds for CAIP. The board recommended approval, which would bring the program total to \$221,052.

Projects discussed included:

The Kentucky Horticulture Council was approved for \$1,086,723 in state funds to continue technical assistance, education, research, market analysis, and market access for Kentucky's horticulture industry.

Breckinridge County Fair, Inc. was approved for \$14,525 in Breckinridge County funds for facility updates to reduce energy costs.

Western Kentucky University was approved for up to \$63,753 in multiple county funds to complete instrumentation updates to 36 sites.

The Milkhouse Creamery, LLC was approved for up to \$50,000 in multiple county funds to construct the creamery and purchase equipment to establish a commercial kitchen in Campbellsburg.

JSW Farm Chop Shop, Inc. requested

\$502,000 in state funds to undergo equipment upgrades in its processing facility to improve safety, cleanliness, and efficiency. The board denied the request; however, the board voted to pursue a third-party audit.

Kentucky Future Farmers of America Foundation, Inc. requested \$165,000 in state funds to hire two Agricultural Education Area Program Specialists for a period of three years. The board denied the request due to limited producer impact and the applicant having the financial ability to fund the project.

#### **Division of Conservation**

Paulette Akers stated the state cost share program started receiving tobacco settlement funds in 2000. The funds provide financial assistance to farmers at a 75 percent reimbursement rate with the assistance of local conservation districts. There are funds that are returned every year due to canceled projects or an overestimate of cost. These funds are appropriated in the next fiscal year.

There is a new online application system that will provide greater transparency and produce fewer clerical errors. Due to the delay, the deadline for applications was July instead of January. The backlog of funds will be distributed through two funding cycles with deadlines of July 31, 2019, and December 31, 2019.

The Division of Conservation partners with the Division of Water to determine priority areas. It also partners with the Natural Resources Conservation Service to manage manure run-off through the Regional Conservation Planning Project called Managing Poo.

Documents distributed during the meeting are available in the LRC Library and at [www.lrc.ky.gov](http://www.lrc.ky.gov).

There being no further business, the meeting was adjourned.

## **EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE**

### **Minutes**

November 20, 2018

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

The November meeting of the Education Assessment and Accountability Review Subcommittee was held on Tuesday, November 20, 2018, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Daniel Elliott, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Daniel Elliott, Co-Chair; Senator Alice Forgy Kerr; Representatives Derrick Graham, Regina Huff, and Steve Riley.

Guests: Erin Klarer, KHEAA.

LRC Staff: Joshua Collins, Lauren Busch, and Chris White.

#### **Approval of Minutes**

On a motion by Representative Graham and a second by Representative Riley, the minutes of the

October 18, 2018 meeting were approved by voice vote.

#### **Approval of 2019 OEA Research Agenda**

On a motion by Senator Kerr and a second by Representative Graham, the OEA Study Agenda Topics for 2019 were adopted by voice vote.

#### **OEA State and Local Funding Distribution**

OEA presented a report on state and local funding of high poverty schools. The report was approved by this subcommittee as part of the 2018 Research Agenda and provided an overview of how funds are utilized in schools.

Presenting for OEA were David Wickersham, Deputy Director for the Office of Education Accountability (OEA); Bart Research Division Manager, OEA; and Sabrina Olds Cummins, Research Analyst and Lead Researcher on the report, OEA.

Ms. Cummins stated Kentucky districts receive additional state and local revenue for students considered to be living in poverty because of eligibility for the free federal lunch program; however, districts are not obligated to take student poverty rates into account when allocating funds to schools with relatively higher or lower-poverty rates.

The report analyzed per-pupil spending at higher versus lower-poverty schools in the state and looked within Kentucky districts to see how many spent more on the highest-poverty schools at elementary, middle, and high school levels. The report shows, on average, highest-poverty schools spend more per pupil at the state level than do the lowest-poverty schools; however, this is frequently not true within districts.

Ms. Cummings said OEA's presentation includes discussion of the distribution of state and local funds; differences in Free and Reduced Price Lunch (FRPL) rates within districts; expenditure gaps between higher and lower-poverty schools; and the relationship between persistent poverty and student outcomes.

Major conclusions of the report include tweaking the Support Education Excellence in Kentucky (SEEK) funding formula which provides districts extra funds for at-risk students. Few districts have policies in place to consider poverty in allocating funds to schools.

Statewide, average per-pupil expenditures are greater at all levels in the state's highest versus lowest-poverty schools; however, the same does not hold true among schools within individual districts. Some Kentucky districts have all schools with higher-poverty rates and other district vary greatly in the percentage of students qualifying for FRPL. One district has an 86.0 percent range between its highest and lowest poverty schools. The report presented is most relevant for districts containing schools with a wide range of school poverty rates.

Less than half of districts analyzed have greater per-pupil expenditures at the district's highest-poverty elementary and middle schools. For highest-poverty high schools, slightly more than half of the districts have greater per-pupil expenditures. These analyses did not include all Kentucky districts and, at the high school level, there were only 25 districts with more than one high school.

Persistent poverty is defined as students who



qualify for FRPL for six consecutive years. The study analyzed persistent poverty and student performance in 8th grade students based on this definition. In 72 districts, at least half of 8th grade students were persistently poor. Additionally, 8th grade reading and math proficiency rates for students who qualified for FRPL each year were approximately 35 percent lower than for students who had never qualified for FRPL between grades 3 and 8.

OEA used financial data from 2017 for preschool thru 12th grade, K-PREP results, and individual student level data on students eligible for FRPL.

Districts receive additional revenue for poor students; however, districts are not required to weigh student poverty in the distribution of funds to schools within districts.

The SEEK funding program is a formula-driven allocation of state provided funds to local school districts. The guaranteed base is comprised of state and local funds. In property-poor districts, a majority of SEEK revenue comes from state funds. In districts with greater property wealth, the majority of SEEK funds are generated through local revenue. In 2017, the General Assembly set a \$3,901 per-student base guarantee on average daily attendance (ADA), which are deposited in the district's general fund.

Kentucky distributes funds to districts in a method referred to as a "weighted student funding (WSF) formula," which distributes funds based on student needs. Districts receive additional funds for students eligible for special education, English language learners, or students considered poor. Students qualifying for free lunch generate an extra 15 percent of the guaranteed base, which amounted to \$597.00 in 2017. A portion of general fund revenue is generated by the specific number of free lunch students attending school within districts and proportions vary among districts. All revenue becomes part of the district's general fund. Kentucky laws govern how districts allocate funds to individual schools and SBDM councils determine budgets for spending in individual schools.

The SBDM allocation process begins with district-wide expenditures being deducted from available revenues in the general fund. District-wide expenses, including administration, impact how much money is available to distribute to schools. Other district-wide expenses impacting school funds are budgeted contingency, maintenance, and transportation.

District administrative budgets also include contingency funds. Kentucky law requires districts to pass a working budget including at least a two percent contingency in the general fund. On June 30th of each year, the contingency amount budgeted in the general fund and any unspent revenues become the district's fund balance. OEA's 2010 Fund Balance Report analyzes fund balances and explains it in detail. District fund balances as of FY 2017 was \$975 million, or 19.2 percent of district expenditures. When KDE changed the fund balance calculation in 2012, the general fund balance increased by \$241 million.

The methods districts are required to use in the allocation of state and local funds to individual schools refers to the general fund dollars remaining after district-wide expenses and contingency funds

are removed. Most districts contain more elementary schools, a couple middle schools, and may have only one high school. The majority of district general fund revenue is allocated to individual schools and flows through Section 4 funds for certified staff. Teaching staff allocated for each school are based on district policies and must abide by the per-pupil ratios as dictated by statute. The student per teacher ratio for Kindergarten through grade 3 is 24 students; grade 4 maximum is 28 students; grades 5 and 6 maximum is 29 students; and grades 7 through 12 can have 31 students. Section 4 funds also include staff for certified positions such as principals, assistant principals, and guidance counselors, among others. The majority of allocations flow through certified staff and governing law does not consider poverty. While some districts may have lower student-to-teacher ratios to help schools with more students living in poverty, additional funding is not always provided to schools with higher-poverty rates. In one district, an elementary school with 89 percent student poverty receives the same number of teachers per student as an elementary school with only 30 percent of students living in poverty.

After Section 4 funds are distributed, the district allocates Section 5 funds for classified staff, based on board approved staffing policies. Section 6 funds are used to purchase supplies needed for classrooms.

Section 7 funds are the last general fund revenues allocated. These funds must be allocated when all expenditures have been allocated and districts have revenue left in the general fund. As with certified staff, funds for classified staff and supplies are based on the number of students and do not take poverty into consideration. For districts who spend more on administration and budget a larger contingency, Section 7 funds may be depleted. In 2017, less than half of Kentucky districts had any remaining funds to distribute through Section 7.

A district can choose between four methods to distribute Section 7 funds. The method is chosen by the local school board and is subject to political considerations. The first method distributes funds proportionally to schools based on ADA. A district's general fund dollars, which contain revenue specifically designated for students in poverty, are distributed to each school without regard to student poverty levels. This option may be appealing for transparency and apparent fairness, although funds do not pass on to higher-poverty schools. The second option is allocation of additional funding to higher-poverty schools based on needs identified by each school's comprehensive school improvement plan (CSIP). These plans may emphasize additional funding needed to close achievement gaps or otherwise serve poor students' needs. A third option is allocation according to board-identified needs, which could similarly target additional funding to higher-poverty schools. A board might also elect to use a combination of the first three methods.

Data used in this report was derived from a 2017 survey to all superintendents, with a 98 percent response rate.

OEA's survey asked districts if Section 7 funds were allocated to any of their schools in FY 2017 and, if so, which option they choose. Of 77 districts which

allocated Section 7 funds, 17 districts distributed those funds based on ADA. A district who gives more state and local funds to schools with students living in poverty or with other school needs would allocate funds based on student needs identified by CSIP or for specific instructional purposes based on board-identified student needs from disaggregated student achievement data. Forty two of the 77 districts distributed funds in this manner.

In response to a question by Representative Graham, Ms. Cummins said schools with higher-poverty students are fighting to keep funds. Kentucky differs from other states in shifting funds because SBDMs dictate the distribution of funds within each school. Other states are less descriptive of the manner funds are required to go to schools.

In response to OEA's survey asking districts if board-adopted staffing formulas included poverty, six districts indicated poverty was taken into consideration. After reviewing policies, OEA determined only two districts actually allocated funds based on poverty. One district allocated an additional \$18.00 per student receiving FRPL while the other one allocated two students less than other schools if FRPL rate was 75 percent or above.

In reviewing FRPL percentages in districts and looking at ranges of FRPL eligibility within schools in each district, a map detailed each district's percentage of students qualifying for FRPL in FY 2017. However, the range of FRPL at schools inside these districts can vary greatly. As an example, Boone County has 49 percent of students qualifying for FRPL while McCreary County has 83 percent of students living in poverty, yet the range of FRPL between schools in Boone County is 71.3 percent. That means that one elementary school in Boone County has a FRPL rate of 14.8 percent and another elementary school has a FRPL of 86.10 percent. In McCreary County the range between schools is less than 10 percentage points.

Distribution of state and local funds to higher-poverty schools is most relevant to districts with greater ranges of FRPL eligibility. Distribution of state and local funds to higher-poverty schools is less relevant to districts with relatively similar FRPL rates among schools.

OEA reviewed how expenditures are calculated and reviewed data on annual financial reports. State and local expenditures were calculated from districts' annual financial reports using expenditures from the general and special revenue funds. OEA did not include federal funds since they are designated to be distributed based on need. OEA subtracted special education expenditures to ensure these cost were not inflating the amount of funds spent on students living in poverty.

OEA observed incorrectly coded expenditures in recording state and local grants in the special revenue fund, some unrecorded extended school service expenses at the school level, non-existent Limited English Proficiency (LEP) expenditures in several districts, and miscoded preschool funds. The KDE-published school report card indicated per-pupil expenditures failed to include preschool students in total student membership of the school, resulting in a larger school spending amount. The federal Every Student Succeeds Act (ESSA) requires preschool

students to be captured in these calculations.

OEA analyzed the average per-pupil gaps in state and local expenditures by elementary school FRPL quartiles. To derive quartiles, OEA took all elementary schools and sorted them from highest to lowest FRPL rates and divided them into 4 groups with equal membership. Quartile 4 had schools with the highest FRPL at 81.8 percent; quartile 3 had 68.4 percent of students qualifying for FRPL; quartile 2 had 59.5 percent of students qualifying for FRPL; and quartile 1 had the least amount of students qualifying for FRPL at 39.1 percent.

The average per-pupil expenditure in the state's highest-poverty elementary schools (quartile 4) is \$6,273, amounting to \$337 more than the average expenditure of the lowest-poverty elementary schools. However, per-pupil expenditures do not increase consistently with school poverty. Average per-pupil expenditures are lower in the higher-poverty quartiles 2 and 3 elementary schools than they are in lower-poverty quartile 1 schools. Differences in district wealth could have an effect. The report indicated similar outcomes for middle and high schools.

OEA studied each district to see if more state and local funds were spent on highest poverty schools. OEA found district spending was similar in most schools across the state. The majority of districts spent more funding on high schools, likely due to more teachers on staff to meet the needs for graduation requirements, alternative classrooms, and career and technical classes. These schools usually have the least amount of students qualifying for FRPL. Elementary levels experienced the next highest spending in most districts due to having the highest amount of students qualifying for FRPL and a lower pupil-to-teacher ratio. Elementary schools are required to have certified instructional aides in each preschool and kindergarten class.

OEA looked at each school level separately. To be included in this analysis, districts were required to have two or more schools at each level. Although average per-pupil spending was greater statewide in higher versus lower-poverty schools, the highest-poverty schools in individual districts often spent fewer state and local funds per pupil than schools with lower-poverty rates. At the elementary level, 52 of 129 districts spent more state and local funds on higher-poverty elementary schools. Middle schools were similar to the elementary level, except only 38 districts were included in this pool. Only 15 of the 38 districts had greater per-pupil expenditures at the district's highest-poverty school. Of the 25 districts analyzed at the high school level, most had the greatest per-pupil expenditures at highest-poverty high schools.

Data from districts illustrated apparent differences in which state and local funds were expended at higher-vs lower-poverty elementary schools. In one district, per-pupil expenditure in the highest-poverty elementary schools was \$1,243 greater than its lowest-poverty elementary school. In contrast, another district's per-pupil expenditure in the highest-poverty elementary school was \$595 less than in the lowest-poverty elementary school. Therefore, a lower-poverty school in the second district was spending almost \$304,000 more than

the higher-poverty school, even though the higher-poverty school had a student population with 33 percent more students living in poverty. The report revealed similar contrasting examples at middle and high school levels.

With only two districts taking poverty into consideration, the majority of state and local school funds are allocated through staffing formulas and not linked to school poverty. Districts can, but are not required to, distribute funds to higher-poverty schools through Section 7 funds. Fewer than half of Kentucky districts distributed Section 7 funds in 2017. Of these, some distribute Section 7 based only on ADA.

Under ESSA, a pilot program was established allowing the U.S. Secretary of Education to select up to 50 districts to participate in equitable per-pupil funding. The program would not only require districts to allocate federal grants using a weighted per-pupil allocation but districts would be required to allocate state and local funds to schools in the same manner. WSFs are transparent and allocate funds to specific types of students enrolled. Districts currently using WSFs include Baltimore, Indianapolis, New Orleans and Cincinnati.

Dr. Liguori said the information he provided is different from prior discussions on school funding in Kentucky. Researching poverty in Kentucky schools, the report examines the association between poverty and student achievement. The U.S. Census defines persistent poverty as counties with 20% or more of population in poverty since the 1990 census. In 2015, 395 persistent poverty counties were identified throughout the U.S. with 43 being in Kentucky. Seventy two Kentucky districts have more than half of their students living in persistent poverty, predominately in eastern Kentucky.

Dr. Liguori shared a comment from district leaders who are aware of the impact of educating students in a persistent poverty county. One superintendent wrote, "My district is in a persistent poverty county and in everything we do we understand the challenge of poverty and diversity. We do overstaff and increase SBDM funding to assist in our fight against poverty. By changing our focus in funding, it has assisted in providing necessary funding that has provided higher achievement data, including my district being a proficient district and the high school being a distinguished school."

While the U.S. Census defines persistent poverty in regions, no definition of persistent poverty exists at the student level. For this study, OEA used 8<sup>th</sup> grade students who qualified for FRPL all six years prior to the 2017 school year. Using data from 2017 K-Prep files, OEA examined the prevalence and outcomes of 8<sup>th</sup> grade students and determined 19,180 students qualified for FRPL during all six years reviewed. Nearly 12,000 8<sup>th</sup> grade students were not eligible for FRPL in any year during the six-year period. Eighteen districts had more than 40 percent and nine districts had more than 50 percent of 8<sup>th</sup> grade students who did not qualify for FRPL during the same period.

OEA found districts have either a huge concentration or lack of persistent poverty. Others have a mix of persistently poor students and students who did not qualify for FRPL any year between

2012 and 2017. As an example, Jefferson County had a persistent poverty rate above 50 percent, yet 22 percent of Jefferson County 8<sup>th</sup> graders did not qualify for free or reduced price lunch at any time during the period examined. This indicates districts simultaneously have students whose families do relatively well while a significant portion of students live in persistent poverty.

Looking at 8<sup>th</sup> grade students eligible for FRPL and who had K-Prep reading and math proficiency rates, 45 percent of students were eligible for FRPL all six years while 28 percent did not qualify at any time between 2012 and 2017. Students who qualified for FRPL at some point during the six-year period represented 27 percent. Dr. Liguori said these groups included only students with six-year history of K-Prep data.

Dr. Liguori noted a strong negative correlation between the number of years a student qualified for FRPL and K-Prep proficiency rates. Among students with one year of FRPL eligibility, proficiency rates decreased by 10-11 percent in both reading and math. For students who were FRPL eligible every year from 2012-2017, math proficiency rate was less than half of students who did not qualify for FRPL. Reading proficiency was approximately 35 percentage points lower for students who qualified for FRPL all six years.

In response to a question from Representative Graham, Ms. Cummins said OEA will look for more information on academic performance as it relates to poverty. Representative Graham said having facts and figures will help focus money to poverty areas.

Responding to a question from Representative Riley, Ms. Cummins said OEA did not have enough data to determine success rates. In a follow-up question regarding examples in the presentation of general fund dollars being allocated to schools for Section 4 staff, Ms. Cummins identified those schools as being located in western and central Kentucky and said the ranges of FRPL rates between various school districts occur more in rural areas.

On a motion by Senator Wise and a second by Representative Huff, OEA's State and Local Funding Distribution report was accepted by voice vote.

There being no further business before the committee, the meeting adjourned at 2 p.m.

## **GOVERNMENT CONTRACT REVIEW COMMITTEE Committee Minutes**

December 11, 2018

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

The Government Contract Review Committee met on Tuesday, December 11, 2018, at 10:15 AM, in Room 131 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen Meredith, Co-Chair; Senators Julie Raque Adams, Julian M. Carroll, and Paul Hornback; Representative Chris Fugate.

Guests: David Gormley, Tina Swansenger, Stephanie Bates, Natalie Kelly, Kevin Newton, Dr. David Lorh, Chris Lewis, and Jean Bird.

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith.



**NOVEMBER DEFERRED ITEM:**

**WESTERN KENTUCKY UNIVERSITY**

Robert F. Sharpe & Company, Inc. d/b/a Sharpe Group, 182033. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Senator Carroll to approve Minutes of the November 2018, meeting of the committee. Representative Fugate seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator Raque Adams seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator Raque Adams seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Senator Raque Adams seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator Raque Adams seconded the motion, which passed without objection.

A motion was made by Senator Carroll to consider as reviewed the Correction List. Senator Raque Adams seconded the motion, which passed without objection.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:**

**BOARD OF LICENSURE FOR NURSING HOME ADMINISTRATORS**

Marisa Neal, 1900003007.

**BOARD OF PROFESSIONAL COUNSELORS**

Marisa Neal, 1900002999.

**BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS**

Marisa Neal, 1900002974.

**BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY**

Marisa Neal, 1900002978.

**CHFS - OFFICE OF THE SECRETARY**

Joseph Schuler Law, PLLC, 1900002821;

Deborah Lewis Shaw, 1900002822; Dianna Riddick, 1900002823.

**DEPARTMENT FOR INCOME SUPPORT**

Franklin Covey Client Sales, Inc., 1900002587; Madonna Jannette Hall, 1900002768; Kip Randall Beard, 1900002769; Barry S. Stoler MD, 1900002831; Jon S. Demos, 1900002888; Jean Anne Sutherland, 1900002965.

**DEPARTMENT OF CORRECTIONS**

Multi, 1900002616.

**DEPARTMENT OF EDUCATION**

Ricky Courtwright, 1900003186; Vickie Courtwright, 1900003188.

**DEPARTMENT OF HIGHWAYS**

Haworth Meyer Boleyn, Inc., 1900002086; HDR Engineering, Inc., 1900003048; Haworth Meyer Boleyn, Inc., 1900003159.

**EXECUTIVE BRANCH ETHICS COMMISSION**

Fowler Bell, PLLC, 1900003182; Roland P. Merkel, PSC, 1900003183; E. Patrick Moores, 1900003184; Mike Wilson, 1900003185.

**FACILITIES & SUPPORT SERVICES**

EOP Architects, PSC, 1900002963.

**KENTUCKY STATE POLICE**

Mark T. Johnson, 1900002998; James M. Taylor, 1900003029; Kelly Anderson, 1900003034.

**KENTUCKY STATE UNIVERSITY**

Tueth, Keeney, Cooper, Mohan & Jackstadt, 19-16.

**KY PUBLIC SERVICE COMMISSION**

Browne Bortz & Coddington, Inc., 1800002346; Browne Bortz & Coddington, Inc., 1800002362; Harvey Economics Company, 1800002363.

**LEGISLATIVE RESEARCH COMMISSION**

Ronald K. Hambleton, 18/19-06.

**MURRAY STATE UNIVERSITY**

STAMATS, Inc., 015-19.

**NORTHERN KENTUCKY UNIVERSITY**

Ruffalo Cody Levitz, 2019-127; CMTA, Inc., 2019-128.

**UNIVERSITY OF KENTUCKY**

SSR Cx, LLC, A191110; Omni Architects, A191120; NEPCON, LLC, K19-231; Suzanne Oldham Consulting, Inc., K19-232.

**WESTERN KENTUCKY UNIVERSITY**

Huron Consulting Services, LLC, 181929.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

**DEPARTMENT FOR PUBLIC HEALTH**

Market Decisions, LLC, 1800002049; Multi, 1900001127; Multi, 1900001142.

**DEPARTMENT OF HIGHWAYS**

American Engineers, Inc., 1300002023; QK4, 1500001028; EA Partners, PLC, 1700000806; HMB Professional Engineers, Inc., 1700000809; Michael Baker International, Inc., 1700001989; Bluegrass Valuation Group, LLC, 1800001272; GRW Engineers, Inc., 1900003071; H A Spalding, Inc., C-99005052; HDR Engineering, Inc., C-99005084.

**EASTERN KENTUCKY UNIVERSITY**

Huron Consulting Services, LLC, 20-109.

**FACILITIES & SUPPORT SERVICES**

Biagi Chance Cummins London Titzer, Inc., 1300001446; URS Corporation, 1500001991.

**UNIVERSITY OF LOUISVILLE**

JRA, Inc., 15-113; Multi, 19-015.

**WESTERN KENTUCKY UNIVERSITY**

Multi, 182014; Sublime Media Group, 191811.

**THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:**

**BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES**

University of Kentucky Research Foundation, 1900002833; Chrysalis House, Inc., 1900003003; Volunteers of America Mid-States, Inc., 1900003030.

**COUNCIL ON POSTSECONDARY EDUCATION**

University of Louisville Research Foundation, 1900002927; University of Louisville Research Foundation, 1900002934.

**DEPARTMENT FOR COMMUNITY BASED SERVICES**

University of Louisville Research Foundation, 1900002889.

**DEPARTMENT FOR LIBRARIES & ARCHIVES**

Carroll County Public Library, 1900002666; Daviess County Public Library, 1900002683; Lawrence County Public Library, 1900002717; Menifee County Public Library, 1900002738; William B. Harlan Memorial Library, 1900002740; Pulaski County Public Library, 1900002748.

**DEPARTMENT FOR LOCAL GOVERNMENT**

The Housing Partnership, Inc., 1900002387; Muhlenberg County Fiscal Court, 1900002778; McLean County Fiscal Court, 1900002986; Ohio County Fiscal Court, 1900003017; Christian County, 1900003039; City of Maysville, 1900003041; Lewis County, 1900003042; City of Augusta, 1900003043; City of Lebanon, 1900003113; Mason County Fiscal Court, 1900003153.

