Final Reports of the Interim Joint, Statutory, and Special Committees

Informational Bulletin No. 255

December 2018

Final Reports of the Interim Joint, Statutory, and Special Committees

2018

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

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Legislative Research Commission
Frankfort, Kentucky
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Foreword

Sections 36 and 42 of the Kentucky Constitution provide that the General Assembly shall meet on the "first Tuesday after the first Monday in January" for 60 legislative days in even-numbered years, and for 30 legislative days, including up to 10 days for an organizational component, in odd-numbered years.

Between legislative sessions, the interim joint committees of the Legislative Research Commission (LRC), as well as special and statutory committees, meet to discuss and receive testimony on a number of important issues that may confront the General Assembly.

During the 2018 Interim, all 14 interim joint committees, 10 statutory committees, and 3 special committees held meetings.

LRC provides this informational booklet as a summary of the activity of the interim joint, special, and statutory committees since adjournment of the 2018 General Assembly. The reports were prepared separately by the committee staff.

Legislative Research Commission
Frankfort, Kentucky
December 2018

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Sen. Jared Carpenter
Sen. C.B. Embry Jr.
Sen. David Givens
Sen. Stan Humphries
Sen. Dennis Parrett
Sen. Dorsey Ridley
Sen. Damon Thayer
Sen. Robin Webb
Sen. Stephen West
Sen. Whitney Westerfield
Rep. Myron Dossett
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Rep. Kim King
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Rep. Brandon Reed
Rep. Rob Rothenburger
Rep. Steven Rudy
Rep. Dean Schamore
Rep. Wilson Stone
Rep. Walker Thomas
Rep. James Tipton
Rep. Tommy Turner
Rep. Susan Westrom

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

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Kentucky General Assembly

Subcommittee Organization and Membership

Subcommittee on Equine Issues

Sen. Stephen West, Co-Chair
Rep. Brandon Reed, Co-Chair

Sen. C.B. Embry Jr.	Rep. Suzanne Miles
Sen. Dennis Parrett	Rep. Sannie Overly
Sen. Damon Thayer	Rep. Phillip Pratt
Sen. Robin Webb	Rep. Rob Rothenburger
Rep. Derrick Graham	Rep. Wilson Stone
Rep. David Hale	Rep. James Tipton
Rep. James Kay	Rep. Susan Westrom

Sen. Paul Hornback, ex officio
Rep. Richard Heath, ex officio

LRC Staff: Stefan Kasacavage and Susan Spoonamore

Subcommittee on Rural Issues

Sen. Stan Humphries, Co-Chair
Rep. Walker Thomas, Co-Chair

Sen. Jared Carpenter	Rep. Kim King
Sen. David Givens	Rep. Jason Petrie
Sen. Dorsey Ridley	Rep. Rick Rand
Sen. Whitney Westerfield	Rep. Steven Rudy
Rep. Myron Dossett	Rep. Dean Schamore
Rep. Mark Hart	Rep. Tommy Turner
Rep. Angie Hatton	

Sen. Paul Hornback, ex officio
Rep. Richard Heath, ex officio

LRC Staff: Kelly Ludwig, Nathan Smith and Rachel Hartley

Interim Joint Committee on Agriculture

Jurisdiction: Matters pertaining to crops, livestock, poultry, and their marketing; disease control; warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the State Fair; and county fairs.

Committee Activity

The Interim Joint Committee on Agriculture held five meetings during the 2018 Interim. The committee reauthorized the Subcommittee on Equine Issues and the Subcommittee on Rural Issues. Each subcommittee held one meeting during the Interim. Several committee meetings were held outside of Frankfort in order to visit sites engaged in agricultural operations. A variety of topics were discussed, and several agencies and organizations updated committee members on projects and legislative suggestions for the 2019 Regular Session.

Agricultural Innovation

The committee visited several venues outside Frankfort, including the Carlisle County Extension Office in Bardwell. Murray State University's dean of the Hutson School of Agriculture, the commissioner of the Tennessee Department of Agriculture, a partner of the Innova Ag Innovation Fund IV, and a farmer discussed investment opportunities relating to agricultural innovation.