**DEPARTMENT FOR MEDICAID SERVICES**

University of Louisville Research Foundation, 1900002946.

**DEPARTMENT FOR NATURAL RESOURCES**

University of Kentucky Research Foundation,

1900002820.

DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky Research Foundation, 1900002943; University of Louisville Research Foundation, 1900002970; University of Kentucky Research Foundation, 1900003049.

DEPARTMENT FOR WORKFORCE INVESTMENT

Multi, 1900002987.

DEPARTMENT OF AGRICULTURE

Multi, 1900003082.

DEPARTMENT OF CORRECTIONS

Centerstone of Kentucky, Inc., 1900000609; Centerstone of Kentucky, Inc., 1900001572.

DEPARTMENT OF EDUCATION

Pulaski County Board of Education, 1900002709; Kenton County Board of Education, 1900002890; Paducah Independent School District, 1900002914; Perry County Board of Education, 1900002917; Trigg County Board of Education, 1900002921; Fayette County Board of Education, 1900003005.

DEPARTMENT OF MILITARY AFFAIRS

City of Taylorsville, 1900002894; Louisville & Jefferson MSD, 1900002916.

DEPARTMENT OF WORKPLACE STANDARDS

University of Kentucky, 1900002609.

EDUCATION - OFFICE OF THE SECRETARY

Children, Inc., 1900002723.

JUSTICE - OFFICE OF THE SECRETARY

Kentucky Casa Network, 1900003014.

KENTUCKY ENVIRONMENTAL EDUCATION COUNCIL

Kentucky Association for Environmental Education, 1900002564.

KY INFRASTRUCTURE AUTHORITY

Kentucky River Area Development District, 1900002487.

TRANSPORTATION - OFFICE OF THE SECRETARY

University of Kentucky Research Foundation, 1900002803.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:**

BEHAVIORAL HEALTH, DEVELOPMENTAL & INTELLECTUAL DISABILITIES

Kentucky Pharmacy Education and Research Foundation, Inc., 1700002898; Justice Cabinet, 1800001998; Mountain Comp Care Center, 1800002052; Western Kentucky Regional Mental Health & Retardation Advisory Board, 1900000932; Pennyroyal Regional Mental Health Mental Retardation Board, 1900000933; Green River

Regional MHMR Board, Inc., 1900000934; Lifeskills, Inc., 1900000935; Communicare, Inc., 1900000936; Centerstone of Kentucky, Inc., 1900000937; Northern Kentucky Regional Mental Health Mental Retardation Board, 1900000938; Comprehend, Inc., 1900000940; Pathways, Inc., 1900000941; Mountain Comp Care Center, 1900000942; Kentucky River Community Care, Inc., 1900000943; Cumberland River Behavioral Health, Inc., 1900000944; Lake Cumberland Mental Health Mental Retardation Board d/b/a The Adanta Group, 1900000946; Bluegrass.org, 1900000947; Cumberland River Behavioral Health, Inc., 1900001825; Centerstone of Kentucky, Inc., 1900001947; Transitions, Inc. d/b/a Womens Residential, 1900001954.

CHFS - DEPARTMENT FOR AGING AND INDEPENDENT LIVING

Multi, 1900001139.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Brighton Center, Inc., 1800001629; Owl d/b/a Opportunity for Work and Learning, 1800001634; Jobs for the Future, 1800001638; Kentucky Coalition Against Domestic Violence, Inc., 1800001942; Big Sandy Area Development District, 1900001807.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES

Jefferson County Board of Education, 1900001056; Northern Kentucky Cooperative for Educational Services, Inc., 1900001066; Multi, 1900001669; Multi, 1900001682; Multi, 1900001718; Multi, 1900001721; Multi, 1900001724.

DEPARTMENT FOR LOCAL GOVERNMENT

City of Hustonville, 1600001571; Madison County Fiscal Court, 1800000301; Floyd County Fiscal Court, 1900001512; Union County Fiscal Court, 1900002292.

DEPARTMENT FOR MEDICAID SERVICES

Department of Education, 1800001306.

DEPARTMENT FOR PUBLIC HEALTH

Kentucky Pharmacy Education and Research Foundation, Inc., 1800001856; Baptist Healthcare System, 1900001759.

DEPARTMENT OF AGRICULTURE

Multi, 1700001659; Multi, 1700001857.

DEPARTMENT OF EDUCATION

Fayette County Board of Education, 1900000447; Western Kentucky University Research Foundation, 1900000999; Jefferson County Board of Education, 1900001043.

DEPARTMENT OF MILITARY AFFAIRS

Louisville & Jefferson, MSD, 1700000880; Louisville & Jefferson, MSD, 1700000884; Louisville & Jefferson, MSD, 1700000886; Louisville & Jefferson, MSD, 1700000888.

KY INFRASTRUCTURE AUTHORITY

City of Campton, 1700001554.

**THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:**

KENTUCKY STATE FAIR BOARD

Dinsmore & Shohl, LLP, 1900003015. Chris Lewis and Jean Bird discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Senator Carroll seconded the motion, which passed with a request that the Secretary of Tourism, Arts & Heritage attend the next meeting of the committee to testify.

**THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT OF HIGHWAYS

Northrop Grumman Systems Corporation, 1700001007. David Gormley and Tina Swansenger discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.

**THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:**

DEPARTMENT FOR MEDICAID SERVICES

University of Louisville Research Foundation, 1800001678. Stephanie Bates, Natalie Kelly, Kevin Newton, and Dr. David Lorh discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Senator Hornback seconded the motion, which passed.

**EXEMPTION REQUESTS:**

DEPARTMENT OF AGRICULTURE:

The Department of Agriculture requested an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the current biennium in order to execute the Kentucky Proud Promotional Grand Program. A motion was made by Senator Carroll to grant the request to December 31, 2020. Representative Fugate seconded the motion, which passed without objection.

DEPARTMENT OF AGRICULTURE:

The Department of Agriculture requested an exemption from Committee Policy Statement #99-4 which prohibits contracts and agreements from extending beyond the current biennium in order to execute the Kentucky Proud Buy Local Program. A motion was made by Senator Carroll to grant the request to December 31, 2020. Representative Fugate seconded the motion, which passed without objection.

There being no further business, the meeting adjourned at 10:46 AM.



# 2019 Prefiled Bills

**BR3** - Senator Gerald Neal  
(6/6/2018)

AN ACT relating to racial and ethnic community criminal justice and public safety impact statements.

Create new sections of KRS Chapters 6 and 15A to make legislative findings and require racial and ethnic community criminal justice and public safety impact statements for certain legislation and administrative regulations.

(Prefiled by the sponsor(s).)

**BR4** - Senator Gerald Neal  
(6/6/2018)

AN ACT relating to prosecutions under criminal gang statutes.

Create a new section of KRS Chapter 506 to require a report for any charge or conviction under KRS 506.120, 506.135, 506.140, 506.150, 506.160, 506.170, 506.180, or 506.190.

(Prefiled by the sponsor(s).)

**BR7** - Representative DJ Johnson  
(6/27/2018)

AN ACT relating to property taxes for veteran service organizations.

Create a new section of KRS Chapter 132 to allow any veteran service organization that is exempt from federal income tax under Section 501(c)(19) of the United States Internal Revenue Code to be exempt from all city and county property taxes, if certain conditions are met; authorize the Department of Revenue to promulgate administrative regulations.

(Prefiled by the sponsor(s).)

**BR11** - Representative Jerry Miller  
(11/26/2018)

AN ACT relating to the Kentucky Retirement Systems.

Amend KRS 61.645 to allow the Kentucky Retirement Systems board to promulgate administrative regulation to conduct trustee elections by electronic ballot; retain option to use paper ballot; delete language relating to prior court orders that are now moot. Synchronize the election of the trustees from the County Employees Retirement System during 2021.

(Prefiled by the sponsor(s).)

**BR12** - Representative Jerry Miller  
(10/24/2018)

AN ACT relating to local investments.

Amend KRS 66.480, relating to investments for local governments, political subdivi-

sions, and school districts, to use and define the term "competent rating agency" in lieu of "nationally recognized rating agency" throughout the statute; allow investment in individual equity securities meeting specified requirements, individual high-quality corporate bonds meeting specified requirements, and provide that the investment of the funds allowed under specified sections does not exceed 40% of the total money invested; restrict investment to no more than 5% of the total amount of money in any one issuer; set out exemptions.

(Prefiled by the sponsor(s).)

**BR15** - Representative Dennis Keene  
(9/7/2018)

AN ACT relating to sports wagering and making an appropriation therefor.

Create a new section of KRS Chapter 154A to require the Kentucky Lottery Corporation to institute a sports wagering system; amend KRS 154A.010 to define "collegiate sports contest," "net sports wagering receipts," "professional sports contest," and "sports wagering"; amend KRS 154A.030 to prohibit owners of professional sports teams from serving on the board; amend KRS 154A.050 and 154A.060 to include sports wagering; amend 154A.063 to allow the corporation to accept wagers on collegiate and professional sports contests; amend KRS 154A.065 to prohibit sports wagers on horse racing; amend KRS 154A.070 to include sports wagering; amend KRS 154A.090 to include sports wagering retailers; amend KRS 154A.110 to prohibit sales of sports wagers to persons under 18 years of age, provide for the allocation of unclaimed sports wager prize money, and restrict owners, coaches players, and others involved in a sporting contest from placing sports wagers; create new sections of KRS Chapter 154A to permit sports wagering at lottery retailers, horse racing tracks, and simulcast facilities; require the corporation to promulgate administrative regulations needed to establish and oversee sports wagering and prohibit participants in sporting events from placing wagers on games in which they are participating; create new sections of KRS Chapter 154A to establish the sports wagering distribution trust fund and a problem gambling awareness and treatment fund and limit uses of the sports wagering revenue to administrative costs, problem gambler treatment funding, and pension system funding; amend KRS 154A.120 to include sports wagering; amend KRS 154A.130 to exempt sports wagering receipts and specify that sports wagering receipts shall be deposited in the sports wagering distribution trust fund; amend KRS 154A.400 and 154A.410 to include sports wagering; amend KRS 154A.420 to include sports wagering and allow the corporation to require a retailer to establish a separate sports wagering electronic funds transfer account, where available; amend KRS

154A.430 to include sports wagering; amend KRS 154A.440 to require retailers to accept sports wagers only at the location listed on their contract; amend KRS 154A.600 and 154A.650 to include sports wagering; amend KRS 154A.990 to establish penalties for selling a sports wager to anyone under 18 years of age, to establish the crime of tampering with the outcome of a sporting event, to prohibit participants from wagering on a sporting event, and establish penalties; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR21** - Representative Rob Rothenburger, Representative Mark Hart  
(9/4/2018)

AN ACT relating to fire protection and making an appropriation therefor.

Amend KRS 95A.520 and 95A.540, relating to volunteer fire department mergers, to make it applicable to volunteer fire departments merging prior to the effective date of the Act; create a new section of KRS Chapter 95A to provide that for volunteer fire departments merging after the effective date of the Act, the Fire Commission shall pay to the departments the number of qualified shares of volunteer fire department aid each is entitled to for a period of 20 years after the date of the merger, upon the expiration of which the merged department receives only one share; provide contingency protocols if the merged fire department becomes unqualified; create a new section of KRS Chapter 95A to provide a contingency protocol if a new volunteer fire department is created out of the merged one during the 20 year period; create new sections of KRS Chapter 75 to allow an alternative tax rate and board structure for fire districts electing to do so; set tax rate at a maximum of \$0.15 for a district, and maximum of \$0.25 for a district operating the sole emergency ambulance service and make the tax subject to the recall provisions; establish a seven member board of which one is appointed by the county executive head, four are elected by persons owning property within the district, and two are firefighters of the districts elected by the firefighters of the district; set election procedures and times; amend KRS 132.023, relating to tax recall provisions, to integrate applicable fire districts, as defined in the section, within the scope of the section.

(Prefiled by the sponsor(s).)

**BR22** - Representative Mary Lou Marzian  
(8/22/2018)

AN ACT relating to public charter schools.

Amend KRS 156.095 to remove references to public charter schools; repeal KRS 160.1590, 160.1591, KRS 160.1592, 160.1593, 160.1594, 160.1595, 160.1596, 160.1597, 160.1598, 160.1599, and 161.141.

(Prefiled by the sponsor(s).)

**BR24** - Representative John Blanton  
(9/20/2018)

AN ACT relating to the taxation of pension income, making an appropriation therefor, and declaring an emergency.

Amend KRS 141.019 to increase the pension income exclusion from \$31,110 to \$41,110; declare this Act to apply retroactively for taxable years beginning on or after January 1, 2018; require the Department of Revenue to automatically issue refunds; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR25** - Senator John Schickel  
(8/28/2018)

Honor the life and accomplishments of Jack Reno.

(Prefiled by the sponsor(s).)

**BR26** - Senator John Schickel  
(8/28/2018)

Honor Judge Charles T. Moore upon the occasion of his retirement.

(Prefiled by the sponsor(s).)

**BR27** - Senator John Schickel  
(8/24/2018)

Honor Father Richard G. Bolte for his many years of service.

(Prefiled by the sponsor(s).)

**BR28** - Representative Chris Harris, Representative Angie Hatton  
(5/30/2018)

AN ACT relating to public utilities.

Create new section of KRS 278.010 to 278.450 to set a residential fixed customer charge to recover no more than fixed capital costs for metering, billing, service connections, and customer service for electric, natural gas, and water utilities; amend KRS 278.010 to define "customer charge"; amend KRS 278.030 to include affordability as a criterion for utility rates and to establish that the policy of the Commonwealth is to require costs to be reasonable and to provide for their recovery; require the Public Service Commission to balance the interests of the utility, investors, and consumer in establishing fair, just, reasonable and affordable rates; amend KRS 278.183 to require that the costs paid through the environmental surcharge and subjected to two year review are subject to apportionment of fixed, direct capital costs for metering, billing, connection, and service; amend KRS 278.190 to allow the commission to examine the determination of costs and apply standards for rates that include affordability and balancing of interests of various parties affected by the rate; amend KRS 278.255 to require a management and operations audit beginning December 31, 2019, and every five

years thereafter and to require the results of the audit be made available on the Public Service Commission and each audited utility's Web site; exempt electric distribution cooperatives from the initial and periodic audit requirements; amend KRS 278.260 to require the Public Service Commission to give the Office of the Attorney General's Office of Rate Intervention notice of any investigation into unreasonable or discriminatory rates, measurements or practices by a utility under its jurisdiction.

(Prefiled by the sponsor(s).)

**BR31** - Representative Attica Scott  
(7/24/2018)

AN ACT relating to public charter schools.

Amend KRS 156.095 to remove references to public charter schools; repeal KRS 160.1590, KRS 160.1591, KRS 160.1592, KRS 160.1593, KRS 160.1594, KRS 160.1595, KRS 160.1596, KRS 160.1597, KRS 160.1598, KRS 160.1599, and KRS 161.141.

(Prefiled by the sponsor(s).)

**BR32** - Representative Attica Scott  
(6/21/2018)

AN ACT relating to the investigation of a shooting or deadly incident by a law enforcement officer.

Create new sections of KRS Chapter 15A to provide definitions and establish an Officer Shooting Review Board to investigate any shooting of an individual by a law enforcement officer or officers or any deadly incident involving law enforcement; set requirements for board members; provide duties of the board; specify requirements related to investigatory work performed by the Kentucky State Police Critical Incident Response Team on behalf of the board; establish investigatory procedures and protocols; provide requirements for submission of the board's report to the Commonwealth's attorney of the jurisdiction in which the shooting or deadly incident took place or to the Attorney General; provide requirements for independent investigation of any shooting of an individual by a law enforcement officer or officers or any deadly incident involving law enforcement.

(Prefiled by the sponsor(s).)

**BR36** - Representative Kim King  
(6/12/2018)

AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly.

Propose to amend Section 42 of the Constitution of Kentucky to prohibit members of the General Assembly from receiving legislative pay for a special session that has been called by the Governor because the General Assembly adjourned without passing a state budget; submit to the voters with ballot question.

(Prefiled by the sponsor(s).)

**BR37** - Representative Kim King  
(7/19/2018)

AN ACT relating to legislative procedures for state fiscal measures.

Create a new section of KRS Chapter 6 to require roll call votes on any state fiscal measure, including an appropriation or revenue-raising measure, voted upon in the Senate or House of Representatives or a committee thereof; require identification of any state fiscal measure by the director of the Legislative Research Commission upon request of a legislator, the Senate, the House of Representatives, or a committee of the Senate or House; require separate votes for any state fiscal measure.

(Prefiled by the sponsor(s).)

**BR45** - Senator Julie Adams  
(8/21/2018)

AN ACT establishing the Kentucky Rare Disease Advisory Council and making an appropriation therefor.

Create new sections of KRS Chapter 211 to establish the Kentucky Rare Disease Advisory Council; list members to be appointed by the Governor; state the duties of the council; require a report of council activities; create a rare disease trust fund to be administered by the Cabinet for Health and Family Services to finance the operation of the council and support rare disease research and treatment; require a report on expenditures from the fund; provide that the council shall to cease to exist on December 1, 2029, unless reestablished by the General Assembly.

(Prefiled by the sponsor(s).)

**BR47** - Representative Regina Huff  
(9/13/2018)

AN ACT relating to family resource and youth services centers.

Amend KRS 156.496 to allow school districts to accept monetary donations for the operation and maintenance of family resource and youth services centers; require that donations be used exclusively for those purposes.

(Prefiled by the sponsor(s).)

**BR48** - Senator Gerald Neal  
(6/19/2018)

AN ACT relating to firearm storage.

Create a new section of KRS Chapter 527 to prohibit the unlawful storage of a firearm.

(Prefiled by the sponsor(s).)

**BR51** - Senator Alice Kerr  
(8/17/2018)

AN ACT relating to pregnancy-related discrimination.

Amend KRS 344.030 to include within the definition of "reasonable accommodation" accommodations made for pregnancy, childbirth,



and related medical conditions; define "related medical condition"; amend KRS 344.040 to make it unlawful for an employer to fail to accommodate an employee affected by pregnancy, childbirth, or a related medical condition; require employers to provide notice to all employees regarding the right to be free from discrimination for pregnancy, childbirth, and related medical conditions.

(Prefiled by the sponsor(s).)

**BR52** - Representative Daniel Elliott  
(12/10/2018)

AN ACT relating to infertility treatment coverage.

Create a new section of Subtitle 17A of KRS Chapter 304, relating to health benefit plans, to require coverage for infertility treatment; prohibit insurers from denying coverage for services which would otherwise be covered services solely because the services may result in infertility; require the commissioner of the Department of Insurance to promulgate administrative regulations to establish guidelines and standards for the coverage required; create a new section of KRS 311.530 to 311.620 to require the State Board of Medical Licensure to promulgate administrative regulations to establish guidelines and standards for the provision of infertility services; amend KRS 18A.225 to require infertility coverage for the state employee health plan; amend KRS 205.560 to include infertility treatment in the scope of care for the Kentucky Medical Assistance Program; EFFECTIVE January 1, 2020.

(Prefiled by the sponsor(s).)

**BR54** - Representative Angie Hatton  
(12/14/2018)

AN ACT relating to information technology.

Amend KRS 154.15-010 to create a definition for paid prioritization; create a new section of Subchapter 15 of KRS Chapter 154 to require KentuckyWired contracts between the Kentucky Communications Network Authority and public or private Internet service providers contain certain provisions to ensure open and fair access to the network by customers.

(Prefiled by the sponsor(s).)

**BR55** - Representative Mark Hart  
(9/14/2018)

AN ACT relating to local boards of education.

Amend KRS 160.190 to change a local board vacancy from being appointed by the chief state school officer to being appointed by a majority vote of the local board; establish a timeline and procedures of appointment; establish a procedure for a failure to make appointment by local board; make changes throughout to conform.

(Prefiled by the sponsor(s).)

**BR64** - Representative Attica Scott  
(7/31/2018)

AN ACT relating to an exemption of feminine hygiene products from sales and use taxation.

Amend KRS 139.010 to define feminine hygiene products; amend KRS 139.480 to exempt from sales and use tax the sale or purchase of feminine hygiene products; apply to sales or purchases made after August 1, 2019, but before August 1, 2023; require Department of Revenue to report to the Interim Joint Committee on Appropriations and Revenue the amount of exemptions claimed.

(Prefiled by the sponsor(s).)

**BR65** - Representative Attica Scott  
(7/31/2018)

AN ACT relating to the exemption certain baby products from sales and use taxation.

Amend KRS 139.010 to define "diapers"; amend KRS 139.480 to exempt from sales and use tax the sale or purchase of diapers and certain baby products; provide that the exemptions apply to sales or purchases made after August 1, 2019, but before August 1, 2023; require the Department of Revenue to report to the Interim Joint Committee on Appropriations and Revenue the amount of exemptions claimed.

(Prefiled by the sponsor(s).)

**BR66** - Representative Walker Wood Thomas, Representative Jim DuPlessis, Representative DJ Johnson, Representative Dean Schamore  
(10/10/2018)

AN ACT relating to domestic violence.

Amend KRS 525.135 to prohibit pretrial diversion for a person charged with torture of a dog or cat, to make torture of a dog or cat a Class D felony, and to prohibit any form of early release for those who torture a dog or cat as a way to threaten, intimidate, coerce, harass, or terrorize a family member or member of a dating relationship; amend KRS 533.250 to prohibit the pretrial diversion program from being used for someone charged with torture of a dog or cat.

(Prefiled by the sponsor(s).)

**BR67** - Representative Rob Rothenburger  
(9/7/2018)

AN ACT relating to local procurement.

Amend KRS 45A.385 to increase from \$20,000 to \$30,000 the maximum amount of a contract for which a local public agency may use small purchase procedures; amend KRS 424.260 to allow local officials to make contracts up to \$30,000, rather than up to \$20,000, without taking out newspaper advertisements for bids.

(Prefiled by the sponsor(s).)

**BR69** - Senator Julie Adams  
(8/31/2018)

AN ACT relating to mental illness.

Amend KRS 532.130, 532.135, and 532.140 to add a diagnosis of serious mental

illness to the disabilities which prevent execution for persons convicted of capital offenses.

(Prefiled by the sponsor(s).)

**BR71** - Representative Myron Dossett  
(11/5/2018)

AN ACT relating to resale certificates for sales and use tax and declaring an emergency.

Amend KRS 139.010, 139.260, 139.270, 139.280, and 139.720 to exclude services taxed by KRS 139.200 from tax when being resold; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR72** - Representative Dennis Keene  
(9/7/2018)

AN ACT relating to exempting admissions to events held by nonprofit organizations from sales and use taxation.

Amend KRS 139.470 to exempt from sales and use tax the sale of admissions to events held by nonprofit organizations and to remove the specific exemption for county fairs to conform; amend KRS 139.200 to conform; apply to transactions occurring on or after July 1, 2019.

(Prefiled by the sponsor(s).)

**BR76** - Representative David Osborne, Representative Lynn Bechler, Representative Danny Bentley, Representative John Blanton, Representative Kevin Bratcher, Representative Larry Brown, Representative John Bam Carney, Representative Myron Dossett, Representative Jim DuPlessis, Representative Daniel Elliott, Representative Joseph Fischer, Representative Ken Fleming, Representative Jim Gooch Jr., Representative David Hale, Representative Mark Hart, Representative Richard Heath, Representative Regina Huff, Representative DJ Johnson, Representative Kim King, Representative Adam Koenig, Representative Stan Lee, Representative Chad McCoy, Representative David Meade, Representative Suzanne Miles, Representative Jerry Miller, Representative Phil Moffett, Representative Tim Moore, Representative Kimberly Moser, Representative Jason Nemes, Representative Jason Petrie, Representative Phillip Pratt, Representative Melinda Prunty, Representative Brandon Reed, Representative Sal Santoro, Representative Diane St. Onge, Representative Walker Wood Thomas, Representative James Tipton, Representative Tommy Turner  
(7/13/2018)

AN ACT relating to nonprofit exemptions in taxation and declaring an emergency.

Amend KRS 139.495 to exempt from sales and use tax the sale of admissions by nonprofit educational, charitable, or religious institutions; amend KRS 139.200 to add the exemption; amend KRS 132.195 to exempt from property tax leasehold interests in property owned by a purely public charity when the property and income are used to further the purely public charity's mission; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR84** - Senator John Schickel  
(9/14/2018)

Honor the life and accomplishments of William "Bill" Edgar Graves.  
(Prefiled by the sponsor(s).)

**BR91** - Senator Ralph Alvarado  
(12/13/2018)

AN ACT relating to cancer prevention through insurance coverage for screening and appropriate genetic testing.

Create a new section of Subtitle 17A of KRS Chapter 304 to require health benefit plans to cover genetic tests for cancer that are recommended by certain health care providers if the recommendation is consistent with certain genetic testing guidelines; establish that the section shall not be construed to limit coverage required by Section 2 of the Act or any other law; amend KRS 304.17A-257 to reduce the age required for colorectal cancer examination and testing coverage from fifty (50) to forty-five(45); make technical amendments; establish that the section shall not be construed to limit coverage required by Section 1 of the Act or any other law; EFFECTIVE January 1, 2020.

(Prefiled by the sponsor(s).)

**BR94** - Representative David Meade  
(9/6/2018)

AN ACT relating to the taxation of admissions for sales and use tax.

Amend KRS 139.010 to exclude fees paid to enter or participate in a fishing tournament and fees paid for the usage of a boat ramp from the definition of admissions; apply to fees paid on or after July 1, 2018.

(Prefiled by the sponsor(s).)

**BR96** - Representative Robert Goforth  
(9/24/2018)

Direct the Transportation Cabinet to designate a bridge on Interstate 75 in Laurel County in honor and memory of fallen soldier SFC Lance Scott Cornett.

(Prefiled by the sponsor(s).)

**BR97** - Representative Robert Goforth  
(10/5/2018)

AN ACT relating to concealed deadly weapons.

Amends KRS 527.020, 237.110, 237.115, 244.125, and 527.070 to remove location restrictions for persons with a concealed deadly weapon license.

(Prefiled by the sponsor(s).)

**BR98** - Representative Robert Goforth  
(8/29/2018)

AN ACT relating to an emergency contact

information registry.

Create a new section of KRS 186.400 to 186.640 to establish an emergency contact information registry within the Kentucky Driver's License Information System.

(Prefiled by the sponsor(s).)

**BR99** - Representative Robert Goforth  
(10/5/2018)

AN ACT relating to the renewal of identity documents.

Amend KRS 186.4101 to clarify schedules for renewal of operator's licenses and personal ID cards; allow individuals whose operator's licenses will expire while they are out of the country to renew those licenses prior to the six-month window prior to expiration.

(Prefiled by the sponsor(s).)

**BR103** - Representative Rick Nelson  
(7/20/2018)

AN ACT relating to minimum staffing requirements for long-term care facilities.

Create new sections of KRS Chapter 216B to require staff-to-resident ratios in long-term care facilities as a condition of licensure or relicensure; establish minimum staffing requirements; prohibit long-term care facilities from admitting new residents if the facility fails to comply with the minimum staffing requirements, beginning on the second day of noncompliance and continuing until six days after the required staffing is achieved, with exceptions allowed for weather emergencies and other similar events; require additional staffing based on the needs of the residents; exempt intermediate-care facilities for persons with intellectual disabilities, institutions for the treatment of mental illnesses, personal care homes, and family care homes from the minimum staffing requirements; create a 17-member board to review staffing requirements on an annual basis; establish a civil fine of no more than \$1,000 for each day that the staffing requirements are not maintained; establish legislative findings and declarations.

(Prefiled by the sponsor(s).)

**BR104** - Senator Ralph Alvarado  
(12/14/2018)

AN ACT relating to prior authorization.

Create a new section of subtitle 17A of KRS Chapter 304 to require an insurer develop processes for electronic prior authorizations; to establish an extended length of authorization under certain circumstances; amend KRS 205.522 to require the Department for Medicaid Services or a Medicaid managed care organization to comply with Sections 1, 6, 7, 8, and 9 of this Act; amend KRS 217.211 to require governmental units of the Commonwealth to promulgate administrative regulations for electronic prescribing that include electronic prior authorization standards meeting certain requirements; amend KRS 218A.171 to require governmental units of the Commonwealth to

promulgate administrative regulations for electronic prescribing that include electronic prior authorization standards meeting certain requirements; amend KRS 304.17A-005 to define "health care services," "health facility" or "facility," and "medically necessary health care services"; amend KRS 304.17A-580 to prohibit a requirement of a utilization review for the provision of emergency health care services; to establish a presumption of medical necessity; amend KRS 304.17A-600 to amend the definition of "prospective review" to include prior authorization, step therapy, preadmission review, pretreatment review, and utilization and case management; amend KRS 304.17A-603 to require certain written procedures of insurers be accessible on its Web site; amend KRS 304.17A-607 to require that decisions relating to utilization reviews are conducted by physicians of the same specialty as the ordering provider; to establish a time frame for providing utilization decisions; to allow for electronic format of certain required notices; to establish that an insurer's failure to respond within set time frames shall be deemed a prior authorization; amend 304.17A-430, to conform; EFFECTIVE January 1, 2020.

(Prefiled by the sponsor(s).)

**BR106** - Representative Robert Goforth  
(9/24/2018)

AN ACT relating to all-terrain vehicles and making an appropriation therefor.

Amend KRS 186.010 to specify that for registration purposes an all-terrain vehicle (ATV) shall be considered a motor vehicle; amend KRS 186A.070 to allow ATVs operating under this bill to operate on roadways of the Commonwealth; create new sections of KRS Chapter 189 to allow a person to operate an all-terrain vehicle on roadways in the Commonwealth; outline requirements for operation; establish a fee of \$25 for registration; allow a local government to allow or prohibit ATV operation on roadways in its jurisdiction; provide for nonresident reciprocity; require the Transportation Cabinet to promulgate administrative regulations; allow nonresidents to operate an ATV on roadways of the Commonwealth; outline requirements; establish a fee of \$25 for registration; specify that registration is valid for one year; amend KRS 189.515 to specify that the section shall only apply to ATVs that have not been registered for highway operation; amend KRS 189.990 to establish a fine of \$20 to \$50 for a violation of Section 3 or 4 of this Act.

(Prefiled by the sponsor(s).)

**BR107** - Representative Robert Goforth  
(8/29/2018)

AN ACT proposing to amend Sections 99, 124, and 144 of the Constitution of Kentucky relating to a Judge of the County Court.

Propose to amend Sections 99, 124, and 144 of the Constitution of Kentucky to eliminate the Office of Judge of County Court in urban-county governments; submit to the voters for approval or disapproval.

(Prefiled by the sponsor(s).)



**BR108** - Senator Ralph Alvarado  
(12/14/2018)

AN ACT relating to common interest communities.

Create new sections of KRS Chapter 381 to establish definitions for common interest communities which exclude condominiums; prohibit waiver of rights conferred by the bill; impose good faith obligation; establish a requirement to record a declaration for a common interest community with county clerks and set minimum contents of the declaration; limit application to communities created after the effective date or, for existing communities, apply only to events occurring after the effective date; specify that agreements between communities do not create a separate common interest community; require establishment of a unit owners association and specify methods of transfer of developer control to an association; set minimum powers of unit owners associations and boards; set duties and powers of board members; establish minimum requirements for recorded bylaws regarding board and association procedures; establish procedures for calling and conducting association meetings; establish procedures for calling and conducting executive board meetings; define quorum for meetings; create and limit voting methods for unit owners; limit foreclosure action by unit owners association; require records to be kept by association and determine methods of publicizing records; establish procedure for adopting and amending policy rules within the community; specify methods of providing notice to community members; provide for removal of executive board members; require budget and special assessment adoption and publication; allow cause of action to enforce rights and obligations; apply supplemental principles of law and equity.

(Prefiled by the sponsor(s).)

**BR120** - Representative Kevin Bratcher, Representative Jim DuPlessis  
(8/15/2018)

AN ACT relating to the safety of canines and felines.

Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle if a person enters the vehicle with the reasonable, good-faith belief that a dog or cat is in immediate danger of death if not removed.

(Prefiled by the sponsor(s).)

**BR121** - Representative Kevin Bratcher, Representative Jim DuPlessis  
(8/15/2018)

AN ACT relating to an animal abuse registry.

Create new sections of KRS Chapter 17 to establish the animal abuse offender registry; require the Kentucky State Police to maintain a registry of offenders who commit an animal abuse offense; establish the animal abuse offender registry fund; amend KRS 525.130 to increase the penalty

for cruelty to animals in the second degree to a Class D felony for a second or subsequent offense; establish a short title of "Arrow's Law"; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR128** - Senator Ralph Alvarado  
(12/13/2018)

AN ACT relating to sibling visitation.

Amend KRS 620.050 to require the Cabinet for Health and Family Services, in the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings.

(Prefiled by the sponsor(s).)

**BR133** - Senator Reginald Thomas, Senator Dennis Parrett  
(12/10/2018)

AN ACT relating to kinship and fictive kin care.

Amend KRS 405.023 to establish that the KinCare Support Program shall include respite care for low-income fictive kin caregivers; amend KRS 605.120 to require the establishment of a program for kinship and fictive kin care that will include monetary provisions for relative and fictive kin caregivers who have temporary or permanent custody of a child that shall be at a minimum \$300 monthly per child through the age of 18; amend KRS 610.010 to conform.

(Prefiled by the sponsor(s).)

**BR134** - Representative Lynn Bechler, Representative Brandon Reed  
(9/26/2018)

AN ACT relating to sanctuary cities and universities.

Amend KRS 65.133 to require local law enforcement agencies and Kentucky State Police to enforce immigration laws; create a new section of KRS Chapter 65 to define terms, including "sanctuary" and "sanctuary policy"; prohibit local governments from adopting sanctuary policies; establish hearing procedures for determination of sanctuary status; provide for the withholding of state funding from sanctuaries; create new sections of KRS Chapter 164 to prohibit postsecondary educational institutions from enrolling, employing, or contracting with illegal aliens; require postsecondary educational institutions to keep records of immigration status; provide for the withholding of state funding from postsecondary educational institutions that enroll, employ, or contract with illegal aliens; limit who may be considered a Kentucky resident for in-state tuition purposes.

(Prefiled by the sponsor(s).)

**BR138** - Representative Robert Goforth  
(8/29/2018)

AN ACT relating to homestead food operators and homestead food products.

Create a new section in KRS Chapter 217C to define "homestead food operator," "potentially hazardous food," and "homestead food product"; create a new section in KRS Chapter 217C to allow homestead food operators and homestead food products to be exempt from licensure and permitting as required by the Cabinet for Health and Family Services; repeal KRS 217C.090, relating to the sale of unpasteurized goat milk.

(Prefiled by the sponsor(s).)

**BR140** - Representative Joni Jenkins, Representative McKenzie Cantrell  
(9/24/2018)

AN ACT relating to workers' compensation for first responders.

Amend KRS 342.0011 to clarify definition of "injury" to include psychological injuries for certain employees; create a new section of KRS Chapter 342 to set out when the psychological injuries are valid workers' compensation claims when no physical injury exists.

(Prefiled by the sponsor(s).)

**BR141** - Representative Joni Jenkins  
(9/20/2018)

AN ACT relating to employment schedules.

Create new sections of KRS Chapter 337 to require employers to give employees a written good-faith estimate of the employee's work schedule at the time of hire, maintain a voluntary standby list of employees who wish to work additional hours, post weekly work schedules at least seven days in advance, and provide certain rest periods for employees, during which the employee is not scheduled; provide that an employee may identify time limitations for scheduling work hours; establish the rate of compensation to be paid if an employer changes the schedule; set forth unlawful practices; amend KRS 337.990 to establish a penalty for violations of Sections 1 to 8 of this Act.

(Prefiled by the sponsor(s).)

**BR142** - Representative Joni Jenkins  
(9/20/2018)

AN ACT relating to leave from employment for crime victims.

Amend KRS 337.415, relating to court-ordered appearances by employees, to prohibit employers from discharging or retaliating against an employee who is a crime victim when the employee takes leave to attend proceedings associated with a crime; require an employee to give an employer reasonable notice to take leave when practicable; provide guidelines for use of paid leave; require the employer to maintain confidentiality of records and communication with employee crime victim; create a penalty for failing to maintain confidentiality; define terms.

(Prefiled by the sponsor(s).)

**BR144** - Representative Chad McCoy  
(9/7/2018)

AN ACT relating to charitable gaming.  
Amend KRS 238.545 to remove some of the restrictions on the frequency with which charity fundraising events may be held at unlicensed facilities.  
(Prefiled by the sponsor(s).)

**BR147** - Representative Daniel Elliott  
(11/20/2018)

AN ACT relating to the exemption of certain animal services from sales and use tax.  
Amend KRS 139.470 to exempt from sales and use tax pet adoption fees and certain small veterinarian service fees charged by local government animal shelters and nonprofit animal welfare organizations; apply to transactions on or after July 1, 2019.  
(Prefiled by the sponsor(s).)

**BR155** - Representative Dennis Keene  
(9/10/2018)

AN ACT relating to drug treatment and prevention and making an appropriation therefor.  
Create a new section of KRS Chapter 222 to establish the Kentucky addiction prevention, recovery, and enforcement fund; establish administering committee membership; direct all revenues from the Commonwealth related to the drug epidemic to the fund; describe authorized fund expenditures; require fund reporting; APPROPRIATION.  
(Prefiled by the sponsor(s).)

**BR156** - Representative Regina Huff  
(10/3/2018)

AN ACT relating to the display of the national motto in public schools.  
Amend KRS 158.195 to require each public elementary and secondary school to display the national motto in a prominent location in the school.  
(Prefiled by the sponsor(s).)

**BR159** - Representative Brandon Reed, Representative Kevin Bratcher, Representative Mark Hart, Representative Richard Heath, Representative Melinda Prunty  
(8/16/2018)

AN ACT relating to the display of the national motto in public schools.  
Amend KRS 158.195 to require each public elementary and secondary school to display the national motto in a prominent location in the school.  
(Prefiled by the sponsor(s).)

**BR163** - Representative Angie Hatton, Representative Robert Goforth  
(11/19/2018)

AN ACT relating to workers' compensation.

Amend KRS 342.315 to eliminate the requirement that physicians contracting with the commissioner to perform evaluations in occupational disease claims be "B" readers who are licensed in Kentucky and are board-certified pulmonary specialists; amend KRS 342.316 to allow the commissioner to select a physician or medical facility for referral in occupational disease claims and eliminate the requirement that such physicians be "B" readers who are licensed in Kentucky and are board-certified pulmonary specialists; amend KRS 342.794 to delete the definition of "board-certified pulmonary specialist" and eliminate the requirement that physicians on the list of qualified "B" readers maintained by the commissioner include only those licensed in Kentucky and board-certified pulmonary specialists.  
(Prefiled by the sponsor(s).)

**BR165** - Representative McKenzie Cantrell, Representative Joni Jenkins  
(9/24/2018)

AN ACT relating to earned paid sick leave.  
Create a new section of KRS Chapter 337 to require employers to provide earned paid sick leave to employees; provide that employees earn paid sick leave upon the date of hire and can use the leave after being employed for 90 days; set forth allowable uses of earned paid sick time; designate how notice of need to use sick time is provided by employees; amend KRS 337.990 to establish penalty for employers that fail to follow paid sick leave requirements.  
(Prefiled by the sponsor(s).)

**BR166** - Representative McKenzie Cantrell, Representative Joni Jenkins  
(9/24/2018)

AN ACT relating to employment provisions for employees on maternity leave.  
Create a new section of KRS Chapter 337 to require employers with 50 or more employees to provide six weeks of paid maternity leave for an employee who has been employed for at least one year; allow an employee to waive the paid maternity leave.  
(Prefiled by the sponsor(s).)

**BR168** - Representative Linda Belcher  
(9/12/2018)

AN ACT relating to prevailing wage.  
Create new sections of KRS Chapter 337 to establish a prevailing wage law for all public works projects; amend KRS 12.020, 99.480, 227.487, 336.015, 337.010, and 337.990 to conform.  
(Prefiled by the sponsor(s).)

**BR172** - Representative Attica Scott  
(9/5/2018)

AN ACT relating to gang violence.  
Amend KRS 506.120 to remove language related to "criminal gang syndicate;" repeal

KRS 506.135 relating to definitions, 506.140 relating to criminal gang recruitment, 506.150 relating to criminal gang activity or recruitment, 506.160, relating to minimum service of sentence for defendant acting as a member of a criminal gang KRS 506.170 relating to enhancement of penalty for conviction for criminal gang related felonies, KRS 506.180 relating to cause of action by victim of criminal gang incident, and KRS 506.190 relating to criminal gang-related property subject to forfeiture; amend KRS 532.080 to conform.  
(Prefiled by the sponsor(s).)

**BR174** - Representative Jeffery Donohue  
(9/13/2018)

AN ACT relating to public procurement.  
Create new sections of KRS Chapter 45A to set forth findings of the General Assembly and establish a policy of the Commonwealth of Kentucky to promote the Kentucky and United States economies by requiring a preference for iron, steel, and manufactured goods produced in Kentucky and the United States; define "manufactured in Kentucky," "manufactured in the United States," and "United States"; require preference for iron, steel, and manufactured goods made in Kentucky in construction and maintenance contracts and subcontracts; provide for a waiver of the Kentucky preference requirement; require preference for iron, steel, and manufactured goods made in the United States if the Kentucky waiver is granted; provide for a waiver of the United States preference requirement; establish a short title of "Kentucky Buy American Act"; amend KRS 45A.343, 45A.352, 65.027, 162.070, 164A.575, 176.080, and 424.260 to require compliance with the Kentucky Buy American Act.  
(Prefiled by the sponsor(s).)

**BR175** - Representative Jeffery Donohue  
(9/13/2018)

AN ACT relating to economic development incentives.  
Amend KRS 154.32.010 to define "minimum weekly wage"; amend KRS 154.32-020 to require an approved company to pay all new full-time employees whose jobs were created as a result of the economic development project no less than the minimum weekly wage and provide employee benefits for those jobs equal to at least 15% of the minimum weekly wage established by the agreement; amend KRS 154.32-030 to delete all provisions that allow the approved company to receive full incentives if 90% of the job and wage requirements are met upon activation or annual review; amend KRS 154.32-040 to delete a provision that would allow the approved company to receive a reduction in tax incentives for failing to meet job and wage requirements; specify that Act's provisions apply to applications preliminarily approved prior to the Act's effective date.  
(Prefiled by the sponsor(s).)

**BR177** - Representative Joni Jenkins  
(9/20/2018)



AN ACT relating to the misclassification of employees in the construction industry.

Create new sections of KRS Chapter 337 to set forth legislative findings and declarations behind employee misclassification problems; provide definitions; set forth determination of misclassified workers; set forth investigation process and violations; establish court remedies; require notice by an employer; grant commissioner authority to promulgate administrative regulations; require agencies to share the information of a misclassifying employer to other interested state agencies; amend KRS 337.990 to establish penalties for violations; amend KRS 45A.485 to prohibit contractors with multiple violations from contracting with the state for two years; amend KRS 131.190 to require the Department of Revenue to provide copies to three other state agencies; create a new section of KRS Chapter 341 to require the Office of Employment and Training to provide copies of orders to three other state agencies; create a new section of KRS Chapter 342 to require the commissioner to provide copies to three other state agencies.

(Prefiled by the sponsor(s).)

**BR178** - Representative Brandon Reed  
(9/6/2018)

AN ACT relating to a youth crossbow deer hunting season.

Create a new section of KRS Chapter 150 to require the Department of Fish and Wildlife Resources to promulgate administrative regulations to establish a statewide youth crossbow deer hunting season; define terms; require the statewide youth crossbow deer hunting season to take place each year on the same dates established by the department for the statewide archery deer hunting season; require participants to comply with all statewide deer hunting requirements, including supervision requirements for youth deer hunters.

(Prefiled by the sponsor(s).)

**BR179** - Representative Kelly Flood, Representative Attica Scott  
(11/28/2018)

AN ACT relating to sexual harassment.

Create new sections of KRS 6.601 to 6.849 to make it ethical misconduct for a legislator, legislative agent, or employee of the legislative branch to engage in sexual harassment; define "sexual harassment" and "complaint"; grant the Legislative Ethics Commission jurisdiction to investigate and proceed upon receipt of a complaint from a legislator, legislative agent, or employee of the legislative branch regarding sexual harassment allegedly committed by a legislator, legislative agent, or employee of the legislative branch; require the Legislative Ethics Commission to establish a legislative ethics telephone tip line to allow legislators, legislative agents, or employees of the legislative branch to report complaints of sexual harassment; require the Legislative Ethics Commission, the Legislative Research Commission, and businesses and organi-

zations that employ legislative agents to publicize the existence of the legislative ethics telephone tip line; require the legislative ethics telephone tip line to be available 24 hours a day, seven days a week, with the Legislative Ethics Commission providing staff during regular business hours and allowing for recorded messages during nonbusiness hours; require the forwarding of information reported on the legislative ethics telephone tip line to the executive director of the Legislative Ethics Commission or his or her designee on an approved form; require that within 24 hours of the receipt of a complaint the Legislative Ethics Commission executive director make an initial determination as to whether a complaint meets the criteria for consideration and notify the complainant of the determination; provide that the alleged violator shall be notified and given the opportunity to file a written response after receiving a written statement detailing allegations; provide that within seven days of receiving a response or expiration of the deadline for receiving a response from the alleged violator the Legislative Ethics Commission chair, vice chair, and executive director shall interview the complainant, the alleged violator, and any other person with information relevant to the complaint; provide that within 14 business days of completion of the interviews, the Legislative Ethics Commission shall give notice of the status of the complaint and a general statement of applicable law to the complainant and alleged violator; provide that within 30 business days of receipt of a workplace complaint the complaint file shall be closed if the Legislative Ethics Commission chair and vice chair agree that the complaint is resolved or agree that there is no credible allegation of sexual harassment; allow the Legislative Ethics Commission chair and vice chair to refer a complaint to another federal or state agency if they determine that the case does not fall under the jurisdiction of the Legislative Ethics Commission; if the Legislative Ethics Commission chair and vice chair do not agree whether a complaint is resolved but agree that there is a credible allegation of sexual harassment, require the Legislative Ethics Commission enforcement counsel to file a formal complaint, if the conflict cannot be resolved via conference; allow a legislator, legislative agent, or an employee of the legislative branch to file a formal complaint of sexual harassment at any time under KRS 6.686; set forth confidentiality provisions; provide that complainants shall not be subject to reprisal; provide option for complainant or complainant's supervisor to request for transfer while an investigation is ongoing; require the annual reporting of complaints processed using the legislative ethics telephone tip line; provide that nothing prevents a legislator, legislative agent, or legislative branch employee from pursuing other avenues to report complaints of sexual harassment; permit employees who report complaints to seek assistance from the Kentucky Employee Assistance Program or from private health professionals for matters related to workplace complaints; declare that if a provision of KRS 6.601 to 6.849 is designated a misdemeanor or felony, an alleged violation of the provision may be adjudicated by the Legislative Ethics Commission as ethical misconduct; create a new section of

KRS Chapter 6 to prohibit legislators and legislative employees from using public funds to settle sexual harassment claims; amend KRS 6.686 to conform.

(Prefiled by the sponsor(s).)

**BR180** - Representative Danny Bentley, Representative Melinda Prunty  
(9/20/2018)

Urge federal policymakers to incorporate standards for safety and efficacy in the use of medical marijuana.

(Prefiled by the sponsor(s).)

**BR181** - Representative Jill York  
(8/31/2018)

AN ACT relating to accountability of charitable organizations.

Create a new section of KRS Chapter 367 to require the Office of the Attorney General to make available on a publicly accessible Web site a list of charities that fail to meet the financial accountability standards recommended by the American Institute of Philanthropy's CharityWatch, based on a three-year average of annual expenditures.

(Prefiled by the sponsor(s).)

**BR182** - Senator Ralph Alvarado  
(12/13/2018)

AN ACT relating to the Interstate Medical Licensure Compact.

Create a new section of KRS Chapter 311 to enact and enter into the Interstate Medical Licensure Compact with all other jurisdictions that legally join in the compact; declare the purpose of the compact; define terms; recognize a multistate licensure privilege to practice for physicians.

(Prefiled by the sponsor(s).)

**BR184** - Representative Lynn Bechler  
(12/14/2018)

AN ACT relating to child abuse and declaring an emergency.

Amend KRS 500.050 to remove the five-year statute of limitations for misdemeanor sex offenses against minors and allow prosecution to be commenced at any time; amend KRS 413.249 to remove the ten-year statute of limitations for civil actions arising from childhood sexual assault or abuse and allow a suit to be commenced at any time; amend KRS 620.030, relating to the requirement to report child abuse, to delete the clergy-penitent exemption and make any person who intentionally fails to report guilty of a Class D felony; amend KRS 620.050, relating to the reporting of child abuse, to delete the clergy-penitent exemption; create a new section of KRS Chapter 510 to make the sexual endangerment of a child a Class D felony; create a new section of KRS Chapter 15 to allow the Attorney General to petition the Supreme Court to convene a special grand jury to investigate child-

hood sexual assault or abuse that crosses multiple judicial circuits; amend KRS 15.205 to allow the Attorney General to direct a Commonwealth's or county attorney to act as a special prosecutor when the Supreme Court approves the Attorney General's petition for a special grand jury; amend KRS 29A.220 to outline the process and duties of a special grand jury; provide for severability; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR188** - Senator John Schickel  
(10/12/2018)

Honor Robert J. Storer upon the auspicious occasion of his retirement as the Superintendent of the Walton-Verona School District  
(Prefiled by the sponsor(s).)