Importance of Ports and Waterways to Kentucky Agriculture

The judge/executives of Ballard, Carlisle, Hickman, and Fulton Counties, along with the executive director of the Paducah-McCracken County Riverport Authority and the chairman of the Alexander County (Ill.)/Cairo Port Authority, discussed the importance of ports and waterways and the role these transportation assets play in Kentucky's agriculture industry.

Kentucky State Fair Board

At the Kentucky State Fair, in Louisville, the chairman of the Kentucky State Fair Board and the president and chief executive officer of the board updated committee members on fair activities and potential projects relating to the Kentucky Exposition Center. The mayor of Louisville welcomed committee members and discussed agriculture-related initiatives supported by Louisville Metro/Jefferson County.

Artemisia

The founder and the scientific adviser of ArtemiFlow and the House Majority Floor Leader discussed a malaria research project involving the plant artemisia and a drug derived from it, artemisinin. Members received testimony from the research coordinator at the University of Kentucky (UK) Tobacco Research Development Center relating to its research on the viability of artemisia production.

University of Kentucky's Horticulture Program

The dean and the assistant dean of the UK College of Agriculture, Food and Environment updated members on programs within the college. The president of UK and UK's executive vice president for finance and administration gave members an overview of programs and projects of the university. Members received testimony from the interim chair of the Department of Horticulture relating to research and programs in which the department is involved.

The committee was invited to tour UK's Horticulture Research Farm. An overview of programs within the Department of Horticulture was provided by a professor of the Distillation, Wine and Brewing program; the extension specialist of the Viticulture and Enology program; an extension professor of fruit production; an assistant extension professor of vegetable production; and an associate professor of organic high tunnel production.

Grain Industry

The general manager and the grain manager of Hopkinsville Elevator Company Inc. discussed Kentucky's grain industry and the impact of the company.

Kentucky State University

The dean of Kentucky State University's College of Agriculture, Communities and the Environment discussed its aquaculture, research, and extension programs.

Administrative Regulations

During the 2018 Interim, 36 administrative regulations were referred to the committee from the UK Agricultural Experiment Station and the Kentucky Department of Agriculture. The regulations related to industrial hemp, pet foods, pest control, commercial feeds, the Purchase of Agricultural Conservation Easements program, and veterinarian reimbursements for disease testing.

Legislative Proposals/Policy Positions Received

The committee received legislative proposals and comments for the 2019 Regular Session from representatives of the Governor's Office of Agricultural Policy, the Kentucky Department of Agriculture, the Kentucky Soybean Association, the Kentucky Cattlemen's Association, and the Kentucky Dairy Development Council.

Governor's Office of Agricultural Policy
- Support and continue 50 percent allocation of Master Settlement Agreement Fund to the Agricultural Development Board.
- Amend 2018 Regular Session HB 366 to reflect the exclusion of poultry from the small animal veterinarian sales tax.
- Earmark funding for the Kentucky Exposition Center for needed trade show resources and improvements such as animal pens and electronic check-in for show animals.

Kentucky Department of Agriculture

- Amend statutes relating to the grain indemnity fund, and update definitions, program eligibility requirements, and participant responsibilities.

Kentucky Soybean Association

- Address concerns related to grain quality discounts.
- Support an agriculture tax exemption and certification program similar to the Georgia Agriculture Tax Exemption program.
- Support the Kentucky Department of Agriculture and its efforts to amend statutes relating to the grain indemnity fund.

Kentucky Cattlemen's Association

- Support and continue 50 percent allocation of Master Settlement Agreement Fund to the Agricultural Development Board.
- Address issues relating to the regulation of "fake meat."
- Maintain partnership and continue funding for veterinary slots at Auburn University's veterinary school and Tuskegee University's veterinary school.
- Monitor federal statutes relating to electronic logging device.

Kentucky Dairy Development Council

- Support and continue 50 percent allocation of Master Settlement Agreement Fund to the Agricultural Development Board.
- Oppose 2019 Regular Session BR 138 relating to raw milk.