**BR194** - Senator John Schickel  
(9/17/2018)

Honoring Connie Crigger upon being named by the Kentucky Association of School Administrators as Administrator of the Year for 2018.

(Prefiled by the sponsor(s).)

**BR198** - Senator John Schickel  
(9/17/2018)

Adjourn the Senate in honor and loving memory of Damian Kevin Stanton  
(Prefiled by the sponsor(s).)

**BR199** - Representative Lynn Bechler  
(12/14/2018)

AN ACT relating to sex offenses against minors and declaring an emergency.

Amend KRS 500.050 to remove the five-year statute of limitations for misdemeanor sex offenses against minors and allow prosecution to be commenced at any time; amend KRS 413.249 to remove the ten-year statute of limitations for civil actions arising from childhood sexual assault or abuse and allow a suit to be commenced at any time; provide for severability; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR200** - Representative Lynn Bechler  
(12/14/2018)

AN ACT relating to child abuse and declaring an emergency.

Amend KRS 620.030, relating to the requirement to report child abuse, to delete the clergy-penitent exemption and make any person who intentionally fails to report guilty of a Class D felony; amend KRS 620.050, relating to the reporting of child abuse, to delete the clergy-penitent exemption; provide for severability; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR201** - Representative Lynn Bechler  
(12/14/2018)

AN ACT relating to the sexual endangerment of a child and declaring an emergency.

Create a new section of KRS Chapter 510 to make the sexual endangerment of a child a Class D felony; EMERGENCY.  
(Prefiled by the sponsor(s).)

**BR202** - Representative Jerry Miller  
(10/15/2018)

AN ACT relating to reemployment of elected officials.

Amend KRS 61.637 to provide that if an elected official participating in one of the systems administered by Kentucky Retirement Systems retires and is elected to the same office within 12 months of retiring, his or her retirement shall be voided.

(Prefiled by the sponsor(s).)

**BR204** - Representative Robert Goforth  
(10/5/2018)

AN ACT relating to the reporting of retirement contributions.

Amend KRS 78.625 and 61.675 to require the Kentucky Retirement Systems to notify state and local employers and employees if retirement contributions are not timely made, to list the potential consequences that may result, and to post on the systems' Web site the employer's name and the amount of delinquent contributions.

(Prefiled by the sponsor(s).)

**BR205** - Representative Robert Goforth  
(10/19/2018)

AN ACT relating to county finance.

Create a new section of KRS Chapter 68 to require counties found deficient by the Auditor of Public Accounts to purchase insurance covering financial losses; set the term of maintenance and minimum coverage amount.

(Prefiled by the sponsor(s).)

**BR207** - Representative Regina Huff, Representative Jill York  
(9/13/2018)

AN ACT relating to the taxation of pension income, making an appropriation therefor, and declaring an emergency.

Amend KRS 141.019 to increase the pension income exclusion from \$31,110 to \$41,110; apply retroactively for taxable years beginning on or after January 1, 2018; require the Department of Revenue to automatically issue refunds; APPROPRIATION; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR208** - Representative Regina Huff  
(9/13/2018)

AN ACT relating to road safety.

Amend KRS 512.070 to include,

as criminal littering, permitting unsafe amounts of mowed grass to remain on a highway.

(Prefiled by the sponsor(s).)

**BR211** - Representative Myron Dossett  
(12/14/2018)

AN ACT relating to electronic advertising.

Create a new section of KRS 177.830 to 177.890 to allow an electronic advertising devices located on the premises of a business or organization to advertise or promote activities and products offered both on and outside of the property; require content advertised to comply with state and federal statutes and regulations; prohibit the advertising of outside content if the business or organization has ceased operation; amend KRS 177.841 to comply.

(Prefiled by the sponsor(s).)

**BR212** - Representative Ken Fleming, Representative Kimberly Moser  
(9/26/2018)

AN ACT relating to legislative ethics.

Create new sections of KRS 6.601 to 6.849 to make it ethical misconduct for a legislator, legislative agent, or director of the Legislative Research Commission to engage in discrimination, harassment, or sexual harassment; define "discrimination," "harassment," "sexual harassment," and "workplace complaint"; grant the Legislative Ethics Commission jurisdiction to investigate and proceed upon receipt of a complaint from an employee of the legislative branch regarding discrimination, harassment, or sexual harassment allegedly committed by a legislator, legislative agent, or director of the Legislative Research Commission; require that allegations of discrimination, harassment, or sexual harassment by one employee of the legislative branch against another employee of the legislative branch be referred to the Legislative Research Commission; require the Legislative Ethics Commission to establish a legislative ethics telephone tip line to allow employees of the legislative branch to report complaints of discrimination, harassment, and sexual harassment; require the Legislative Ethics Commission and the Legislative Research Commission to publicize the existence of the legislative ethics telephone tip line; require the legislative ethics telephone tip line to be available 24 hours a day, seven days a week, with the Legislative Ethics Commission providing staff during regular business hours and allowing for recorded messages during nonbusiness hours; require the forwarding of information reported on the legislative ethics telephone tip line to the executive director of the Legislative Ethics Commission or his or her designee on an approved form; provide that within 24 hours of the receipt of a workplace complaint that the Legislative Ethics Commission executive director make an initial determination as to whether a workplace complaint meets the criteria for consideration and notify the complainant of the determination; provide that the alleged violator shall be notified and given the opportunity to file a written response after receiving



a written statement detailing allegations; provide that within seven days of receiving a response or expiration of the deadline for receiving a response from the alleged violator the Legislative Ethics Commission chair, vice chair, and executive director shall interview the complainant, the alleged violator, and any other person with information relevant to the complaint; provide that within 14 business days of completion of the interviews, the Legislative Ethics Commission shall give notice of the status of the workplace complaint and a general statement of applicable law to the complainant and alleged violator; provide that within 30 business days of receipt of a workplace complaint the complaint file shall be closed if the Legislative Ethics Commission chair and vice chair agree that the workplace complaint is resolved or agree that there is no credible allegation of discrimination, harassment, or sexual harassment; allow the Legislative Ethics Commission chair and vice chair to refer a workplace complaint to another federal or state agency if they determine that the case does not fall under the jurisdiction of the Legislative Ethics Commission; if the Legislative Ethics Commission chair and vice chair do not agree whether a workplace complaint is resolved but agree that there is a credible allegation of discrimination, harassment, or sexual harassment, the Legislative Ethics Commission enforcement counsel shall file a complaint; a legislator, legislative agent, or an employee of the legislative branch may file a complaint of discrimination, harassment, or sexual harassment at any time under KRS 6.686; set forth confidentiality provisions; provide that complainants shall not be subject to reprisal; require the annual reporting of complaints processed using the legislative ethics telephone tip line; provide that nothing prevents a legislator, legislative agent, or legislative branch employee from pursuing other avenues to report complaints of discrimination, harassment, or sexual harassment; permit employees who report complaints to seek assistance from the Kentucky Employee Assistance Program or from private health professionals for matters related to workplace complaints; declare that if a provision of KRS 6.601 to 6.849 is designated a misdemeanor or felony, an alleged violation of the provision may be adjudicated by the Legislative Ethics Commission as ethical misconduct; amend KRS 6.661 to restrict political activity by the Legislative Ethics Commission staff; amend KRS 6.686 to allow dismissal of complaints by teleconference held by the Legislative Ethics Commission; allow complaints to be filed against former legislators, former legislative agents, and for employers of former legislative agents for extended periods if they are related to discrimination, harassment, or sexual harassment; if a complainant publicly discloses or comments on a complaint or preliminary inquiry, the Legislative Ethics Commission may dismiss the complaint without prejudice via teleconference; amend KRS 6.701 to include legislative branch employees in mandatory ethics education already required for legislators; amend KRS 6.716 to require the Legislative Ethics Commission to administer a current issues seminar for legislative branch employees in addition to the existing requirement for legislators; amend KRS 6.787 to

include in legislator "statement of financial interests" information regarding out of state travel associated with the performance of legislative duties, including the name of any person or organization who paid for transportation, food, lodging, or travel expenses and the value of the expenses paid.

(Prefiled by the sponsor(s).)

**BR233** - Senator Ralph Alvarado  
(12/13/2018)

AN ACT relating to special purpose governmental entities.

Create a new section of KRS Chapter 65A to require proposed increases in ad valorem taxes and certain fees and the levy of new ad valorem taxes or fees by special purpose governmental entities to be submitted to the legislative body of the county or city in which the special purpose governmental entity is located for review; amend various sections of the Kentucky Revised Statutes to conform; repeal KRS 65A.100; EFFECTIVE January 1, 2020.

(Prefiled by the sponsor(s).)

**BR234** - Senator Ralph Alvarado  
(12/14/2018)

AN ACT relating to student health.

Create a new section of KRS Chapter 438 to define terms; prohibit use of tobacco products by students, school personnel, and visitors in schools, school vehicles, properties, and activities; require policies to be in place by the 2020-2021 school year; require that smoke-free policies and signage be adopted; provide that existing bans are not impacted; repeal KRS 438.050.

(Prefiled by the sponsor(s).)

**BR238** - Representative Kimberly Moser  
(9/14/2018)

AN ACT relating to Kentucky educational excellence scholarships and declaring an emergency.

Amend KRS 164.7884 to allow KEES funds to be used for qualified workforce training programs; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR240** - Representative Myron Dossett  
(10/15/2018)

AN ACT relating to income tax checkoff programs and making an appropriation therefor.

Create a new section of KRS Chapter 141 to provide taxpayers the option to donate to the Kentucky YMCA Youth Assembly program from their individual income tax refunds; require the Department of Revenue to place the designation on the face of the Kentucky individual income tax return; provide information about the Kentucky YMCA Youth Assembly program in the return's instructions; transfer the funds designated by taxpayers to the Kentucky YMCA Youth Association by July 1.

(Prefiled by the sponsor(s).)

**BR243** - Representative Chris Harris  
(12/14/2018)

AN ACT relating to mine safety.

Create a new section of KRS Chapter 351.010 to 351.194 to require that miners wear clothing with at least 100 square inches of reflective material while in an underground mine and clothing with at least 50 square inches of reflective material at a surface mine site; require that coal operators provide the reflective clothing at no cost to the miner; amend KRS 351.990 to impose civil penalties on an operator of not less than \$250 nor more than \$500 for the first violation and not less than \$500 nor more than \$1,000 for each subsequent violation.

(Prefiled by the sponsor(s).)

**BR251** - Representative Reginald Meeks  
(9/26/2018)

AN ACT relating to operator's license testing.

Create a new section of KRS Chapter 158 to require that a driver's education program to include instruction regarding a driver's conduct during interactions with law enforcement officers; amend KRS 186.480 to require the Kentucky State Police to make a driver manual available in printed format, electronic format, or both, that contains the information needed for an operator's license examination; require that the manual have a section regarding a driver's conduct during interactions with law enforcement officers; require the operator's license examination to test the driver's knowledge regarding conduct during interactions with law enforcement officers; amend KRS 186.574 to require the course of instruction for new drivers in the state traffic school to include information on how drivers should act during interactions with law enforcement officers; create a new section of KRS Chapter 332 to require driver training schools to include in the course of instruction for new drivers information on how a driver should act during interactions with law enforcement officers.

(Prefiled by the sponsor(s).)

**BR252** - Representative Reginald Meeks  
(12/14/2018)

AN ACT relating to elections.

Amend KRS 116.025 to provide that a voter shall be a resident of the state and precinct on or before the day of an election; amend KRS 116.045 to provide that a person who has not registered prior to the time that the registration books are closed and who possesses all other qualifications for voter registration may register or change party affiliation at the person's precinct of residence on the day of the election and shall be permitted to vote in that election; provide for confirmation of identity and affidavit; permit a process of voter preregistration for persons at the minimal age of 16 years; require the State Board of Elections to promulgate administrative regulations to provide for

the procedure for voter preregistration; amend KRS 116.0452 to provide for time of receipt of precinct voter registration; provide that county clerk shall provide the State Board of Elections with a report of the number of voters registering to vote at the precincts on election day; direct the State Board of Elections to publish informational materials about voter registration in Spanish; direct the State Board of Elections to provide voter registration applications in Spanish no later than January 1, 2022; amend KRS 116.046 to direct schools and the county clerk to inform students and school personnel not less than once each school year about the availability of preregistration and registration forms; direct school districts to submit an annual report to the Legislative Research Commission regarding student voter preregistration and registration; direct the State Board of Education to implement programs of public education, not less than once during each school year, regarding elections, voting procedures, and election fraud, which shall include sophomores; amend KRS 116.048 to designate all state agencies as voter registration agencies, including public libraries; require state agencies to report to the LRC a plan for implementing requirements related to voter registration; amend KRS 116.055 to delete requirement that, to vote in a primary election, a person must have been registered as a member of the political party by December 31 or, in the case of new registrations, have been registered and remained registered as a member of that party; amend KRS 117.225 to provide that if the person is not listed on the precinct roster, that the person be given the opportunity to register at the precinct; amend KRS 117.365 to provide that applications for voter registration at the precinct shall be presented to the grand jury and retained by the county clerk; and amend KRS 150.195 to require the Department of Fish and Wildlife Resources to develop a procedure to inform applicants for licenses and permits of the means and methods to register to vote in the Commonwealth.

(Prefiled by the sponsor(s).)

**BR253** - Representative John Sims Jr  
(10/24/2018)

AN ACT relating to motor vehicle insurance.

Amend KRS 304.99-060, regarding penalties for operating a motor vehicle with required security, to exempt operators of a motor vehicle who are minors and who do not own the motor vehicle; clarify that owners of a motor vehicle operated without security by a minor shall still be subject to penalties outlined in the section.

(Prefiled by the sponsor(s).)

**BR259** - Senator John Schickel  
(9/25/2018)

Adjourn the Senate in honor and loving memory of Amy Register Bales.

(Prefiled by the sponsor(s).)

**BR263** - Representative Reginald Meeks  
(12/14/2018)

AN ACT relating to information used in redistricting.

Create a new section of KRS Chapter 196 to require the Kentucky Department of Corrections to create and maintain a database of information on incarcerated persons, including last known address, and to report that information to the Legislative Research Commission following the decennial census; amend KRS 7.550 to require the Legislative Research Commission to receive prisoner population data, including last known address, from the Department of Corrections and to request the same information from federal facilities, and to allocate prisoners to their last known address, if determined; create a new section of KRS Chapter 5 to require that the adjusted prisoner population data be used in redistricting Kentucky's Senatorial and Representative districts; create a new section of KRS Chapter 118B to require that the adjusted prisoner population data be used in redistricting Kentucky's Congressional districts.

(Prefiled by the sponsor(s).)

**BR264** - Representative Dean Schamore  
(11/9/2018)

AN ACT proposing an amendment to Sections 30, 31, and 32 of the Constitution of Kentucky relating to terms of members of the General Assembly.

Propose to amend Sections 30 and 31 of the Constitution of Kentucky to elect Senators for terms of six years beginning in November, 2022, for even-numbered Senatorial districts and beginning in November, 2024, for odd-numbered Senatorial districts, and Representatives for terms of four years beginning in November, 2022; propose to amend Section 32 of the Constitution of Kentucky to prevent Senators from serving more than two consecutive six-year terms of office, and prevent Representatives from serving more than three consecutive four-year terms of office, beginning with those elected in November 2022; allow legislators to resume service in the chamber from which they were term-limited after a full term of office has elapsed; provide ballot language; submit to voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR266** - Senator Reginald Thomas  
(11/27/2018)

AN ACT relating to oaths.

Amend KRS 6.072 to require witnesses appearing before a committee, interim committee, statutory committee, subcommittee, commission, or task force of the General Assembly to take an oath prior to giving testimony.

(Prefiled by the sponsor(s).)

**BR268** - Representative Rob Rothenburger  
(11/26/2018)

AN ACT relating to certified law enforcement telecommunications and making an appropri-

tion therefor.

Create new sections of KRS Chapter 15 to allow law enforcement telecommunications who are certified pursuant to KRS 15.530 to 15.590 and are employed on a full-time basis to receive the KLEFP fund training stipend and retirement contribution, and allow the employer to receive the associated administrative expenses, all upon the application and permission of affected bodies; amend KRS 15.460 to increase the cap for administrative expenses from \$525,000 to \$627,000 to accommodate the increased requisition of administrative expenses from the KLEFP fund; amend KRS 67.760 to allow local government 911 services to expend tax moneys on administrative expenses resulting from the telecommunications' participation in the training stipend; APPROPRIATION.

(Prefiled by the sponsor(s).)

**BR271** - Representative Danny Bentley  
(10/9/2018)

AN ACT relating to pharmacists.

Amend KRS 217.215 to permit pharmacists to dispense a prescription refill in an amount equal to the standard unit of dispensing for the drug without authorization by the prescribing practitioner in emergency situations in which such authorization may not be readily or easily obtained; require the Board of Pharmacy to promulgate administrative regulations to carry out these provisions.

(Prefiled by the sponsor(s).)

**BR272** - Representative Jeffery Donohue  
(10/19/2018)

AN ACT relating to special grand juries.

Amend KRS 15.200 to allow the Attorney General to petition the Supreme Court to convene a special grand jury to investigate crimes that cross multiple judicial circuits; amend KRS 15.205 to allow the Attorney General to direct a Commonwealth's or county attorney to act as a special prosecutor when the Supreme Court approves the Attorney General's petition for a special grand jury; amend KRS 29A.220 to outline the process and duties of a special grand jury.

(Prefiled by the sponsor(s).)

**BR275** - Senator John Schickel  
(10/12/2018)

Honor Greg Johnson upon his retirement as the commissioner of the Kentucky Department of Fish and Wildlife Resources.

(Prefiled by the sponsor(s).)

**BR276** - Representative Walker Wood Thomas, Representative Tim Moore, Representative Myron Dossett, Representative Mark Hart, Representative DJ Johnson, Representative Phillip Pratt, Representative Dean Schamore  
(10/12/2018)

AN ACT relating to an exemption of in-



come taxation for military pensions.

Amend KRS 141.019 to exclude United States military retirees' pension income from income taxation for taxable years beginning on or after January 1, 2021; require reporting by the Department of Revenue; amend KRS 131.190 to include the reporting within the information that can be provided to the Legislative Research Commission.

(Prefiled by the sponsor(s).)

**BR280** - Representative Rob Rothenburger  
(11/5/2018)

AN ACT relating to tuition benefits and making an appropriation therefor.

Amend KRS 164.2841, relating to college tuition benefits for spouses and children of specified emergency response personnel and public employees who have died in the course of their duties, to raise the eligibility age for surviving children to under the age of 26; stipulate that the unmarried widow or widower could be of any age to be eligible; specify that the beneficiary is eligible for up to 128 credit hours of undergraduate instruction; amend KRS 164.2842, relating to college tuition benefits for spouses and children of specified emergency response personnel and public employees who have been totally and permanently disabled in the course of their duties, to raise the eligibility age for children to under the age of 26; retain provision stipulating that the unmarried widow or widower could be of any age to be eligible; specify that the beneficiary is eligible for up to 128 credit hours of undergraduate instruction.

(Prefiled by the sponsor(s).)

**BR285** - Representative Reginald Meeks  
(11/20/2018)

AN ACT relating to firearms fabricated with additive manufacturing.

Amend KRS 527.010 to define "additive manufacturing" and "major firearm component"; create a new section of KRS Chapter 527 to criminalize the possession of a firearm made using additive manufacturing technology for anyone under the age of 21 and to criminalize the possession of a firearm made using additive manufacturing technology for those over the age of 21 who do not permanently engrave or attach serial numbers; create a new section of KRS Chapter 237 authorizing the Kentucky State Police to issue serial numbers for firearms made with additive manufacturing and to promulgate administrative regulations; exempt the provisions of the Act from KRS 6.945(1).

(Prefiled by the sponsor(s).)

**BR288** - Senator Damon Thayer  
(12/14/2018)

AN ACT relating to elections.

Amend KRS 117.025 to restrict voter registration data from being accessed, modified, or altered by any individual member of the State Board of Election, including the Secretary of

the State and his or her staff.

(Prefiled by the sponsor(s).)

**BR292** - Senator Stephen West  
(12/14/2018)

AN ACT relating to water fluoridation programs.

Amend KRS 211.190 to make water fluoridation programs administered by the Cabinet for Health and Family Services optional; allow local government entities and special districts to void implementation of the programs by legislative action.

(Prefiled by the sponsor(s).)

**BR294** - Representative Mark Hart  
(12/13/2018)

AN ACT relating to water fluoridation programs.

Amend KRS 211.190 to allow local government entities and special districts to void implementation of the water fluoridation programs administered by the Cabinet for Health and Family Services by legislative action.

(Prefiled by the sponsor(s).)

**BR299** - Representative George Brown Jr  
(10/29/2018)

AN ACT relating to firearms.

Create a new section of KRS Chapter 527 to make it a crime to unlawfully store a firearm; establish elements of the crime for recklessly allowing access to an unsecured firearm by a minor; establish the crime as a Class B misdemeanor unless a physical injury results, in which case it is a Class A misdemeanor; exempt this section from KRS 6.945(1).

(Prefiled by the sponsor(s).)

**BR302** - Senator Reginald Thomas  
(11/20/2018)

AN ACT relating to wages.

Amend KRS 337.010, relating to wages, 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, 2019, to \$9.15 per hour on July 1, 2020, to \$10.10 per hour on July 1, 2021, to \$11.00 per hour on July 1, 2022, to \$12.05 per hour on July 1, 2023, to \$13.10 per hour on July 1, 2024, to \$13.95 per hour on July 1, 2025, and to \$15.00 per hour on July 1, 2026, and to raise the state minimum wage for tipped employees to \$2.13 per hour on the effective date of the Act, to \$3.05 per hour on July 1, 2020, to \$3.95 per hour on July 1, 2021, and to \$4.90 per hour on July 1, 2022; include anti-preemption language permitting local governments to establish minimum wage ordinances in excess of the state minimum wage.

(Prefiled by the sponsor(s).)

**BR304** - Senator Paul Hornback  
(10/10/2018)

AN ACT relating to grain discounts.

Amend KRS 251.015 to authorize the Department of Agriculture to investigate grain discounts; impose a penalty for hindering, obstructing, or interfering with inspectors; require the Department of Agriculture to report its findings on investigations relating to grain discounts to the Legislative Research Commission and the Interim Joint Committee on Agriculture by November 1 of each year.

(Prefiled by the sponsor(s).)

**BR307** - Representative Diane St. Onge  
(12/13/2018)

AN ACT relating to cruelty to equines.

Create a new section of KRS Chapter 525 to prohibit cruelty to equines including situations involving abuse, neglect, and sexual contact; make cruelty to equines a Class D felony and provide for the termination of ownership; list exceptions; establish a short title of "Klaire's Law"; specify that the provisions of KRS 6.945(1) do not apply to this Act.

(Prefiled by the sponsor(s).)

**BR312** - Representative Kimberly Moser  
(12/14/2018)

AN ACT relating to student health.

Create a new section of KRS Chapter 438 to define terms; prohibit use of tobacco products by students, school personnel, and visitors in schools, school vehicles, properties, and activities; require policies to be in place by the 2020-2021 school year; require that smoke-free policies and signage be adopted; provide that existing bans are not impacted; repeal KRS 438.050.

(Prefiled by the sponsor(s).)

**BR319** - Senator Tom Buford  
(11/27/2018)

AN ACT relating to state parks.

Create a new section of KRS Chapter 243 to direct the Department of Alcoholic Beverage Control to issue an NQ1 alcoholic beverage by the drink license to any state park in dry, wet, or moist territory; allow a local government where all or part of a state park is located to prohibit these alcoholic beverage sales for the entire park through a local ordinance; forbid a county containing a city from changing the decision of that city if the state park is located entirely within that city; make the local ordinance process inapplicable to state parks serving alcoholic beverages by the drink through a local option election; exempt state parks from the prohibition statutes; exclude a state park from a change in dry, wet, or moist status if its surrounding territory changes its status; amend KRS 241.010 to define a "state park" as a state park administered by the Department of Parks under KRS Chapter 148;

amend KRS 242.022 to make a state park local option election supersede any local government ordinance relating to alcoholic beverage sales at state parks located in that precinct; amend KRS 243.082 to allow a state park to receive an NQ1 license to sell alcoholic beverages by the drink through its normal status absent an intervening local ordinance, through a state park local option election, or through its location in wet territory.

(Prefiled by the sponsor(s).)

**BR320** - Senator Julian Carroll  
(11/9/2018)

AN ACT relating to sports wagering and making an appropriation therefor.

Establish KRS Chapter 239 and create new sections to define "amateur athletics," "collegiate sports contest," "commission," "principal," "professional sports contest," "sports wager," and "sports wagering"; create the Kentucky Gaming Commission; establish membership to be appointed by the Governor with the advice and consent of the Senate; establish the commission's responsibilities and authority; require the Governor to appoint an executive director and establish the executive director's responsibilities; require the commission to promulgate administrative regulations relating to sports wagering conducted by the Kentucky Lottery Corporation, racing associations licensed under KRS Chapter 230, and other locations; establish licensing fees; prohibit persons from wagering on an event in which they are a participant; establish the sports wagering distribution trust fund and the uses of the fund; establish penalties for tampering with the outcome of a sporting event and wagering on a sporting event by a participant; create a new section of KRS Chapter 138 to impose an excise tax on sports wagering at 25 percent of net sports wagering receipts; amend KRS 138.1817 to permit the Department of Revenue to work with the commission to restrict licensure in the event that sports wagering taxes are not paid; amend KRS 154A.010 to revise the definition of "amateur sports contest," and to define "collegiate sports contest," "professional sports contest," "sports wager," and "sports wagering"; amend KRS 154A.030 to conform and to prohibit the director or family member from being a part owner of a professional team or a board member of a college or university that engages in collegiate sports upon which sports wagers may be placed; amend KRS 154A.050 to include sports wagering; amend KRS 154A.060 to include sports wagering and to include contracts for the purchase of goods and services necessary for sports wagering; require monthly and annual reports to be submitted to the Kentucky Gaming Commission; amend KRS 154A.063 to permit sports wagering on collegiate and professional sports contests; amend KRS 154A.065 to prohibit accepting sports wagers on the outcomes of contests involving horses; amend KRS 154A.070 to include sports wagering and require contracts to be in accord with administrative regulations of the Lottery Corporation and the Kentucky Gaming Commission; amend KRS 154A.090 to stipulate that sports wagering retailers aggrieved by a decision of the board may

appeal to the Kentucky Gaming Commission; amend KRS 154A.110 to include sports wagering; stipulate that unclaimed sports wagering prize money be added to the sports wagering distribution trust fund; to prohibit sports wagers from being accepted from members or coaches of professional or collegiate team; amend 154A.120 to include sports wagering; amend KRS 154A.130 to specify net sports wagering receipts collected by lottery to be used for expenses and moneys in excess of expenses shall be dedicated to the sports wagering distribution trust fund; amend KRS 154A.400 to include sports wagering and stipulate the criteria for selecting sports wagering retailers shall be developed in consultation with the Kentucky Gaming Commission; amend KRS 154A.420 to include sports wagering and permit the Lottery Corporation to require a retailer to establish separate sports wagering electronic funds transfer accounts; amend KRS 154A.430, 154A.440, 154A.600, and 154A.650 to include sports wagering; amend KRS 230.225 to permit the Kentucky Horse Racing Commission to oversee sports wagering at licensed racing associations; amend KRS 230.370 to require administrative regulations relating to sports wagering to be developed in consultation with the Kentucky Gaming Commission; amend KRS 243.500 to exempt the conduct of sports wagering licensed or permitted under KRS Chapter 239; amend KRS 12.020 to administratively attach the Kentucky Gaming Commission to the Public Protection Cabinet.

(Prefiled by the sponsor(s).)

**BR322** - Senator John Schickel  
(11/19/2018)

Honor Larry Crigler upon his retirement from the Kentucky Association of Counties (KACo).

(Prefiled by the sponsor(s).)

**BR324** - Representative Addia Wuchner, Representative Kimberly Moser  
(12/11/2018)

AN ACT relating to healthy goals for the school children of the Commonwealth.

Create a new section of KRS Chapter 158 to establish the goal of increasing time for physical activity to 20 minutes per day or 100 minutes per week in all schools with kindergarten through grade 5 by November 1, 2020; require the Kentucky Department of Education to identify model programs, provide resources and assessment tools, develop a checklist for collecting data for public reporting, encourage physical activity plans in schools containing grades 6 through 8, report to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare and Family Services by December 1, 2019, and annually thereafter on progress toward meeting the goal, and share aggregate school district and county data with the Cabinet for Health and Family Services.

(Prefiled by the sponsor(s).)

**BR325** - Representative Addia Wuchner, Representative Kimberly Moser  
(12/11/2018)

AN ACT relating to the external child fatality and near fatality review panel.

Amend KRS 620.055 to add additional four new members to the external child fatality and near fatality review panel; require that the panel additionally report to the Child Welfare Oversight and Advisory Committee; and change the annual required published report deadline to February 1 from December 1.

(Prefiled by the sponsor(s).)

**BR326** - Representative Addia Wuchner, Representative John Bam Carney  
(12/14/2018)

AN ACT relating to dyslexia.

Amend KRS 158.307 to require local boards of education to develop policy on identification of kindergarten through third grade students with dyslexia; require that the policy includes those attributes that may have been included previously; require postsecondary institutions with teacher preparation programs to include instruction on dyslexia by the 2020-2021 school year.

(Prefiled by the sponsor(s).)

**BR329** - Representative Chris Fugate, Representative DJ Johnson  
(10/24/2018)

AN ACT relating to kinship and fictive kin care and making an appropriation therefor.

Amend KRS 405.023 to establish that the KinCare Support Program shall include respite care for low-income fictive kin caregivers; amend KRS 605.120 to require the establishment and operation of the Kinship and Fictive Kin Care Program that will include monetary provisions for relative and fictive kin caregivers who have permanent custody of a child that shall be at a minimum \$300 monthly per child through the age of 18; amend KRS 610.010 to conform; appropriate \$17,500,000 in General Fund and \$17,500,000 in Federal Funds in fiscal year 2019-2020 to the Department for Community Based Services for the Kinship and Fictive Kin Care Program.

(Prefiled by the sponsor(s).)

**BR333** - Senator John Schickel  
(11/15/2018)

AN ACT relating to employment discrimination based on smoking.

Amend KRS 344.040 to remove protections against employment discrimination based on an individual's status as a smoker or non-smoker.

(Prefiled by the sponsor(s).)

**BR335** - Representative Jason Nemes, Representative Jerry Miller  
(10/31/2018)



AN ACT relating to hate crimes.  
Amend KRS 532.031, relating to an offense committed as a result of a hate crime, to include criminal homicide and fetal homicide as well as the attempt to commit or solicitation of those crimes.  
(Prefiled by the sponsor(s).)

**BR341** - Senator John Schickel  
(11/19/2018)

Honor Brian Miller for receiving the Gary Komarow Executive Officer of the Year Award.  
(Prefiled by the sponsor(s).)

**BR349** - Representative George Brown Jr  
(11/19/2018)

AN ACT relating to firearms and declaring an emergency.

Create new sections of KRS Chapter 237 to specify definitions for "assault weapons," "large-capacity ammunition-feeding devices," "bump stocks," and "ammunition sellers"; require background checks for private firearms sales; require reporting to law enforcement of firearm and ammunition thefts and losses; require the safe storage of firearms; and to prohibit the manufacture, sale, or transfer of a bump stock; amend KRS 395.250 to require an estate's inventory to list each firearm; amend KRS 403.735 to require judges, when issuing an order of protection, to consider whether a person against whom the order is entered should be prohibited from possessing an firearm; amend KRS 504.030 to require judges in criminal cases where a person is found guilty by reason of insanity to demand the surrender of the defendant's firearms; amend KRS 237.104 to conform; amend KRS 506.080 to specify that the offense of facilitation includes assistance in providing firearms; amend KRS 508.020 to include physical injury to a minor by virtue of the intentional discharge of a firearm within the offense of assault in the second degree; create a new section of KRS Chapter 527 to create the offense of criminal purchase or disposal of a weapon; amend KRS 527.040 to require that the sentence for a felon in possession of a firearm be served subsequent to any other felony sentence; amend KRS 527.070 to include post secondary education facilities within the existing ban on firearms in schools; amend KRS 532.030 to require the judge pronouncing a defendant guilty but mentally ill to demand the surrender of the person's firearms; create a new section of KRS Chapter 237 to require the State Police to promulgate administrative regulations relating to the licensing of persons to possess firearms and assault weapons, the registration of firearms and assault weapons, and the logging of firearms and ammunition sales effective January 1, 2020; amend KRS 532.025 to conform; amend KRS 237.115 to conform; repeal KRS 65.870; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR350** - Representative George Brown Jr, Representative Charles Booker  
(12/12/2018)

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to restructure the voting restrictions relating to felons and persons with mental disabilities; submit to the voters for ratification or rejection.  
(Prefiled by the sponsor(s).)

**BR351** - Representative George Brown Jr, Representative Charles Booker  
(12/12/2018)

AN ACT relating to expungement.  
Amend KRS 431.073 to make additional offenses eligible for expungement; reduce the filing fee for felony expungement from \$500 to \$200; amend KRS 431.076 to allow expungement of charges dismissed without prejudice; amend KRS 431.078 to require certain records to be expunged if the law specifies a period for enhancement and that period has expired; amend KRS 431.079 to limit requirement of certification to convictions that have not been pardoned.  
(Prefiled by the sponsor(s).)

**BR352** - Senator Stephen Meredith  
(12/12/2018)

AN ACT relating to contingency fee legal personal service contracts.  
Amend KRS 45A.717 to give the secretary of Finance and Administration the decision-making authority to settle matters for which a legal personal service contract has been awarded.  
(Prefiled by the sponsor(s).)

**BR353** - Senator Stephen Meredith  
(12/12/2018)

AN ACT proposing to amend Sections 30 and 31 of the Constitution of Kentucky relating to elections of members of the General Assembly.  
Propose to amend Sections 30 and 31 of the Constitution of Kentucky to increase the number of years in a term for a Senator from four to six years and to increase the number of years in a term for a Representative from two to four years beginning with the regular election in November 2020; provide ballot language; submit to the voters for ratification or rejection.  
(Prefiled by the sponsor(s).)

**BR355** - Senator Stephen Meredith  
(12/12/2018)

AN ACT relating to disclosure of Medicaid managed care organizations' payment schedules to the Medicaid Oversight and Advisory Committee.  
Amend KRS 304.17A-527 to require Medicaid managed care organizations to

provide all payment schedules utilized to reimburse health care providers with whom they have maintained a contractual relationship for the previous three (3) months to the Medicaid Oversight and Advisory Committee on a quarterly basis for the committee's review.  
(Prefiled by the sponsor(s).)

**BR357** - Senator Gerald Neal  
(11/29/2018)

AN ACT relating to hate crimes.  
Create a new section of KRS Chapter 525 to create the offense of a hate crime; amend KRS 439.3401 to include hate crimes; amend KRS 49.320 to conform; repeal KRS 532.031; exempt the provisions of the Act from KRS 6.945(1).  
(Prefiled by the sponsor(s).)

**BR360** - Senator Stephen Meredith  
(12/12/2018)

AN ACT relating to causes of actions for building code violations.  
Amend KRS 198B.130 to allow a court award under KRS Chapter 198B or the Uniform Building Code to include attorney's fees if a certificate of occupancy has not been issued.  
(Prefiled by the sponsor(s).)

**BR361** - Senator Stephen Meredith  
(12/12/2018)

AN ACT proposing to amend Sections 70, 72, 73, 74, 84, 85, 86, 87, 90, 91, and 95 and repeal Section 82 of the Constitution of Kentucky relating to abolishing the Office of the Lieutenant Governor.  
Propose to amend various sections of the Constitution of Kentucky to abolish the Office of the Lieutenant Governor, to establish the President of the Senate as the first in line for gubernatorial succession, and to establish the Speaker of the House as the second in line for gubernatorial succession beginning with the gubernatorial election in November 2023; expand the Chief Justice of the Supreme Court's constitutional obligations to preside over gubernatorial impeachment proceedings; eliminate the Attorney General and the Auditor of Public Accounts constitutional duties regarding gubernatorial line of succession; repeal Section 82 of the Constitution of Kentucky relating to Succession of Lieutenant Governor; provide ballot language; submit to the voters for ratification or rejection.  
(Prefiled by the sponsor(s).)

**BR365** - Representative Lynn Bechler  
(12/14/2018)

AN ACT relating to childhood sexual assault or abuse and creating an emergency.  
Create a new section of KRS Chapter 15 to allow the Attorney General to petition the Supreme Court to convene a special grand jury to investigate childhood sexual assault or abuse that crosses multiple judicial circuits; amend KRS 15.205 to allow the Attorney General to direct a

Commonwealth's or county attorney to act as a special prosecutor when the Supreme Court approves the Attorney General's petition for a special grand jury; amend KRS 29A.220 to outline the process and duties of a special grand jury; make severable; EMERGENCY.

(Prefiled by the sponsor(s).)

**BR368** - Representative Stan Lee  
(12/14/2018)

AN ACT relating to the levy of property taxes.

Amend KRS 132.017, relating to property taxes levied by local government entities, to extend the deadline to file a petition to 75 days; allow petition papers to be substantially uniform in size and style; allow the names of voters from more than one voting precinct to be on the same sheet of the petition paper; allow electronic signatures to be counted when the signatures comply with the Uniform Electronic Transactions Act; lower the number of signatures needed for the petition to 5%; require the local governmental entity or school to levy a tax rate that is equal to the compensating tax rate when an election on the tax rate levy is canceled or the vote fails to pass the election; amend KRS 132.018 to conform.

(Prefiled by the sponsor(s).)

**BR370** - Representative Tim Moore  
(12/13/2018)

AN ACT relating to the Kentucky educational excellence scholarship.

Amend KRS 164.7874, relating to the KEES scholarship program, to change the definition of "participating institution" to include an institution that is eligible to participate in the federal Pell Grant program.

(Prefiled by the sponsor(s).)

**BR375** - Senator Stephen Meredith  
(12/12/2018)

AN ACT relating to service improvements in the Medicaid program.

Create new sections of KRS Chapter 205 to limit the number of (MCO) contracts to operate the Medicaid program to three and to establish a process for selecting the three MCOs to be awarded the contracts; require that services provided in rural counties be reimbursed at least at the median amount paid to an urban health care provider within the nearest metropolitan statistical area; establish a penalty that goes to the underpaid provider.

(Prefiled by the sponsor(s).)

**BR382** - Senator Stan Humphries  
(11/21/2018)

AN ACT relating to water well drillers.

Amend KRS 223.400 to add a definition of "water well driller's assistant"; amend KRS 223.405 to require water well drillers and water well driller's assistants to obtain a valid certifi-

cate before working on a water well; amend KRS 223.425 to establish the application, requirements, and effective term for the certification of water well driller's assistants; amend KRS 223.430 to allow the water well driller's assistant to work under the liability insurance and surety bond of the supervising certified water well driller; amend KRS 223.440 to prohibit the certified water well driller's assistant from certifying records required to be kept by the supervising certified water well driller; amend KRS 223.447 to establish certification and renewal fees for the water well driller and the water well driller's assistant; amend KRS 223.450 to conform.

(Prefiled by the sponsor(s).)

**BR386** - Representative Rob Rothenburger  
(12/10/2018)

AN ACT relating to ground ambulance service providers and making an appropriation therefor.

Create new sections of KRS Chapter 205 to define terms; establish the Medicaid ground ambulance service provider assessment; require ground ambulance service providers to pay a Medicaid ambulance service provider assessment quarterly; authorize the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement the Medicaid ground ambulance service provider assessment; create the ambulance service assessment revenue fund; AP-PROPRIATION.

(Prefiled by the sponsor(s).)

**BR393** - Representative Kevin Bratcher, Representative Daniel Elliott  
(11/28/2018)

AN ACT relating to caller identification.

Amend KRS 367.46955 to prohibit telephone solicitations which misrepresent the name or telephone number in caller identification services; amend KRS 367.46999 to increase the fines for second offenses and clarify enforcement mechanisms; amend KRS 367.667 to prohibit charitable telephone solicitations which misrepresent the name or telephone number in caller identification services; amend KRS 367.990 to add criminal fines and the payment of restitution for violations.

(Prefiled by the sponsor(s).)

**BR420** - Representative Jerry Miller  
(11/26/2018)

AN ACT relating to executive branch ethics.

Amend KRS 11A.010, relating to executive branch ethics, to expand and update the definitions of "officer" and "public servant"; define "salaried"; clarify that employment arrangements referenced in the definitions of "officer" and "public servant" are those made with an agency.

(Prefiled by the sponsor(s).)

**BR428** - Senator Reginald Thomas  
(12/13/2018)

AN ACT proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote.

Propose to amend Section 145 of the Constitution of Kentucky to allow sixteen- and seventeen-year-old United States citizens to vote in school board and local elections; provide ballot language; submit to voters for ratification or rejection.

(Prefiled by the sponsor(s).)

**BR429** - Representative Steve Riley  
(11/27/2018)

AN ACT relating to corporal physical discipline.

Create a new section of KRS 158.440 to 158.449 to prohibit a person employed by a school district from using corporal physical discipline; amend KRS 158.444 to remove corporal punishment as a form of discipline in a school; amend KRS 199.640 as effective July 1, 2019, to establish that church-related privately operated child-caring agencies or facilities shall not use corporal physical discipline; amend KRS 503.110 to establish that physical force may not be used against a minor.

(Prefiled by the sponsor(s).)

**BR440** - Representative Daniel Elliott  
(12/12/2018)

AN ACT relating to physician assistants.

Amend KRS 311.844 to provide additional license renewal requirements for physician assistants with controlled substances prescriptive authority; amend KRS 311.854 to require the board to review and approve or deny physician assistant applications within 30 calendar days of receiving a completed application; amend KRS 311.856 to permit physician assistants to prescribe controlled substances; amend KRS 311.858 to permit physician assistants to prescribe controlled substances with specific restrictions.

(Prefiled by the sponsor(s).)

**BR445** - Representative Daniel Elliott  
(12/12/2018)

AN ACT relating to members of boards of education.

Amend KRS 160.280 to increase the allowed per diem for members of local boards of education from \$75 to \$150; increase the total annual maximum of per diem and reimbursed expenses from \$3,000 to \$6,000; EFFECTIVE July 1, 2019.

(Prefiled by the sponsor(s).)

**BR453** - Senator Dennis Parrett  
(12/12/2018)

AN ACT relating to deferred deposit transactions.

Amend KRS 286.9-010 to define "annual percentage rate," "consideration," and "interest"; amend KRS 286.9-100, relating to deferred deposit transactions, to delete the service fee of \$15 per \$100 loan and establish a tiered maximum



annual percentage rate of 36 percent; provide that making a deferred deposit transaction in violation of the maximum interest provisions is an unfair, false, misleading and deceptive practice in violation of the Consumer Protection Act and subject to its rights and remedies; prohibit a licensee from engaging in deceptive practices to evade the requirements of Subtitle 9 of KRS Chapter 286; create a new section of Subtitle 9 of KRS Chapter 286 to provide that knowing violation of the maximum allowable interest rate provisions shall be deemed a forfeiture of the entire interest for the transaction and the person who paid the interest, or his or her legal representative, may recover twice the amount paid in any action against the lender if commenced within two years of the deferred deposit transaction; cite as the Responsible Payday Lending Act.

(Prefiled by the sponsor(s).)

**BR455** - Senator John Schickel  
(12/10/2018)

Designate a portion of KY 20 in Boone County in honor of Irene Patrick  
(Prefiled by the sponsor(s).)

**BR458** - Senator Stephen West  
(12/14/2018)

AN ACT relating to performance funding for postsecondary institutions.

Amend KRS 164.092, relating to performance funding for postsecondary educational institutions, to require a stop-loss provision of 1% in the performance funding models for fiscal years 2020-2021 through 2022-2023.

(Prefiled by the sponsor(s).)

**BR460** - Senator Danny Carroll  
(12/12/2018)

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 of no more than 6% on the sale of alcoholic beverages; license fees imposed under KRS 243.075 before the effective date of this Act.

(Prefiled by the sponsor(s).)

**BR465** - Senator Reginald Thomas  
(12/3/2018)

AN ACT relating to breast-feeding.

Amend KRS 211.755 to establish that a mother breast-feeding a child or expressing milk in any location, public or private, where the mother and child are otherwise authorized to be shall report any violations to the local health department, independent health department, or county health department, having jurisdiction for the county in which the violation occurred; require the local health department, independent health department, or county health department to conduct an investiga-

tion of any reported violation; amend KRS 211.990 to establish a fine of \$500 for the first offense and \$1,000 for each subsequent offense for any person or municipality that violates KRS 211.755(2) or (3).

(Prefiled by the sponsor(s).)

**BR467** - Senator Ralph Alvarado  
(12/13/2018)

Direct the Department for Medicaid Services to study the potential impacts of implementing programs similar to the Kentucky Employee Health Plan's Diabetes Value Benefit plan and Diabetes Prevention Program for Medicaid beneficiaries in the Commonwealth; direct the department to submit a written report of its findings to the IJC on Health and Welfare and Family Services.

(Prefiled by the sponsor(s).)

**BR476** - Senator Danny Carroll  
(12/12/2018)

AN ACT relating to the safety of canines and felines.

Create a new section of KRS Chapter 411 to provide civil immunity for damaging a vehicle if a person enters the vehicle with the reasonable, good-faith belief that a dog or cat is in immediate danger of death if not removed.

(Prefiled by the sponsor(s).)

**BR477** - Senator Ralph Alvarado  
(12/14/2018)

AN ACT relating to out-of-network balance billing.

Amend KRS 304.17A-005 to incorporate definitions of terms used in the Act, including "balance billing," "cost sharing", and "usual, customary, and reasonable rate"; create a new section of Subtitle 17A of KRS Chapter 304 to require the insurance commissioner or a designated nonprofit organization to establish and maintain a database of billed health care services charges collected from insurers; amend KRS 304.17A-254 to require certain health insurers to ensure that their networks of participating providers are adequate to meet the health care needs of covered persons; amend KRS 304.17A-510 to consolidate requirements in the insurance code for participating provider directories, to establish specific requirements for content, updates, and access, to require that directories be made available on insurer's Web sites, and to require an annual audit of a reasonable sample size of an insurer's provider directories; create a new section of Subtitle 17A of KRS Chapter 304 to require health benefit plans to provide coverage for access to a nonparticipating provider with prior plan authorization in certain circumstances, for access, without the need for a referral, to primary and preventive obstetric and gynecologic services, and for access to certain specialists; create a new section of Subtitle 17A of KRS Chapter 304 to require the insurance commissioner to review health benefit plans for network adequacy; amend KRS 304.17A-550 to require certain insurers that offer a group health

benefit plan that provides comprehensive coverage of health care services by nonparticipating providers to offer that coverage at a rate of at least 80% of the usual, customary, and reasonable rate; amend KRS 304.17A-580 to consolidate requirements in the insurance code for coverage of emergency health care services and to require insurers to ensure that covered persons incur no greater out-of-pocket costs for emergency health care services provided by a nonparticipating provider than the covered person would incur if services were provided by a participating provider; amend KRS 304.17A-607, 304.17A-617, 304.17A-621, and 304.17A-625 to establish utilization review and appeal requirements for nonparticipating provider coverage that requires prior authorization; create a new section of Subtitle 17A of KRS Chapter 304 to establish notice requirements for health benefit plans relating to the coverage requirements established in the Act and reimbursement for health care services provided by a nonparticipating provider; create a new section of Subtitle 17A of KRS Chapter 304 to establish a binding independent dispute resolution program for disputed charges for covered health care services provided by a nonparticipating provider; create a new section of KRS Chapter 367 to require health care providers and health facilities to make certain disclosures to covered persons, to post certain information on their Web sites, and to comply with certain requirements if they balance bill a covered person; amend KRS 304.17A-096, 304.17A-430, 304.17A-500, 304.17A-527, 304.17A-600, 304.17B-001, 304.17B-015, 304.17B-033, 304.17C-010, 304.18-114, 304.38A-010, 304.39-241, and 18A.225 to conform; repeal KRS 304.17A-590, 304.17A-640, 304.17A-641, 304.17A-645, 304.17A-647, and 304.17A-649; cite as the Out-of-Network Balance Billing Transparency Act; EFFECTIVE January 1, 2020.

(Prefiled by the sponsor(s).)

**BR478** - Senator Ralph Alvarado  
(12/13/2018)

AN ACT proposing an amendment to Section 54 of the Constitution of Kentucky.