Reports Received

The committee received the following reports:

- 2017 Annual Cervid Chronic Wasting Disease Surveillance Identification Program Report
- Quarterly report, Kentucky Tobacco Research and Development Center—July to September 2017
- 2017 land access report, Kentucky Department of Fish and Wildlife Resources
- Auditor's report, Rural Development Fund—July 1, 2016 to June 30, 2017
- 2018 annual report, Farms to Food Banks
- Spay and Neuter Program, Auditor of Public Accounts
- Financial statement and report of the Kentucky Department of Agriculture spay and neuter program—fiscal year ended June 30, 2018
- Food waste self-study, Kentucky Personnel Cabinet—mandated by 2018 SJR 218
- Food waste self-study, Tourism, Arts, and Heritage Cabinet—mandated by 2018 SJR 218
- Quarterly report, Kentucky Tobacco Research and Development Center—July 1 through September 30, 2018

Subcommittee Activity

Subcommittee on Equine Issues

The Subcommittee on Equine Issues met once during the 2018 Interim to discuss the effects of fireworks on equine health and safety, promotion of equine tourism, and the state of horse breeding and racing in Kentucky. Representatives from the University of Kentucky discussed its Ag Equine Programs and current research topics, including equine musculoskeletal disease.

Subcommittee on Rural Issues

The Subcommittee on Rural Issues met once during the 2018 Interim and heard testimony relating to rural internet access. The external affairs representative of AT&T Kentucky discussed efforts to extend the reach of high-speed internet access networks in rural, high-cost areas of the commonwealth through the Federal Communications Commission's Connect America Fund. The state director of the US Department of Agriculture's Office of Rural Development gave extensive testimony on the importance of internet access to rural areas as it relates to education, health care, agriculture, and economic development. The state director stressed the importance of internet provider partnerships, federal grants, and loan programs that are being used to develop broadband infrastructure in rural areas. The general manager of the Hopkinsville Electric System & EnergyNet discussed its efforts to expand its fiber internet network to provide service of up to 1 gigabit per second to all residents of the city of Hopkinsville and its bordering areas.

Report of the 2018 Interim Joint Committee on Appropriations and Revenue

Sen. Christian McDaniel, Co-Chair
Rep. Steven Rudy, Co-Chair

Sen. Ralph Alvarado
Sen. Danny Carroll
Sen. Rick Girdler
Sen. David P. Givens
Sen. Stan Humphries
Sen. Morgan McGarvey
Sen. Gerald A. Neal
Sen. Dennis Parrett
Sen. Wil Schroder
Sen. Brandon Smith
Sen. Robin L. Webb
Sen. Stephen West
Sen. Max Wise
Rep. Rocky Adkins
Rep. Matt Castlen
Rep. Tim Couch
Rep. Jim DeCesare
Rep. Myron Dossett
Rep. Ken Fleming
Rep. Kelly Flood
Rep. Jeff Greer
Rep. David Hale
Rep. Regina Huff
Rep. Brian Linder
Rep. Donna Mayfield
Rep. Russ A. Meyer
Rep. Suzanne Miles
Rep. Rick G. Nelson
Rep. Jason Nemes
Rep. Ruth Ann Palumbo
Rep. Jody Richards
Rep. Sal Santoro
Rep. Arnold Simpson
Rep. Jim Stewart III
Rep. James Tipton
Rep. Jim Wayne
Rep. Russell Webber
Rep. Susan Westrom
Rep. Jill York

LRC Staff: Jennifer Hays, Cynthia Brown, Katy Jenkins, Amit Shanker, and Chase O'Dell

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Subcommittee Organization and Membership

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

Sen. Chris Girdler, Co-Chair
Rep. Jill York, Co-Chair

Sen. Perry Clark
Sen. Denise Harper Angel
Sen. Alice Forgy Kerr
Sen. Max Wise
Rep. David Hale
Rep. Toby Herald
Rep. Ruth Ann Palumbo
Rep. Steve Riggs
Rep. Bart Rowland
Rep. Diane St. Onge
Rep. Ken Upchurch