Propose amendment to Section 54 of the Constitution of Kentucky to allow the General Assembly the power to limit noneconomic damages for injuries resulting in death or for injuries to persons or property, and to provide a uniform statute of limitations; provide for submission to the voters.

(Prefiled by the sponsor(s).)

**BR480** - Senator Ralph Alvarado  
(12/13/2018)

AN ACT relating to the levy of taxes.

Amend KRS 132.017, 160.485, and 160.597 to extend the deadline to file a property tax recall petition to 75 days; allow petition papers to be substantially uniform in size and style; allow the names of voters from more than one voting precinct to be on the same sheet of the petition paper; allow electronic signatures to be counted when the signatures comply with the Uniform Electronic

Transactions Act; lower the number of signatures needed for the petition to five percent; amend KRS 132.017 to require the local governmental entity or school to levy a tax rate that is equal to the compensating tax rate when an election on the tax rate levy is canceled or when the election is held and the vote on the proposed increase fails to pass; amend KRS 160.470 to subject a tax increase by the district board of education in excess of the amount of revenue produced by the compensating tax rate to a recall vote; amend KRS 82.095 and 132.018 to conform.

(Prefiled by the sponsor(s).)

**BR481** - Senator Ralph Alvarado  
(12/13/2018)

AN ACT relating to notice of hazardous waste violations.

Create a new section of KRS 224.46-505 to 224.46-590 to require the secretary of the Energy and Environment Cabinet to send a copy of a notice of violation for a hazardous waste site or facility to the county/judge executive of the county or the chief executive officer of the urban-county government within which the site or facility is located; amend KRS 224.10-212 to specify that notices of violation for hazardous waste sites or facilities are not prohibited from disclosure due to confidentiality.

(Prefiled by the sponsor(s).)

**BR482** - Senator Ralph Alvarado  
(12/13/2018)

Direct a study of community paramedicine pilot programs in Kentucky and emergency medical services reimbursement concerns related to non-transport patients.

(Prefiled by the sponsor(s).)

**BR483** - Senator Ralph Alvarado  
(12/13/2018)

Urge all private health insurance providers doing business in Kentucky to study the potential impacts of implementing programs similar to the Kentucky Employees' Health Plan's Diabetes Value Benefit plan and Diabetes Prevention Program and to implement similar programs if the results of their studies indicate a likelihood of cost savings or improved client health outcomes.

(Prefiled by the sponsor(s).)

**BR485** - Representative Attica Scott  
(12/7/2018)

AN ACT relating to providing free feminine hygiene products for women public postsecondary students.

Create a new section of KRS Chapter 164 to require each public postsecondary education institution to provide free feminine hygiene products to women students; require the governing boards of each public postsecondary education institution to adopt policies for the distribution of free feminine hygiene products; define feminine

hygiene products.

(Prefiled by the sponsor(s).)

**BR493** - Representative John Blanton  
(12/12/2018)

AN ACT relating to pretrial release.

Amend KRS 431.066 to provide that financial bail be solely imposed for ensuring a defendant's appearance; require a detention hearing for any defendant determined by the court to be a danger to the public if released; create a new section of KRS Chapter 431 to establish a detention hearing process; amend KRS 27A.360, 218A.135, 222.204, 431.520, 431.525, 431.530, 431.535, 431.540, 452.260, and 431.510 to conform; repeal KRS 431.021; EFFECTIVE January 1, 2020.

(Prefiled by the sponsor(s).)

**BR818** - Representative Jerry Miller  
(12/13/2018)

AN ACT relating to individual income tax.

Amend KRS 141.019 to exclude certain contributions to a STABLE Kentucky account.

(Prefiled by the sponsor(s).)

**BR821** - Senator Danny Carroll  
(12/14/2018)

AN ACT relating to personal information.

Create new sections of KRS Chapter 61 to provide definitions; enumerate what information is protected from disclosure for a person who is a law enforcement officer or other listed individual; provide the requirements for use or disclosure of protected persons' information by a public agency or third party contractor; enumerate the penalties for use of a person's Social Security number in violation of Sections 1 to 7 of the Act; establish requirements of third party contractors who contract with public agencies; establish requirements for filing a civil action for claims of violation; set out penalties for violations; specify scope and application.

(Prefiled by the sponsor(s).)

**BR823** - Representative Robert Goforth  
(12/13/2018)

AN ACT relating to abortion and declaring an emergency.

Create new sections of KRS Chapter 311 to require a person who intends to perform an abortion to determine whether the unborn human individual has a detectable fetal heartbeat; prohibit a person from performing an abortion before determining whether the unborn human individual has a detectable fetal heartbeat; prohibit a person from performing an abortion without informed consent when there is a detectable fetal heartbeat; prohibit a person from performing an abortion after the detection of a fetal heartbeat; provide exceptions for medical emergencies; require documentation of whether an abortion was performed to preserve the health of the pregnant woman; specify that nothing in the Act

restricts access to contraceptives; require the Cabinet for Health and Family Services to inspect the medical records of a facility that performs abortions to ensure compliance with reporting requirements; permit the Attorney General to apply to a state or federal court for a declaration that the Act's provisions are constitutional, or an order lifting an injunction if one exists, if federal abortion law changes; amend KRS 311.725 to conform; amend KRS 311.595 to allow the Kentucky Board of Medical Licensure to suspend or revoke the license of any physician for violations; amend KRS 311.990 to establish criminal penalties for violations; amend KRS 213.101 to expand the statistical reporting system for abortions; allow for severability; EMERGENCY.

(Prefiled by the sponsor(s).)

## BRs by Sponsor

\* - denotes primary sponsorship of BRs

### Senate

Adams, Julie Raque  
BR45\*, 69\*  
Alvarado, Ralph  
BR91\*, 104\*, 108\*, 128\*, 182\*, 233\*, 234\*, 467\*, 477\*, 478\*, 480\*, 481\*, 482\*, 483\*  
Buford, Tom  
BR319\*  
Carroll, Danny  
BR460\*, 476\*, 821\*  
Carroll, Julian M.  
BR320\*  
Hornback, Paul  
BR304\*  
Humphries, Stan  
BR382\*  
Kerr, Alice Forgy  
BR51\*  
Meredith, Stephen  
BR352\*, 353\*, 355\*, 360\*, 361\*, 375\*  
Neal, Gerald A.  
BR3\*, 4\*, 48\*, 357\*  
Parrett, Dennis  
BR133\*, 453\*  
Schickel, John  
BR25\*, 26\*, 27\*, 84\*, 188\*, 194\*, 198\*, 259\*, 275\*, 322\*, 333\*, 341\*, 455\*  
Thayer, Damon  
BR288\*  
Thomas, Reginald  
BR133\*, 266\*, 302\*, 428\*, 465\*  
West, Stephen  
BR292\*, 458\*

### House

Bechler, Lynn  
BR76, 134\*, 184\*, 199\*, 200\*, 201\*, 365\*  
Belcher, Linda  
BR168\*  
Bentley, Danny  
BR76, 180\*, 271\*  
Blanton, John  
BR24\*, 76, 493\*  
Booker, Charles  
BR350\*, 351\*  
Bratcher, Kevin D.



BR76, 120\*, 121\*, 159, 393\*  
Brown Jr, George  
BR299\*, 349\*, 350\*, 351\*  
Brown, Larry  
BR76  
Cantrell, McKenzie  
BR140\*, 165\*, 166\*  
Carney, John Bam  
BR76, 326\*  
Donohue, Jeffery  
BR174\*, 175\*, 272\*  
Dossett, Myron  
BR71\*, 76, 211\*, 240\*, 276  
DuPlessis, Jim  
BR66, 76, 120, 121  
Elliott, Daniel  
BR52\*, 76, 147\*, 393, 440\*, 445\*  
Fischer, Joseph M.  
BR76  
Fleming , Ken  
BR76, 212\*  
Flood, Kelly  
BR179\*  
Fugate, Chris  
BR329\*  
Goforth, Robert  
BR96\*, 97\*, 98\*, 99\*, 106\*, 107\*, 138\*, 163\*,  
204\*, 205\*, 823\*  
Gooch Jr., Jim  
BR76  
Hale, David  
BR76  
Harris, Chris  
BR28\*, 243\*  
Hart, Mark  
BR21, 55\*, 76, 159, 276, 294\*  
Hatton, Angie  
BR28, 54\*, 163\*  
Heath, Richard  
BR76, 159  
Huff, Regina  
BR47\*, 76, 156\*, 207\*, 208\*  
Jenkins, Joni L.  
BR140\*, 141\*, 142\*, 165\*, 166\*, 177\*  
Johnson, DJ  
BR7\*, 66, 76, 276, 329\*  
Keene, Dennis  
BR15\*, 72\*, 155\*  
King, Kim  
BR36\*, 37\*, 76  
Koenig, Adam  
BR76  
Lee, Stan  
BR76, 368\*  
Marzian, Mary Lou  
BR22\*  
McCoy, Chad  
BR76, 144\*  
Meade , David  
BR76, 94\*  
Meeks, Reginald  
BR251\*, 252\*, 263\*, 285\*  
Miles, Suzanne  
BR76  
Miller, Jerry T.  
BR11\*, 12\*, 76, 202\*, 335\*, 420\*, 818\*

Moffett, Phil  
BR76  
Moore, Tim  
BR76, 276\*, 370\*  
Moser, Kimberly Poore  
BR76, 212, 238\*, 312\*, 324\*, 325\*  
Nelson, Rick G.  
BR103\*  
Nemes, Jason  
BR76, 335\*  
Osborne, David  
BR76\*  
Petrie, Jason  
BR76  
Pratt, Phillip  
BR76, 276  
Prunty, Melinda Gibbons  
BR76, 159, 180  
Reed, Brandon  
BR76, 134\*, 159\*, 178\*  
Riley, Steve  
BR429\*  
Rothenburger, Rob  
BR21\*, 67\*, 268\*, 280\*, 386\*  
Santoro, Sal  
BR76  
Schamore, Dean  
BR66, 264\*, 276  
Scott, Attica  
BR31\*, 32\*, 64\*, 65\*, 172\*, 179, 485\*  
Sims Jr, John  
BR253\*  
St. Onge, Diane  
BR76, 307\*  
Thomas, Walker  
BR66\*, 76, 276\*  
Tipton, James  
BR76  
Turner, Tommy  
BR76  
Wuchner, Addia  
BR324\*, 325\*, 326\*  
York, Jill  
BR181\*, 207

**Index Headings**

**A**

Administrative Regulations and Proceedings  
Advertising  
Aged Persons and Aging  
Agriculture  
Alcoholic Beverages  
Amusements and Recreation  
Animals, Livestock, and Poultry  
Appropriations  
Associations  
Athletics  
Attorney General  
Attorney, Commonwealth's  
Attorneys  
Auditor of Public Accounts  
Audits and Auditors

**B**

Bail and Pretrial Release

Banks and Financial Institutions  
Boards and Commissions  
Boats and Boating  
Bonds of Surety  
Budget and Financial Administration

**C**

Chambers of Commerce  
Charitable Organizations and Institutions  
Children and Minors  
Circuit Clerks  
Cities  
Civil Actions  
Civil Procedure  
Civil Rights  
Claims  
Clergy  
Coal  
Commendations and Recognitions  
Commerce  
Committees  
Congressional Districts  
Consolidated Local Governments  
Constitution, Ky.  
Consumer Affairs  
Contracts  
Cooperatives  
Corrections and Correctional Facilities, State  
Corrections Impact  
Counties  
Counties, Charter  
Counties, Urban  
County Clerks  
County Judges/Executive  
Court, Supreme  
Courts  
Courts, Circuit  
Courts, District  
Courts, Fiscal  
Crime Victims  
Crimes and Punishments  
Criminal Procedure

**D**

Dairying and Milk Marketing  
Deaths  
Deeds and Conveyances  
Disabilities and the Disabled  
Diseases  
Distilled Spirits  
Dogs  
Domestic Relations  
Drugs and Medicines

**E**

Economic Development  
Education, Elementary and Secondary  
Education, Finance  
Education, Higher  
Education, Vocational  
Effective Dates, Delayed  
Effective Dates, Emergency  
Elections and Voting  
Emergency Medical Services  
Energy  
Environment and Conservation

Ethics

**F**

Federal Laws and Regulations  
Fees  
Financial Responsibility  
Fire Prevention  
Firearms and Weapons  
Firefighters and Fire Departments  
Fish and Wildlife  
Foods

**G**

Gambling  
General Assembly  
Governor  
Grain  
Guardians

**H**

Hazardous Materials  
Health and Medical Services  
Health Benefit Mandate  
Highways, Streets, and Bridges  
Honorary Highway Designations  
Horses and Horse Racing  
Hospitals and Nursing Homes  
Housing, Building, and Construction  
Hunting and Fishing

**I**

Immigration  
Information Technology  
Insurance  
Insurance, Health  
Insurance, Motor Vehicle  
Interstate Cooperation

**J**

Juries and Jurors  
Justices of the Peace and Magistrates

**L**

Labor and Industry  
Land Use  
Legislative Research Commission  
Licensing  
Liens  
Lieutenant Governor  
Loans and Credit  
Local Government  
Local Mandate  
Lottery

**M**

Malt Beverages  
Medicaid  
Memorials  
Men  
Mental Disability  
Mental Health  
Military Affairs and Civil Defense  
Minerals and Mining  
Motor Vehicles

**N**

Notices  
Nurses

**O**

Occupational Safety and Health  
Occupations and Professions

**P**

Parental Rights  
Parks and Shrines  
Peace Officers and Law Enforcement  
Personnel and Employment  
Pharmacists  
Physicians and Practitioners  
Planning and Zoning  
Police, City and County  
Police, State  
Probation and Parole  
Property  
Public Authorities  
Public Buildings and Grounds  
Public Health  
Public Medical Assistance  
Public Officers and Employees  
Public Protection  
Public Records and Reports  
Public Safety  
Public Salaries  
Public Utilities  
Public Works  
Publications  
Purchasing

**R**

Racing  
Real Estate  
Redistricting  
Religion  
Reports Mandated  
Reproductive Issues  
Research and Methods  
Retirement and Pensions  
Retroactive Legislation

**S**

Safety  
Sales  
Secretary of State  
Sheriffs  
Short Titles and Popular Names  
Small Business  
Special Districts  
Special Purpose Governmental Entities  
State Agencies  
State Employees  
Studies Directed  
Substance Abuse  
Surface Mining

**T**

Taxation  
Taxation, Income--Corporate  
Taxation, Income--Individual  
Taxation, Property  
Taxation, Sales and Use

Teachers  
Technology  
Telecommunications  
Tobacco  
Traffic Safety  
Transportation  
Treasurer

**U**

Unemployment Compensation  
Unified Local Governments  
Uniform Laws  
United States  
Universities and Colleges

**V**

Veterans  
Veterinarians

**W**

Wages and Hours  
Waste Management  
Water Supply  
Wines and Wineries  
Witnesses  
Women  
Workers' Compensation  
Workforce

**BR Index**

**Administrative Regulations and Proceedings**  
Attorney General, charitable organizations, publica-  
tion of financial accountability - BR181  
Cabinet for Health and Family Services, Medicaid  
ambulance service provider assessment - BR386  
Commissioner of insurance, infertility treatment  
coverage, guidelines and standards - BR52  
Department  
of Kentucky State Police, firearms serial numbers,  
issuance of - BR285  
of Revenue, authority to promulgate - BR7  
Governmental units, regulation of electronic pre-  
scribing, standards, requiring - BR104  
Labor, employee misclassification - BR177  
Personal information, requirements for the release of  
- BR821  
Racial and ethnic community criminal justice and  
public safety impact statement, requiring - BR3  
Sanctuary  
cities, determination of, establishment of hearing  
procedures - BR134  
postsecondary institution, determination of, hearing  
procedures - BR134  
State Police, firearm registration and sales - BR349  
Statewide youth crossbow deer hunting season,  
establishment of - BR178  
Vital Statistics, reports of abortions performed -  
BR823

**Advertising**  
Electronic billboards, advertising of, on-premise and  
off-premise products or activities, allowing - BR211

**Aged Persons and Aging**  
Long-term-care staffing ratios, implementation of



- BR103

**Agriculture**

Grain discounts, investigation of - BR304  
Homestead food products, permits, exemption of - BR138  
Medical marijuana, safety and efficacy standards, advocating for - BR180

**Alcoholic Beverages**

City regulatory license fee on alcoholic beverages sales, expansion of - BR460  
State parks, alcoholic beverage sales at - BR319

**Amusements and Recreation**

Charitable gaming, unlicensed facilities, use of - BR144  
Sports  
wagering, authorization for - BR15  
wagering, licensing of - BR320

**Animals, Livestock, and Poultry**

Animal abuse offender registry, establishment of - BR121  
Cruelty  
to animals, penalty for, increasing - BR121  
to equines, prohibition of - BR307  
Danger of death, dog or cat, removal from vehicle, civil immunity - BR120; BR476  
Statewide youth crossbow deer hunting season, establishment of - BR178  
Torture of a dog or cat, Class D felony - BR66

**Appropriations**

Ambulance service assessment revenue fund, create - BR386  
Animal abuse offender registry fund, creation of - BR121  
Constitutional amendment, General Assembly, budget special session, compensation suspended - BR36  
Kentucky addiction prevention, recovery, and enforcement fund - BR155  
Kinship and fictive kin care program, establish appropriation - BR329  
Pension income exclusion, retroactively raise - BR24; BR207  
Rare disease trust fund, creating - BR45  
Roll call vote, requirement for - BR37  
Sports wagering tax - BR15

**Associations**

Common interest communities, unit owners associations, rights and obligations - BR108  
Kentucky YMCA Youth Assembly program tax designation, creation of - BR240

**Athletics**

Charter  
school statutes, repeal - BR31  
school statutes, repealing - BR22  
Sports wagering, authorization for - BR15  
Wagering on athletic contests, licensing of - BR320

**Attorney General**

Charitable organizations, publication of financial accountability - BR181  
Constitutional amendment, relinquishment of, duties pertaining to, gubernatorial succession - BR361  
Kentucky  
addiction prevention, recovery, and enforcement fund, add as committee member - BR155  
Gaming Commission, appointment to - BR320  
Office of Rate Intervention, notice, discriminatory or unreasonable rates - BR28  
Officer Shooting Review Board, establishment of - BR32  
Report to, charges or convictions relating to gang activity - BR4  
Special  
grand jury, convening of - BR272  
grand jury, convening of, childhood sexual assault or abuse across multiple circuits - BR365  
grand jury, convening of, childhood sexual assault or abuse across multiple circuits - BR184  
Telephone solicitations, caller identification, prohibitions, enforcement - BR393

**Attorney, Commonwealth's**

Report required, charges or convictions relating to gang activity - BR4  
Shooting of an individual by a law enforcement officer or deadly incident, investigation of - BR32  
Special  
grand jury, convening of - BR272  
grand jury, convening of, childhood sexual assault or abuse across multiple circuits - BR365  
grand jury, convening of, childhood sexual assault or abuse across multiple circuits - BR184  
Telephone solicitations, caller identification, prohibitions, enforcement - BR393

**Attorneys**

Kentucky Gaming Commission, Commonwealth Attorney's Association member appointment to - BR320

**Auditor of Public Accounts**

Audits of county officers, findings of improprieties, purchase of insurance requirement - BR205  
Constitutional amendment, relinquishment of, duties pertaining to, gubernatorial succession - BR361

**Audits and Auditors**

Audits of county officers, findings of improprieties, purchase of insurance requirement - BR205

**Bail and Pretrial Release**

Financial bail, limitation of - BR493

**Banks and Financial Institutions**

Deferred deposit transactions, annual percentage rate and service fees - BR453

**Boards and Commissions**

Access to voter registration data, restriction of - BR288  
Board of Pharmacy, prescription refill in emergency situations, promulgate administrative regulation - BR271

Fire districts, alternative tax structure - BR21  
Governmental units, regulation of electronic prescribing, standards, requiring - BR104  
Kentucky Gaming Commission, creation of - BR320  
Local boards of education, appointment of vacancies - BR55  
Officer Shooting Review Board, establishment of - BR32

**Boats and Boating**

Sales tax exemption, fishing tournament and boat ramp fees - BR94

**Bonds of Surety**

Water well driller's assistants, liability insurance, surety bond, requirements for - BR382

**Budget and Financial Administration**

Constitutional amendment, General Assembly, budget special session, compensation suspended - BR36  
Roll call vote, requirement for - BR37

**Chambers of Commerce**

Smoking, employment discrimination protections, removing - BR333

**Charitable Organizations and Institutions**

Financial accountability, publication by Attorney General - BR181  
Property tax, leasehold interests, exemption of - BR76  
Sales  
and use tax, certain pet spay, neuter, vaccination, and adoption fees, exemption - BR147  
and use tax, sale of admissions, exemption of - BR72; BR76  
Telephone solicitations, caller identification, prohibited acts - BR393  
Unlicensed facilities, use of, restricting - BR144

**Children and Minors**

Abortion, prohibition when fetal heartbeat detected - BR823  
Abuse, reporting of - BR184; BR200  
Baby products and diapers, exemption of sales and use tax - BR65  
Breast-feeding locations, penalty for restrictions or interference, establish - BR465  
Corporal physical discipline, use of prohibited - BR429  
External  
child fatality and near fatality review panel, annual report deadline, change - BR325  
child fatality and near fatality review panel, membership, expand - BR325  
Family resource and youth services centers, authorize donations to - BR47  
Kentucky YMCA Youth Assembly program tax designation, creation of - BR240  
Kinship and fictive kin care program, establishment and requirements of - BR133; BR329  
Operators of motor vehicles without insurance, exemption from penalties - BR253  
Physical activity at school, increasing - BR324

Sexual endangerment of a child, crime, creation of - BR184; BR201  
Sibling children in the custody of the state, ensure visitation - BR128  
Statewide youth crossbow deer hunting season, establishment of - BR178  
Statute of limitations, childhood sexual abuse, criminal and civil actions - BR184; BR199  
Unlawful storage of a firearm, prohibition of - BR48; BR299

**Circuit Clerks**

Driver's manual, Kentucky State Police to make available - BR251  
Operator's  
license testing, interactions with law enforcement, driver's manual to include - BR251  
license testing, interactions with law enforcement, exam to include - BR251  
licenses and personal ID cards, emergency contact information registry, establishing - BR98  
licenses, early renewal for citizens traveling abroad - BR99

**Cities**

CCDW, license holders, remove location restrictions for - BR97  
Certified law enforcement telecommunicators, training stipend - BR268  
Common interest communities, unit owners associations, rights and obligations - BR108  
Emergency medical services personnel, disabled or killed, tuition benefits for spouse and children - BR280  
Firefighters, disabled or killed, tuition benefits for spouse and children - BR280  
Governmental units, regulation of electronic prescribing, standards, requiring - BR104  
Investments of idle funds - BR12  
Law enforcement officers, disabled or killed, tuition benefits for spouse or children - BR280  
Minimum wage, authority to establish - BR302  
Procurement, increase small purchase limit and amend publication requirement - BR67  
Property tax levy, recall and election process, procedural adjustment - BR368; BR480  
Regulatory license fee on sale of alcoholic beverages, expansion of - BR460  
Retirement and pensions, notification of delinquent retirement contributions - BR204  
Special purpose governmental entities, review of fee and tax increases, requiring - BR233  
Veteran service organization, exemption from property tax - BR7

**Civil Actions**

Building code, violations of - BR360  
Criminal gangs, relating to - BR172  
Immunity, vehicle damage, removal of dog or cat in danger of death - BR120; BR476  
Kentucky addiction prevention, recovery, and enforcement fund, direct litigation revenues - BR155  
Limiting recovery for injuries or death, proposing constitutional amendment - BR478  
Statute of limitations, childhood sexual abuse - BR184; BR199

**Civil Procedure**

Common interest communities, recording with county clerk - BR108  
Criminal gangs, relating to - BR172  
Immunity, vehicle damage, removal of dog or cat in danger of death - BR120; BR476  
Limiting recovery for injuries or death, proposing constitutional amendment - BR478  
Personal information, requirements for the release of - BR821

**Civil Rights**

Abortion, prohibition when fetal heartbeat detected - BR823  
Discrimination based on pregnancy, childbirth, and related medical conditions - BR51  
Employment discrimination, requirement of criminal history on job applications, prohibition - BR346  
Hate crime, criminal homicide and fetal homicide, addition of - BR335  
Smoking, employment discrimination protections, removing - BR333

**Claims**

Building code, violations of - BR360  
Limiting recovery for injuries or death, proposing constitutional amendment - BR478

**Clergy**

Child abuse, reporting of - BR184; BR200

**Coal**

Clothing with reflective material, mine sites, requiring - BR243  
Workers' compensation, evaluations for occupational disease - BR163

**Commendations and Recognitions**

Bolte, Richard, recognition - BR27  
Crigger, Connie, Kentucky Administrator of the Year, honoring - BR194  
Crigler, Larry, honoring - BR322  
Miller, Brian, honoring - BR341  
Moore, Charles, retirement - BR26  
Storer, Robert J., honoring - BR188

**Commerce**

Electronic billboards, advertising of, on-premise and off-premise products or activities, allowing - BR211  
Grain discounts, investigation of - BR304

**Committees**

Oaths, taking of - BR266  
Program Review and Investigations, community paramedicine, study directed - BR482  
Recordings and transcriptions, requirements for - BR266

**Congressional Districts**

Redistricting, prisoner population, determination of residency - BR263

**Consolidated Local Governments**

Audits of county officers, findings of improprieties, purchase of insurance requirement - BR205

**Constitution, Ky.**

Abolishment of, Office of Lieutenant Governor, line of succession, proposed amendment - BR361  
General  
Assembly, budget special session, compensation for services, suspension of - BR36  
Assembly, gubernatorial line of succession, proposed amendment - BR361  
Assembly, terms of members - BR264  
Assembly, terms of members, extension of, proposed amendment - BR353  
Assembly, terms of members, limit - BR264  
Judge of County Court in urban-county governments, abolishing - BR107  
Limitation on recovery for injuries or death, proposing amendment - BR478  
Voting  
rights, extend to 16- and 17- year-olds, school board and local elections - BR428  
rights, prohibitions relating to - BR350

**Consumer Affairs**

Common interest communities, unit owners associations - BR108

**Contracts**

Common interest communities, recording declarations and bylaws - BR108  
Procurement, increase small purchase limit and amend publication requirement for local governments - BR67  
State, legal contingency, authority to settle legal matter - BR352

**Cooperatives**

Distribution cooperatives, exemption, management and operations audits - BR28

**Corrections and Correctional Facilities, State**

Prisoner database, report to LRC - BR263  
Racial and ethnic community criminal justice and public safety impact statement, requiring - BR3

**Corrections Impact**

Racial and ethnic community criminal justice and public safety impact statement, requiring - BR3

**Counties**

Audits of county officers, findings of improprieties, purchase of insurance requirement - BR205  
CCDW, license holders, remove location restrictions for - BR97  
Certified law enforcement telecommunicators, training stipend - BR268  
Common interest communities, unit owners associations, rights and obligations - BR108  
Emergency medical services personnel, disabled or killed, tuition benefits for spouse or children - BR280  
Fire  
districts, alternative tax structure - BR21  
districts, board of trustees, alternative constituency - BR21  
Firefighters, disabled or killed, tuition benefits for

spouse or children - BR280  
Governmental units, regulation of electronic pre-  
scribing, standards, requiring - BR104  
Investments of idle funds - BR12  
Kentucky  
Retirement Systems, board elections, electronic  
ballots - BR11  
Retirement Systems, synchronizing election of  
CERS trustees - BR11  
Law enforcement officers, disabled or killed, tuition  
benefits for spouse or children - BR280  
Minimum wage, authority to establish - BR302  
Procurement, increase small purchase limit and  
amend publication requirement - BR67  
Property tax levy, recall and election process, proce-  
dural adjustment - BR368; BR480  
Retirement and pensions, notification of delinquent  
retirement contributions - BR204  
Special purpose governmental entities, review of fee  
and tax increases, requiring - BR233  
Veteran service organization, exemption from prop-  
erty tax - BR7  
Volunteer fire departments, state aid to merging  
departments - BR21

**Counties, Charter**

Audits of county officers, findings of improprieties,  
purchase of insurance requirement - BR205

**Counties, Urban**

Audits of county officers, findings of improprieties,  
purchase of insurance requirement - BR205

**County Clerks**

All-terrain vehicle, titling and registration of -  
BR106  
Common interest communities, recording declara-  
tions and bylaws - BR108  
Constitutional  
amendment, abolish, Office of Lieutenant Governor,  
line of succession, ballot access - BR361  
amendment, General Assembly, terms of members,  
extension of, access to ballot - BR353  
Procurement, increase small purchase limit - BR67  
Property taxes, petitions, procedural adjustment -  
BR368; BR480  
Same-day voter registration on election day, prereg-  
istration of persons 16 years of age, report - BR252  
Voter registration, information on procedures, fish  
and wildlife license or permit applicants - BR252  
Voting rights, extend to 16- and 17-year-olds, school  
board and local elections - BR428

**County Judges/Executive**

Audits of county officers, findings of improprieties,  
purchase of insurance requirement - BR205  
Hazardous waste facilities, notices of violation,  
notification of county officials - BR481  
Judge of County Court in urban-county govern-  
ments, abolishing - BR107

**Court, Supreme**

Constitutional amendment, Chief Justice, preside  
over, gubernatorial impeachment proceedings -  
BR361  
Special

grand jury, convening of - BR272  
grand jury, convening of, childhood sexual assault  
or abuse across multiple circuits - BR365  
grand jury, convening of, childhood sexual assault  
or abuse across multiple circuits - BR184

**Courts**

CCDW, license holders, remove location restrictions  
for - BR97  
Common interest communities, unit owners associa-  
tions, rights and obligations - BR108  
Criminal gangs, relating to - BR172  
Financial bail, limitation of - BR493  
Kinship and fictive kin care program, establishment  
and requirements of - BR133; BR329  
Limiting recovery for injuries or death, proposing  
constitutional amendment - BR478  
Personal information, requirements for the release of  
- BR821  
Special  
grand jury, convening of - BR272  
grand jury, convening of, childhood sexual assault  
or abuse across multiple circuits - BR365  
grand jury, convening of, childhood sexual assault  
or abuse across multiple circuits - BR184

**Courts, Circuit**

Filing fee, application for felony expungement,  
reduction to \$200 - BR351  
Financial bail, limitation of - BR493  
Special  
grand jury, convening of - BR272  
grand jury, convening of, childhood sexual assault  
or abuse across multiple circuits - BR365  
grand jury, convening of, childhood sexual assault  
or abuse across multiple circuits - BR184

**Courts, District**

Financial bail, limitation of - BR493

**Courts, Fiscal**

Procurement, increase small purchase limit and  
amend publication requirement - BR67

**Crime Victims**

Child abuse, reporting of - BR184; BR200  
Criminal gangs, relating to - BR172  
Hate crime, criminal homicide and fetal homicide,  
addition of - BR335  
Leave from employment for court appearances, re-  
quirements for the employer and employee - BR142  
Sexual endangerment of a child, crime, creation of  
- BR184; BR201  
Statute of limitations, childhood sexual abuse, crimi-  
nal and civil actions - BR184; BR199

**Crimes and Punishments**

Abortion, prohibition when fetal heartbeat detected  
- BR823  
Animal abuse offender registry, establishment of  
- BR121  
Capital offense, executions, mental illness - BR69  
Child abuse, reporting of - BR184; BR200  
Corporal physical discipline on minor, use of pro-  
hibited - BR429  
Create the offense of hate crime - BR357

Criminal gangs, relating to - BR172  
Cruelty  
to animals, penalty for, increasing - BR121  
to equines, prohibition of - BR307  
Domestic violence, torture of a dog or cat, offenses  
involving family members, early release - BR66  
Expungement of felonies, expansion of - BR351  
Financial bail, limitation of - BR493  
Firearms,  
comprehensive regulation of - BR349  
made with additive manufacturing, possession  
prohibited - BR285  
Hate crime, criminal homicide and fetal homicide,  
addition of - BR335  
Immigration laws, enforcement of, requiring -  
BR134  
Racial and ethnic community criminal justice and  
public safety impact statement, requiring - BR3  
Report required, charges or convictions relating to  
gang activity - BR4  
Sexual endangerment of a child, crime, creation of  
- BR184; BR201  
Statute of limitations, childhood sexual abuse, crimi-  
nal and civil actions - BR184; BR199  
Tampering with the outcome of a sporting event,  
penalty for - BR320  
Telephone solicitations, caller identification, prohib-  
ited acts - BR393  
Torture  
of a dog or cat, Class D felony - BR66  
of a dog or cat, prohibit pretrial diversion for -  
BR66  
Unlawful storage of a firearm, prohibition of -  
BR48; BR299  
Voting rights, prohibitions relating to - BR350

**Criminal Procedure**

Abortion, prohibition when fetal heartbeat detected  
- BR823  
Animal abuse offender registry, establishment of  
- BR121  
Capital offense, executions, mental illness - BR69  
Create the offense of hate crime - BR357  
Criminal gangs, relating to - BR172  
Expungement,  
additional Class D felony offenses - BR351  
certification of eligibility for, limitation of require-  
ment - BR351  
charges dismissed without prejudice - BR351  
Filing fee, application for felony expungement,  
reduction to \$200 - BR351  
Financial bail, limitation of - BR493  
Firearms, comprehensive regulation of - BR349  
Hate crime, criminal homicide and fetal homicide,  
addition of - BR335  
Officer Shooting Review Board, establishment of  
- BR32  
Racial and ethnic community criminal justice and  
public safety impact statement, requiring - BR3  
Report required, charges or convictions relating to  
gang activity - BR4  
Sexual endangerment of a child, crime, creation of  
- BR184; BR201  
Torture of a dog or cat, pretrial diversion for, prohib-  
iting - BR66  
Unlawful storage of a firearm, prohibition of -



Dairying and Milk Marketing
Homestead food products, permits, exemption of - BR138
Deaths
Capital offense, executions, mental illness - BR69 External child fatality and near fatality review panel, annual report deadline, change - BR325 child fatality and near fatality review panel, membership, expand - BR325
Deeds and Conveyances
Common interest communities, unit owners associations, rights and obligations - BR108
Disabilities and the Disabled
Dyslexia, local boards of education, development of policy for identification of - BR326 Long-term-care staffing ratios, implementation of - BR103
Diseases
Diabetes, Department for Medicaid Services, study KEHP model - BR467 insurance companies, urging study of KEHP model - BR483 Long-term-care staffing ratios, implementation of - BR103 Medical marijuana, safety and efficacy standards, advocating for - BR180 Rare Disease Advisory Council, establishing - BR45
Distilled Spirits
City regulatory license fee on alcoholic beverages sales, expansion of - BR460 State parks, alcoholic beverage sales at - BR319
Dogs
Animal abuse offender registry, establishment of - BR121 Cruelty to animals, penalty for, increasing - BR121 Danger of death, removal from vehicle, civil immunity - BR120; BR476 Domestic violence, torture of a dog or cat, offenses involving family members, Class D felony - BR66
Domestic Relations
Domestic violence, torture of a dog or cat, offenses involving family members, Class D felony - BR66
Drugs and Medicines
Controlled substances, physician assistants, prescriptive authority - BR440 Infertility drugs, insurance coverage, requirement of - BR52 Kentucky addiction prevention, recovery, and enforcement fund, direct litigation revenues - BR155 Medicaid service improvements and MCO limitations, establishing - BR375 Medical marijuana, safety and efficacy standards, advocating for - BR180

Pharmacists, emergency prescription refill, permit to dispense up to standard dispensing unit - BR271

Economic Development
KBI program, minimum weekly wage, requirement for - BR175 KentuckyWired contracts, prohibition of paid prioritization - BR54
Education, Elementary and Secondary
CCDW, license holders, remove location restrictions for - BR97 Charter school statutes, repeal - BR31 school statutes, repealing - BR22 Corporal physical discipline, use of prohibited - BR429 Driver training school, interactions with law enforcement, course of instruction to include - BR251 Dyslexia, local boards of education, development of policy for identification of - BR326 Family resource and youth services centers, authorize donations to - BR47 Kentucky YMCA Youth Assembly program tax designation, creation of - BR240 Local boards of education, appointment of vacancies - BR55 boards of education, members, reimbursement and per diem for - BR445 National motto display, prominent location, requiring - BR156; BR159 Physical activity of children, increasing - BR324 Tobacco use in schools and on school property, prohibition - BR234; BR312 Voter registration and curriculum, annual requirement, programs relating, include sophomores, report - BR252
Education, Finance
Family resource and youth services centers, authorize donations to - BR47 Investments of idle funds - BR12 KEES, allowing use for qualified workforce training program - BR238 KEES participating institution, definition of - BR370 Local boards of education, members, reimbursement and per diem for - BR445 Performance funding model, extend stop-loss provision - BR458 Property tax levy, recall and election process, procedural adjustment - BR368; BR480 Sanctuary postsecondary institution, state funding, withholding of - BR134
Education, Higher
CCDW, license holders, remove location restrictions for - BR97 Contracts, Kentucky Buy American Act, compliance with - BR174 Dyslexia, teacher preparation programs to include training on - BR326 Emergency medical services personnel, disabled or killed, tuition benefits for spouse or children - BR280

Feminine hygiene products, free to students - BR485 KEES, allowing use for qualified workforce training program - BR238 KEES participating institution, definition of - BR370 Law enforcement officers, disabled or killed, tuition benefits for spouse or children - BR280 Performance funding model, extend stop-loss provision - BR458 Sanctuary postsecondary institution, state funding, withholding of - BR134
Education, Vocational
KEES, allowing use for qualified workforce training program - BR238
Effective Dates, Delayed
Financial bail, limitation of - BR493 Infertility treatment, insurance coverage, January 1, 2020 - BR52 January 1, 2020 - BR91; BR477 Local boards of education reimbursement and per diem, July 1, 2019 - BR445 Tax and fee increases, review of, January 1, 2020 - BR233
Effective Dates, Emergency
Abortion, prohibition when fetal heartbeat detected - BR823 Charitable organization, leasehold interest, property tax, exemption of - BR76 Child abuse, reporting of - BR184; BR200 Firearms, comprehensive regulation of - BR349 KEES, allowing use for qualified workforce training program - BR238 Pension income exclusion, retroactively raise - BR24; BR207 Sales and use tax, services, resale certificate - BR71 Sexual endangerment of a child, crime, creation of - BR184; BR201 Statute of limitations, childhood sexual abuse, criminal and civil actions - BR184; BR199
Elections and Voting
Access to voter registration data, restriction of - BR288 Constitutional amendment, abolishment of, Office of Lieutenant Governor, line of succession - BR361 amendment, General Assembly, budget special session, compensation suspended - BR36 amendment, General Assembly, terms of members, extension of - BR353 General Assembly, terms of members - BR264 Assembly, terms of members, limit - BR264 Legislative districts, redistricting, prisoner population - BR263 Same-day voter registration on election day, pre-registration of persons 16 years of age, Spanish - BR252 Voter registration, information on procedures, fish and wildlife license or permit applicants - BR252 Voting rights, extend to 16- and 17-year-olds, school board

and local elections - BR428  
rights, prohibitions relating to - BR350

**Emergency Medical Services**  
Community paramedicine, study directed - BR482  
Emergency medical services personnel, disabled or killed, tuition benefits for spouse or children - BR280  
Medicaid ambulance service provider assessment, create - BR386  
Workers' compensation, psychological injuries - BR140

**Energy**  
Affordable rates and service, distinction between base rates and surcharges - BR28

**Environment and Conservation**  
Hazardous waste facilities, notices of violation, notification of county officials - BR481  
Water well driller's assistants, requirements, certification, fees, requirements for - BR382

**Ethics**  
Executive branch, definitions of officer and public servant, updating - BR420  
Legislative ethics telephone tip line, establishing - BR179; BR212  
Legislative, sexual harassment, complaint procedures - BR179

**Federal Laws and Regulations**  
Immigration laws, enforcement of, requiring - BR134

**Fees**  
City regulatory license fee on alcoholic beverages sales, expansion of - BR460  
Filing fee, application for felony expungement, reduction to \$200 - BR351  
Medicaid ambulance service provider assessment, create - BR386  
Sports  
wagering, licensing fees for - BR15  
wagering, licensing of - BR320

**Financial Responsibility**  
Local governments, investment of idle funds - BR12  
School districts, investment of idle funds - BR12

**Fire Prevention**  
Certified law enforcement telecommunicators, training stipend - BR268

**Firearms and Weapons**  
Additive  
manufacturing, possession of firearms - BR285  
manufacturing, serial numbering for - BR285  
CCDW, license holders, remove location restrictions for - BR97  
Firearms, comprehensive regulation of - BR349  
Unlawful storage of a firearm, prohibition of - BR48; BR299

**Firefighters and Fire Departments**  
Disabled or killed, tuition benefits for spouse or children - BR280  
Fire  
districts, alternative tax structure - BR21  
districts, board of trustees, alternative constituency - BR21  
Firefighters, disabled or killed, tuition benefits for spouse or children - BR280  
Personal information, requirements for the release of - BR821  
Volunteer fire departments, state aid to merging departments - BR21  
Workers' compensation, psychological injuries - BR140

**Fish and Wildlife**  
Cruelty to animals, penalty for, increasing - BR121  
License or permit applicants, voter registration, information on procedures - BR252  
Sales tax exemption, fishing tournament and boat ramp fees - BR94  
Statewide youth crossbow deer hunting season, establishment of - BR178

**Foods**  
Homestead food products, permits, exemption of - BR138

**Gambling**  
Charitable gaming, unlicensed facilities, use of - BR144  
Sports wagering, authorization for - BR15; BR320

**General Assembly**  
Constitutional  
amendment, budget special session, compensation suspended - BR36  
amendment, gubernatorial line of succession - BR361  
amendment, terms of members, extension of - BR353  
Ethical misconduct, prohibited behavior, complaint procedures - BR179; BR212  
External child fatality and near fatality review panel, membership, expand - BR325  
Health goals for school children, legislative findings - BR324  
Legislative  
districts, redistricting, prisoner population - BR263  
ethic telephone tip line, establishing - BR179; BR212  
Oaths, committees, witnesses, taking of - BR266  
Public funds, sexual harassment, legislators and legislative employees, prohibiting the use of - BR179  
Racial and ethnic community criminal justice and public safety impact statement, requiring - BR3  
Report to, charges or convictions relating to gang activity - BR4  
Roll call vote for appropriation or revenue measure, requirement for - BR37  
Terms  
of members - BR264  
of members, limit - BR264

**Governor**  
Constitutional amendment, abolishment of office, Lieutenant, line of succession - BR361  
Report to, charges or convictions relating to gang activity - BR4

**Grain**  
Grain discounts, investigation of - BR304

**Guardians**  
Kinship and fictive kin care program, establishment and requirements of - BR133; BR329

**Hazardous Materials**  
Hazardous waste facilities, notices of violation, notification of county officials - BR481

**Health and Medical Services**  
Abortion, prohibition when fetal heartbeat detected - BR823  
Access to health care providers, requiring insurance coverage for - BR477  
Colorectal cancer screening, insurance coverage requirement, amending - BR91  
Controlled substances, physician assistants, prescriptive authority - BR440  
Diabetes,  
Department for Medicaid Services, study KEHP model - BR467  
insurance companies, urging study of KEHP model - BR483  
Emergency health care services, insurance coverage, requiring - BR104  
Feminine hygiene products, free to public postsecondary students - BR485  
Genetic tests for cancer, insurance coverage, requiring - BR91  
Infertility treatment, insurance coverage, requirement of - BR52  
Interstate medical licensure compact, enacting - BR182  
Long-term-care staffing ratios, implementation of - BR103  
Medicaid  
managed care organizations, payment schedules, disclosure and review of - BR355  
service improvements and MCO limitations, establishing - BR375  
Medical marijuana, safety and efficacy standards, advocating for - BR180  
Pharmacists, emergency prescription refill, permit to dispense up to standard dispensing unit - BR271  
Rare Disease Advisory Council, establishing - BR45  
Tobacco use in schools and on school property, prohibition - BR234; BR312

**Health Benefit Mandate**  
Colorectal cancer screening, insurance coverage requirement, amending - BR91  
Genetic tests for cancer, insurance coverage, requiring - BR91

**Highways, Streets, and Bridges**  
All-terrain vehicle, highway operation of, allowing - BR106

Contracts, Kentucky Buy American Act, compliance with - BR174  
Cornett, SFC Lance Scott, memorial bridge designation, Laurel County - BR96  
Criminal littering, permitting unsafe amounts of mowed grass to remain on a highway - BR208

**Honorary Highway Designations**

Cornett, SFC Lance Scott, memorial bridge designation, Laurel County - BR96  
Patrick, Irene, KY 20 in Boone County - BR455

**Horses and Horse Racing**

Cruelty to equines, prohibition of - BR307  
Racing venues, sports wagering conducted at - BR15

**Hospitals and Nursing Homes**

Access to health care providers, requiring insurance coverage for - BR477  
Binding independent dispute resolution program, nonparticipating provider bills, establishing - BR477  
Health care charges and billing rights, requiring disclosure of - BR477  
Long-term-care staffing ratios, implementation of - BR103  
Rare Disease Advisory Council, establishing - BR45

**Housing, Building, and Construction**

Building code, violations of - BR360  
Common interest communities, unit owners associations, rights and obligations - BR108

**Hunting and Fishing**

Sales tax exemption, fishing tournament and boat ramp fees - BR94  
Statewide youth crossbow deer hunting season, establishment of - BR178

**Immigration**

Immigration laws, enforcement of, requiring - BR134

**Information Technology**

KentuckyWired contracts, prohibition of paid prioritization - BR54

**Insurance**

Audits of county officers, findings of improprieties, purchase of insurance requirement - BR205

**Insurance, Health**

Access to health care providers, requiring insurance coverage for - BR477  
Binding independent dispute resolution program, nonparticipating provider bills, establishing - BR477  
Colorectal cancer screening, insurance coverage requirement, amending - BR91  
Covered services, infertility, prohibiting denial for - BR52  
Database of billed health care services charges, Insurance Commissioner, establishing - BR477  
Diabetes, urging study of KEHP model - BR483

electronic prior authorization, standards, establishing - BR104  
Emergency health care services, insurance coverage, requiring - BR104  
services, medical necessity, presumption of - BR104

Genetic tests for cancer, insurance coverage, requiring - BR91  
Infertility treatment, insurance coverage, requirement of - BR52  
Insurers, written procedures, accessibility requirement for - BR104  
Medicaid managed care organizations, payment schedules, disclosure and review of - BR355  
Network adequacy of health benefit plans, Insurance Commissioner, requiring review of - BR477  
adequacy of health benefit plans, amending requirements for - BR477  
Participating provider directories, amending requirements for - BR477  
Prior authorization, time frame, requirements of - BR104  
Urgent health care services, prior authorization, time frame, establishment of - BR104

**Insurance, Motor Vehicle**

Minor operators of motor vehicles without insurance, exemption from penalties - BR253

**Interstate Cooperation**

Interstate medical licensure compact, enacting - BR182

**Juries and Jurors**

Special grand jury, convening of - BR272  
grand jury, convening of, childhood sexual assault or abuse across multiple circuits - BR365  
grand jury, convening of, childhood sexual assault or abuse across multiple circuits - BR184

**Justices of the Peace and Magistrates**

Audits of county officers, findings of improprieties, purchase of insurance requirement - BR205

**Labor and Industry**

Crime victims, leave from employment - BR142  
Earned paid sick leave provided by employers, requirement for - BR165  
Employment discrimination based on pregnancy, childbirth, and related medical conditions - BR51  
discrimination, requirement of criminal history on job applications, prohibition - BR346  
Misclassification of employees, construction industry - BR177  
Paid maternity leave for employees, employers with fifty or more employees - BR166  
Prevailing wage for public works, creation of - BR168  
Smoking, employment discrimination protections, removing - BR333  
State minimum wage, increase - BR302  
Work Schedules for employees, requirements of

- BR141  
Workers' compensation, evaluations for occupational disease - BR163  
compensation, psychological injuries - BR140

**Land Use**

Common interest communities, unit owners associations, rights and obligations - BR108

**Legislative Research Commission**

Appropriation or revenue measure, requirement for designation of - BR37  
External child fatality and near fatality review panel, annual report deadline, change - BR325  
Legislative Ethics Commission, jurisdiction, granting - BR212  
ethics telephone tip line, establishing - BR179;  
BR212  
Redistricting, prisoner population, determination of residency - BR263  
Reports received, voter registration, school districts and designated agencies - BR252

**Licensing**

CCDW, license holders, remove location restrictions for - BR97  
Charitable gaming, unlicensed facilities, use of - BR144  
City regulatory license fee on alcoholic beverages sales, expansion of - BR460  
Fish and wildlife license or permit applicants, voter registration, information on procedures - BR252  
Sports wagering, licensing of - BR320  
State parks, licensed alcoholic beverage sales at - BR319

**Liens**

Common interest communities, foreclosure limits - BR108

**Lieutenant Governor**

Constitutional amendment, abolishment of office, line of succession - BR361

**Loans and Credit**

Annual percentage rate, definition for - BR453  
Deferred deposit transactions, maximum annual percentage rate - BR453  
Interest, definition for - BR453