Rep. Jim Gooch, ex officio
Rep. Tommy Turner, ex officio

LRC Staff: Seth Dawson, Nick Peak, Sara Rome, and Benjamin Thompson

Budget Review Subcommittee
on Education

Sen. Stephen West, Co-Chair
Rep. Regina Huff, Co-Chair
Rep. James Tipton, Co-Chair

Sen. Danny Carroll
Sen. C.B. Embry Jr.
Sen. Gerald Neal
Sen. Johnny Ray Turner
Sen. Mike Wilson
Rep. Danny Bentley
Rep. George Brown Jr.
Rep. Matt Castlen
Rep. Jim DeCesare
Rep. Kelly Flood
Rep. Tim Moore
Rep. Melinda Gibbons Prunty
Rep. Rick Rand
Rep. Jody Richards
Rep. Steve Riley

Rep. John Carney, ex officio

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

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

Sen. Danny Carroll, Co-Chair
Rep. Myron Dossett, Co-Chair
Rep. Suzanne Miles, Co-Chair

Sen. Julie Raque Adams
Sen. Joe Bowen
Sen. Dennis Parrett
Sen. Johnny Ray Turner
Rep. Tim Couch
Rep. Will Coursey
Rep. Richard Heath
Rep. Kenny Imes
Rep. Kim King
Rep. Adam Koenig
Rep. Brian Linder
Rep. Michael Meredith
Rep. Russ Meyer
Rep. Phil Moffett
Rep. Rick Nelson
Rep. Jim Wayne

Rep. Jim Gooch, ex officio
Rep. Jerry Miller, ex officio
Rep. Tim Moore, ex officio

LRC Staff: Tammy Branham, Liz Columbia, Jonathan Eakin, Zach Ireland, Nick Peak, Justin Perry, David Talley, Chuck Truesdell, and Spring Emerson

Budget Review Subcommittee
on Human Resources

Sen. Ralph Alvarado, Co-Chair
Rep. Russell Webber, Co-Chair

Sen. Julie Raque Adams
Sen. Denise Harper Angel
Sen. Morgan McGarvey
Sen. Stephen Meredith
Rep. Larry Brown
Rep. Joni Jenkins
Rep. Donna Mayfield
Rep. Chad McCoy
Rep. Kimberly Poore Moser
Rep. Susan Westrom

Rep. Addia Wuchner, ex officio

LRC Staff: Miriam Fordham, Jake Fouts, and Benjamin Thompson

Budget Review Subcommittee on Justice and Judiciary

Sen. Wil Schroder, Co-Chair
Rep. Jason Nemes, Co-Chair

Sen. Ray S. Jones II
Sen. John Schickel
Sen. Robin Webb
Sen. Whitney Westerfield
Rep. Daniel Elliott
Rep. Stan Lee
Rep. Jason Petrie
Rep. Brandon Reed
Rep. Arnold Simpson
Rep. Kevin Sinnette

Rep. Joseph Fischer, ex officio

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

Budget Review Subcommittee on Transportation

Sen. Max Wise, Co-Chair
Rep. Sal Santoro, Co-Chair

Sen. Ernie Harris
Sen. Jimmy Higdon
Sen. Dennis Parrett
Sen. Robin Webb
Rep. Chris Fugate
Rep. Jeff Greer
Rep. Chris Harris
Rep. Kenny Imes
Rep. Robby Mills
Rep. Jim Stewart III

Rep. Ken Fleming, ex officio
Rep. Ken Upchurch, ex officio

LRC Staff: Justin Perry, David Talley, and Spring Emerson

Ex Officio Members for all subcommittees
Sen. Chris McDaniel
Sen. Stan Humphries
Rep. Steven Rudy

Interim Joint Committee on Appropriations and Revenue

Jurisdiction: Matters pertaining to the executive budget and other appropriations of state money; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; claims on the Treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; and payment, collection, and refund of taxes.

Committee Activity

During the 2018 Interim, the Interim Joint Committee on Appropriations and Revenue held five meetings. The committee received testimony on a wide range of topics.

Air Ambulances

Three parents of children flown by air ambulance discussed their experiences.