**Local Government**

All-terrain vehicle, local ordinance permitting or prohibiting operation of, allowing - BR106  
Audits of county officers, findings of improprieties, purchase of insurance requirement - BR205  
Certified law enforcement telecommunicators, training stipend - BR268  
Common interest communities, unit owners associations, rights and obligations - BR108  
Contracts, Kentucky Buy American Act, compliance with - BR174  
Fire districts, alternative tax structure - BR21  
districts, board of trustees, alternative constituency - BR21



Firearms, comprehensive regulation of - BR349  
Firefighters, disabled or killed, tuition benefits for spouse or children - BR280  
Governmental units, regulation of electronic prescribing, standards, requiring - BR104  
Investments of idle funds - BR12  
Judge of County Court in urban-county governments, abolishing - BR107  
Law enforcement officers, disabled or killed, tuition benefits for spouse and children - BR280  
Minimum wage, authority to establish - BR302  
Procurement, increase small purchase limit and amend publication requirement - BR67  
Property tax levy, recall and election process, procedural adjustment - BR368; BR480  
Special purpose governmental entities, review of fee and tax increases by city or county, requiring - BR233  
State parks, alcoholic beverage sales, local government control of - BR319  
Volunteer fire departments, state aid to merging departments - BR21  
Water  
fluoridation programs, implementation of, authority of local government to void - BR294  
fluoridation programs, void implementation of, local government action - BR292

**Local Mandate**

Fire districts, alternative tax structure - BR21

**Lottery**

Sports  
wagering, inclusion of - BR320  
wagering, oversight of - BR15

**Malt Beverages**

City regulatory license fee on alcoholic beverages sales, expansion of - BR460  
State parks, alcoholic beverage sales at - BR319

**Medicaid**

Department of Medicaid Services, required compliance of - BR104  
Diabetes, Department for Medicaid Services, study KEHP model - BR467  
Infertility treatment, allowing coverage of - BR52  
Medicaid  
ambulance service provider assessment, create - BR386  
managed care organizations, payment schedules, disclosure and review of - BR355  
service improvements and MCO limitations, establishing - BR375  
Reimbursement, community paramedicine, study directed - BR482

**Memorials**

Bales, Amy Register, memorializing - BR259  
Graves, William "Bill" Edgar, memorializing - BR84  
Johnson, Greg, honoring - BR275  
Patrick, Irene, memorial highway designation - BR455  
Reno, Jack, memorializing - BR25

Stanton, Damian Kevin, memorializing - BR198

**Men**

Infertility treatment, insurance coverage, requirement of - BR52

**Mental Disability**

Capital offense, executions, mental illness - BR69  
Voting rights, prohibitions relating to - BR350

**Mental Health**

Capital offense, executions, mental illness - BR69  
Voting rights, prohibitions relating to - BR350

**Military Affairs and Civil Defense**

Pensions, income tax deduction - BR276

**Minerals and Mining**

Clothing with reflective material, mine sites, requiring - BR243

**Motor Vehicles**

All-terrain vehicle, highway operation of, allowing - BR106  
Damage, civil immunity, removal of dog or cat - BR120; BR476  
Minor operators of motor vehicles without insurance, exemption from penalties - BR253  
Operator's  
licenses and personal ID cards, emergency contact information registry, establishing - BR98  
licenses, early renewal for citizens traveling abroad - BR99

**Notices**

Hazardous waste facilities, notices of violation, notification of county officials - BR481  
Procurement, amend publication requirement for local governments - BR67

**Nurses**

Controlled substances, physician assistants, prescriptive authority - BR440

**Occupational Safety and Health**

Breast-feeding locations, penalty for restrictions or interference, establish - BR465  
Clothing with reflective material, mine sites, requiring - BR243  
Work Schedules for employees, requirements of - BR141

**Occupations and Professions**

Certified law enforcement telecommunicators, training stipend - BR268  
Construction industry, misclassification of employees - BR177  
Physician assistants, controlled substances, prescriptive authority - BR440

**Parental Rights**

Abortion, prohibition when fetal heartbeat detected - BR823  
Breast-feeding locations, penalty for restrictions or interference, establish - BR465

Kinship and fictive kin care program, establishment and requirements of - BR133; BR329

**Parks and Shrines**

State parks, alcoholic beverage sales at - BR319

**Peace Officers and Law Enforcement**

Certified law enforcement telecommunicators, training stipend - BR268  
Driver's manual, Kentucky State Police to make available - BR251  
Immigration laws, enforcement of, requiring - BR134  
Operator's  
license testing, interactions with law enforcement, driver's manual to include - BR251  
license testing, interactions with law enforcement, exam to include - BR251  
licenses and personal ID cards, emergency contact information registry, establishing - BR98  
Shooting of an individual by a law enforcement officer or deadly incident, investigation of - BR32  
Workers' compensation, psychological injuries - BR140

**Personnel and Employment**

Construction industry, misclassification of employees - BR177  
Crime victims, leave from employment - BR142  
Discrimination based on pregnancy, childbirth, and related medical conditions - BR51  
Earned paid sick leave provided by employers, requirement for - BR165  
Employment discrimination, requirement of criminal history on job applications, prohibition - BR346  
Paid maternity leave for employees, employers with fifty or more employees - BR166  
Smoking, employment discrimination protections, removing - BR333  
State minimum wage, increase - BR302  
Work Schedules for employees, requirements of - BR141

**Pharmacists**

Emergency prescription refill, permit to dispense up to standard dispensing unit - BR271  
Medicaid service improvements and MCO limitations, establishing - BR375  
Prior authorization, time span of authorization, establishing - BR104

**Physicians and Practitioners**

Abortion, prohibition when fetal heartbeat detected - BR823  
Access to health care providers, requiring insurance coverage for - BR477  
Binding independent dispute resolution program, nonparticipating provider bills, establishing - BR477  
Emergency health care services, post stabilization treatment, prior authorization for - BR104  
Health care charges and billing rights, requiring disclosure of - BR477  
Interstate medical licensure compact, enacting - BR182  
Long-term-care staffing ratios, implementation of

- BR103  
Medicaid service improvements and MCO limitations, establishing - BR375  
Occupational diseases, physicians eligible to perform evaluations in workers' compensation - BR163  
Physician assistants, controlled substances, prescriptive authority - BR440  
Prior authorization, time span of authorization, establishing - BR104  
Rare Disease Advisory Council, establishing - BR45  
Urgent health care services, prior authorization, time frame, establishing - BR104

**Planning and Zoning**

Common interest communities, unit owners associations, rights and obligations - BR108

**Police, City and County**

Disabled or killed, tuition benefits for spouse and children - BR280  
Driver's manual, Kentucky State Police to make available - BR251  
Immigration laws, enforcement of, requiring - BR134  
Operator's  
license testing, interactions with law enforcement, driver's manual to include - BR251  
license testing, interactions with law enforcement, exam to include - BR251  
licenses and personal ID cards, emergency contact information registry, establishing - BR98  
Personal information, requirements for the release of - BR821  
Shooting of an individual by a law enforcement officer or deadly incident, investigation of - BR32

**Police, State**

Additive manufacturing of firearms, serial numbering for - BR285  
Disabled or killed, tuition benefits for spouse and children - BR280  
Driver's manual, Kentucky State Police to make available - BR251  
Firearms, comprehensive regulation of - BR349  
Immigration laws, enforcement of, requiring - BR134  
Operator's  
license testing, interactions with law enforcement, driver's manual to include - BR251  
license testing, interactions with law enforcement, exam to include - BR251  
licenses and personal ID cards, emergency contact information registry, establishing - BR98  
Personal information, requirements for the release of - BR821  
Shooting of an individual by a law enforcement officer or deadly incident, investigation of - BR32

**Probation and Parole**

Domestic violence, torture of a dog or cat, offenses involving family members, early release - BR66  
Hate crime, criminal homicide and fetal homicide, addition of - BR335  
Violent offender statute, add hate crimes - BR357

**Property**

Common interest communities, unit owners associations, rights and obligations - BR108  
Veteran service organization, exemption from property tax - BR7

**Public Authorities**

Finance and Administration, secretary of, legal contingency contracts, settlement authority - BR352  
Local boards of education, members, reimbursement and per diem for - BR445

**Public Buildings and Grounds**

CCDW, license holders, remove location restrictions for - BR97  
Contracts, Kentucky Buy American Act, compliance with - BR174

**Public Health**

Homestead food products, permits, exemption of - BR138  
Kentucky addiction prevention, recovery, and enforcement fund, direct litigation revenues - BR155  
Rare Disease Advisory Council, establishing - BR45  
Smoking, employment discrimination protections, removing - BR333  
Tobacco use in schools and on school property, prohibition - BR234; BR312  
Water  
fluoridation programs, implementation of, authority of local government to void - BR294  
fluoridation programs, void implementation of, local government action - BR292

**Public Medical Assistance**

Infertility treatment, insurance coverage, inclusion of - BR52  
Medicaid service improvements and MCO limitations, establishing - BR375

**Public Officers and Employees**

Certified law enforcement telecommunicators, training stipend - BR268  
Finance and Administration, secretary of, legal contingency contracts, settlement authority - BR352  
Immigration laws, enforcement of, requiring - BR134  
Retirement, void if retiring elected official returns to same position within 12 mos. of retirement - BR202

**Public Protection**

Building code, violations of - BR360  
CCDW, license holders, remove location restrictions for - BR97  
Certified law enforcement telecommunicators, training stipend - BR268

**Public Records and Reports**

Common  
interest communities, recording declarations and bylaws - BR108  
interest communities, unit owners associations, records required - BR108  
Expungement of felonies, expansion of - BR351  
Operator's licenses, emergency contact information

registry, exemption from Open Records Act - BR98  
Personal information, requirements for the release of - BR821  
Shooting of an individual by a law enforcement officer or deadly incident, investigation of - BR32

**Public Safety**

Certified law enforcement telecommunicators, training stipend - BR268  
Firearms, made with additive manufacturing, possession prohibited - BR285  
Personal information, requirements for the release of - BR821  
Shooting of an individual by a law enforcement officer or deadly incident, investigation of - BR32  
Tobacco use in schools and on school property, prohibition - BR234; BR312  
Unlawful storage of a firearm, prohibition of - BR48; BR299

**Public Salaries**

Certified law enforcement telecommunicators, training stipend - BR268

**Public Utilities**

Affordable rates and service, distinction between base rates and surcharges - BR28  
KentuckyWired contracts, prohibition of paid prioritization - BR54

**Public Works**

Contracts, Kentucky Buy American Act, compliance with - BR174  
Prevailing wage, creation of - BR168

**Publications**

Procurement, amend publication requirement for local governments - BR67

**Purchasing**

Public contracts, Kentucky Buy American Act, compliance with - BR174

**Racing**

Sports  
wagering, licensing of - BR320  
wagering, prohibition for certain facilities - BR15

**Real Estate**

Common interest communities, unit owners associations, rights and obligations - BR108

**Redistricting**

Prisoner population data, determination of residency - BR263

**Religion**

National motto, required public elementary and secondary school display of - BR156; BR159

**Reports Mandated**

Department  
of revenue expenditure report, baby products and diapers - BR65  
of Revenue, expenditure report, feminine hygiene

products - BR64  
of Revenue, military pension income tax deduction - BR276  
Grain discounts, investigation of - BR304  
Legislative ethics telephone tip line, complaints received - BR179; BR212  
Medicaid managed care organizations, payment schedules, disclosure and review of - BR355  
Rare Disease Advisory Council and General Assembly, annual reports to - BR45

Reproductive Issues

Abortion, prohibition when fetal heartbeat detected - BR823  
Feminine hygiene products, free to public postsecondary students - BR485  
Paid maternity leave for employees, employers with fifty or more employees - BR166  
Sales and use tax, feminine hygiene products, exemption of - BR64

Research and Methods

Medical marijuana, safety and efficacy standards, advocating for - BR180

Retirement and Pensions

Kentucky  
Retirement Systems, board elections, electronic ballots - BR11  
Retirement Systems, synchronizing election of CERS trustees - BR11  
Retirement Systems, void elected official retirement if elected to same position in 12 mos. - BR202  
Military, income tax deduction - BR276  
Pension income exclusion, retroactively raise - BR24; BR207  
Sports wagering, revenue generated by - BR15  
State and local employers and employees, notification of delinquent retirement contributions - BR204

Retroactive Legislation

Pension income exclusion, raise for tax years beginning on or after January 1, 2018 - BR24; BR207

Safety

CCDW, license holders, remove location restrictions for - BR97  
Clothing with reflective material, mine sites, requiring - BR243  
Dog or cat in vehicle, removal, civil immunity - BR120; BR476

Sales

Resale certificate, services - BR71  
Telephone solicitations, caller identification, prohibited acts - BR393

Secretary of State

Access to voter registration data, restriction of - BR288  
Constitutional amendment, General Assembly, budget special session, compensation suspended - BR36  
Elections, voter registration information, fish and wildlife license or permit applicants - BR252  
General Assembly, terms of members, extension of,

provide ballot language - BR353  
Gubernatorial line of succession, abolish, Office of Lieutenant Governor, provide ballot language - BR361  
Preregistration to vote, persons at minimal age of 16 - BR252  
Voting rights, extend to 16- and 17-year-olds, school board and local elections - BR428

Sheriffs

Certified law enforcement telecommunications, training stipend - BR268  
Immigration laws, enforcement of, requiring - BR134  
Procurement, increase small purchase limit - BR67  
Shooting of an individual by a law enforcement officer or deadly incident, investigation of - BR32

Short Titles and Popular Names

Arrow's Law, animal abuse offender registry - BR121  
Ban the Box-The Criminal Record Employment Discrimination Act - BR346  
Kentucky Buy American Act - BR174  
Klaire's Law - BR307  
Out-of-Network Balance Billing Transparency Act - BR477  
Responsible Payday Lending Act - BR453

Small Business

Smoking, employment discrimination protections, removing - BR333

Special Districts

Ambulance districts, emergency medical services personnel, disabled or killed, tuition benefits - BR280  
Chapter 75 fire, emergency medical services personnel, disabled or killed, tuition benefits - BR280  
Fire  
districts, alternative tax structure - BR21  
districts, board of trustees, alternative constituency - BR21  
Procurement, increase small purchase limit and amend publication requirement - BR67  
Special purpose governmental entities, review of fee and tax increases, requiring - BR233  
Volunteer fire departments, state aid to merging departments - BR21  
Water  
fluoridation programs, implementation of, authority of special district - BR294  
fluoridation programs, void implementation of, special district action - BR292

Special Purpose Governmental Entities

Procurement, increase small purchase limit and amend publication requirement - BR67  
Tax and fee increases, review of - BR233

State Agencies

Binding independent dispute resolution program, nonparticipating provider bills, establishing - BR477  
Cabinet for Health and Family Services, ensure sibling visitation - BR128

Contracts, Kentucky Buy American Act, compliance with - BR174  
Database of billed health care services charges, Insurance Commissioner, establishing - BR477  
Department  
of Corrections, prisoner population database, report to LRC - BR263  
of Criminal Justice Training, KLEFP fund, disbursements to certified telecommunications - BR268  
of Education, commissioner, appointment of local board vacancies - BR55  
of Education, physical activity for children, reporting of - BR324  
Executive Branch Ethics Commission, definitions of officer and public servant - BR420  
External  
child fatality and near fatality review panel, annual report deadline, change - BR325  
child fatality and near fatality review panel, membership, expand - BR325  
Finance and Administration, legal contingency contracts, authority to settle legal matter - BR352  
Fire Commission, volunteer fire department aid relating to merging departments - BR21  
Fish and Wildlife Resources, license or permit applicants, voter registration information - BR252  
Governmental units, regulation of electronic prescribing, standards, requiring - BR104  
Kentucky  
Communications Network Authority, Kentucky-Wired contracts - BR54  
Retirement Systems, board elections, electronic ballots - BR11  
Retirement Systems, synchronizing election of CERS trustees - BR11  
Retirement Systems, void elected official retirement if elected to same position in 12 mos. - BR202  
State Police, animal abuse offender registry, establishment of - BR121  
Legislative Ethics Commission, sexual harassment, complaint procedures - BR179  
Network adequacy of health benefit plans, Insurance Commissioner, requiring review of - BR477  
Retirement and pensions, notification of delinquent retirement contributions - BR204  
Revenue Department, Labor Cabinet, Unemployment Insurance, Workers' Claims Department, information - BR177  
State  
Board of Elections, extend voting rights to 16- and 17-year-olds, school and local elections - BR428  
Board of Elections, preregistration of persons 16 years of age, election information, Spanish - BR252  
Board of Elections, voter registration information, fish and wildlife license, public library - BR252  
Police, firearm registration and sales, administrative regulations - BR349  
Transportation Cabinet, operator's licenses, early renewal for citizens traveling abroad - BR99

State Employees

Health plan, infertility treatment, required coverage for - BR52  
Retirement and pensions, notification of delinquent retirement contributions - BR204  
Workers' compensation, psychological injuries -



BR140
<b>Studies Directed</b>
Community paramedicine, Program Review and Investigations Committee - BR482 Department for Medicaid Services, study KEHP diabetes programs - BR467
<b>Substance Abuse</b>
Kentucky addiction prevention, recovery, and enforcement fund, direct litigation revenues - BR155
<b>Surface Mining</b>
Clothing with reflective material, mine sites, requiring - BR243
<b>Taxation</b>
Family resource and youth services centers, authorize donations to - BR47 Fire districts, alternative tax structure - BR21 Individual income tax, Kentucky YMCA Youth Assembly program designation, creation of - BR240 income tax, STABLE Kentucky account, deduction for - BR818 KBI program, minimum weekly wage, requirement for - BR175 Military pensions, income tax deduction - BR276 Pension income exclusion, retroactively raise - BR24; BR207 Property, charitable organization, leasehold interest, exemption of - BR76 Property taxes, recall and election process, procedural adjustment - BR368; BR480 Roll call vote, requirement for - BR37 Sales and use, nonprofit organizations, sale of admissions, exemption of - BR72; BR76 and use tax, baby products and diapers, exemption of - BR65 and use tax, certain pet spay, neuter, vaccination, and adoption fees, exemption - BR147 and use tax, feminine hygiene products, exemption of - BR64 and use tax, services, resale certificate - BR71 tax, admissions definition - BR94 Special purpose governmental entities, review of fee and ad valorem tax increases, requiring - BR233 Sports wagering, excise tax on - BR320
<b>Taxation, Income--Corporate</b>
Family resource and youth services centers, authorize donations to - BR47 KBI program, minimum weekly wage, requirement for - BR175
<b>Taxation, Income--Individual</b>
Family resource and youth services centers, authorize donations to - BR47 KBI program, minimum weekly wage, requirement for - BR175 Kentucky YMCA Youth Assembly program designation, creation of - BR240 Military pensions, income tax deduction - BR276 Pension income exclusion, retroactively raise - BR24; BR207 STABLE Kentucky account, deduction for - BR818

<b>Taxation, Property</b>
Charitable organization, leasehold interest, exemption of - BR76 Fire districts, alternative tax structure - BR21 Recall and election process, procedural adjustment - BR368; BR480 Veteran service organization, exemption of - BR7
<b>Taxation, Sales and Use</b>
Baby products and diapers, exemption of - BR65 Certain pet spay, neuter, vaccination, and adoption fees, exemption - BR147 Feminine hygiene products, exemption of - BR64 Fishing tournaments and boat ramp fees, exempting - BR94 Nonprofit organizations, sale of admissions, exemption of - BR72; BR76 Resale certificate, services - BR71
<b>Teachers</b>
Charter school statutes, repeal - BR31 school statutes, repealing - BR22 Dyslexia, teacher preparation programs to include training on - BR326 Physical activity of children, increasing - BR324
<b>Technology</b>
KentuckyWired contracts, prohibition of paid prioritization - BR54
<b>Telecommunications</b>
Certified law enforcement telecommunicators, training stipend - BR268 KentuckyWired contracts, prohibition of paid prioritization - BR54 Telephone solicitations, prohibited acts - BR393
<b>Tobacco</b>
Smoking, employment discrimination protections, removing - BR333 Use in schools and on school property, prohibition - BR234; BR312
<b>Traffic Safety</b>
Criminal littering, permitting unsafe amounts of mowed grass to remain on a highway - BR208
<b>Transportation</b>
All-terrain vehicle, highway operation of, allowing - BR106 Criminal littering, permitting unsafe amounts of mowed grass to remain on a highway - BR208 Driver training school, interactions with law enforcement, course of instruction to include - BR251 Driver's manual, Kentucky State Police to make available - BR251 Electronic billboards, advertising of, on-premise and off-premise products or activities, allowing - BR211 Operator's license testing, interactions with law enforcement, driver's manual to include - BR251 license testing, interactions with law enforcement, exam to include - BR251 licenses and personal ID cards, emergency contact information registry, establishing - BR98

licenses, early renewal for citizens traveling abroad - BR99 State traffic school, interactions with law enforcement, course of instruction to include - BR251
<b>Treasurer</b>
Individual income tax, STABLE Kentucky account, deduction for - BR818
<b>Unemployment Compensation</b>
Construction industry, misclassification of employees - BR177
<b>Unified Local Governments</b>
Audits of county officers, findings of improprieties, purchase of insurance requirement - BR205 Governmental units, regulation of electronic prescribing, standards, requiring - BR104
<b>Uniform Laws</b>
Uniform Electronic Transactions Act, application to property tax rate recall petition signatures - BR480 Electronic Transactions Act, property tax rate recall petition signatures, allowance of - BR368
<b>United States</b>
National motto, required public elementary and secondary school display of - BR156; BR159
<b>Universities and Colleges</b>
Feminine hygiene products, free to students - BR485 Immigration laws, enforcement of, requiring - BR134 KEES, allowing use for qualified workforce training program - BR238 KEES participating institution, definition of - BR370 Performance funding model, extend stop-loss provision - BR458 Sanctuary postsecondary institution, determination of, hearing procedures - BR134 postsecondary institution, state funding, withholding of - BR134
<b>Veterans</b>
Veteran service organization, exemption from property tax - BR7
<b>Veterinarians</b>
Sales and use tax, certain pet spay, neuter, vaccination, and adoption fees, exemption - BR147
<b>Wages and Hours</b>
Construction industry, misclassification of employees - BR177 Earned paid sick leave provided by employers, requirement for - BR165 Paid maternity leave for employees, employers with fifty or more employees - BR166 Prevailing wage for public works, creation of - BR168 State minimum wage, increase - BR302

Waste Management
Hazardous waste facilities, notices of violation, notification of county officials - BR481
Water Supply
Water fluoridation programs, implementation of, authority of local government to void - BR294 fluoridation programs, void implementation of, local government action - BR292 well driller's assistants, requirements, certification, fees, requirements for - BR382
Wines and Wineries
City regulatory license fee on alcoholic beverages sales, expansion of - BR460 State parks, alcoholic beverage sales at - BR319
Witnesses
Oaths, taking of - BR266
Women
Breast-feeding locations, penalty for restrictions or interference, establish - BR465 Employment discrimination based on pregnancy, childbirth, and related medical conditions - BR51 Feminine hygiene products, free to public postsecondary students - BR485 Infertility treatment, insurance coverage, requirement of - BR52 Paid maternity leave for employees, employers with fifty or more employees - BR166 Sales and use tax, feminine hygiene products, exemption of - BR64
Workers' Compensation
Misclassification of employees, information sharing with other agencies - BR177 Occupational diseases, physicians eligible to perform evaluations - BR163 Psychological injuries for police, firefighters, emergency medical services, and social workers - BR140
Workforce
Discrimination based on pregnancy, childbirth, and related medical conditions - BR51 Smoking, employment discrimination protections, removing - BR333 Work Schedules for employees, requirements of - BR141

County clerks,  
from page 2

said.

But Summe said that “danger” can also be an opportunity. Having more flexibility, she said, can benefit voters.

On the issue of precincts, Interim Joint Committee on Local Government Co-Chair Rep. Rob Rothenburger asked if modern voting machines could eliminate the need for more precincts by

- LRC Publications
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438 Program Review and Investigations Personal Care Homes in Kentucky (2012)

437 Program Review and Investigations Medically Fragile Foster Children

accommodating more voters per precinct without lengthening voting lines. Summe said that is a possibility.

“The precincts themselves – the new equipment does alleviate a lot of those particular timing issues and should allow for a precinct to be bigger, but the statutes could be a little clearer on how that would work,” she said.

KCCA was one of many local government associations sharing its legislative priorities for the 2019 Regular Session, which starts in January. Some other associations that came before the panel to share their session goals included the Kentucky Association of Counties, the Kentucky Sheriffs’ Association and the Kentucky County Judge-Executive Association.

2018 Interim

## LEGISLATIVE RECORD

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