One parent testified that he and his wife received a bill from Rocky Mountain Holdings for $64,999 a few months after their son’s air ambulance flight. A few months later, Anthem Blue Cross Blue Shield sent the family a $10,000 check to pay to Rocky Mountain Holdings. Rocky Mountain Holdings filed an appeal after Anthem Blue Cross Blue Shield offered to pay only $10,000. Anthem declined the appeal because it did not have a contract with Rocky Mountain Holdings. The family filed an appeal that was also declined and, thus, they have a $54,000 bill.

Another parent said Rocky Mountain Holdings billed her for $59,999 after her daughter’s air ambulance flight. Anthem Blue Cross Blue Shield sent her a check for $18,148.51, which she sent to Rocky Mountain Holdings. She was told that she would owe $41,850.49. Air ambulance flights are not regulated as health vehicle ambulances are.

Bank Franchise Tax

The governmental affairs consultant, the executive vice president and general counsel, and the president and chief executive officer of the Kentucky Bankers Association discussed the bank franchise tax.

Kentucky is taxing banks at a rate that is 92 percent higher on average than the rate for any other corporation or business in the state. Corporate tax reform enacted by the General Assembly in 2018 expanded the gap. The Bank Franchise Tax was enacted in 1996. Dodd-Frank increased the gap between the bank franchise tax and taxes on every other corporation. Kentucky’s chartered banks have the highest capital of any state in the region, which kept them from failing during the recession in 2008. Because of the bank franchise tax, Kentucky banks’ high capital rate contributes to the imbalance between bank tax rates and tax rates on all other corporations. Kentucky’s tax rates for banks are higher than those of any other state. The 92 percent tax gap between banks and other corporations in the state is an average; the gap is much higher for small banks.

Kentucky banks have an average effective tax rate of 13.3 percent, the highest rate in the nation. Kentucky is one of five states in the country that have a bank franchise tax. As a result of out-of-state bank acquisitions, Kentucky has lost control of over $665 million in capital in the last 5 years.

Budgeted Receipts Versus Actual Receipts as of October 25, 2018

The state budget director and the deputy executive director discussed budgeted receipts versus actual receipts.

There was a General Fund revenue surplus of $119,800,000 for fiscal year 2018. Of that surplus, $94,600,000 came from the individual income tax. Sales and use tax receipts were $6,200,000 lower than estimated. Corporate income and limited liability entity tax (LLET) receipts were $4,700,000 above the estimate. Property tax receipts were $13,400,000 over the estimate.

The deputy executive director explained that a surplus in FY 2018 does not imply a surplus in FY 2019. Some of the money received in FY 2018 is not expected for FY 2019. An extra $10 million from dividends was received from the lottery in FY 2018. In addition, there were strong estimated payments from the individual income tax in the second and third quarters of FY 2018. Unexpected money makes it difficult to post growth in the following year. Tax reform adds uncertainty to the forecasting process. Growth will be slower in FY 2019 because of the one-time money received in the third quarter of FY 2018.

Receipts for FY 2019 are expected to be $24,500,000 below the official Consensus Forecasting Group estimate. Individual income tax receipts are projected to fall 1.4 percent in FY 2019. Sales tax receipts are projected to grow 8.2 percent in FY 2019. The decline in the corporate income tax is the main reason behind the $24,500,000 shortfall in FY 2019.

The changes in the 2018 House Bill 487 Senate Committee Substitute are expected to bring in an extra $208.2 million in sales tax receipts. The changes are also expected to cause a loss of $118.3 million in individual income tax receipts. Tobacco taxes are expected to bring in an additional $130 million because of HB 487.

Individual income tax receipts are close to the estimate so far this year. Moving from a graduated rate to a flat rate is showing up in withholding. Year-to-date withholding is down 2.5 percent in the current year. The effects of broadening the tax base will not show up until 2018 returns are filed.

Sales tax receipts thus far are close to the estimate for FY 2019. Of the projected 8.2 percent growth in sales and use tax receipts, it is projected that 5.3 percent will be the result of base broadening and tax reform. The remaining 2.9 percent is projected to result from economic growth.

Estimates have been lowered for corporate tax receipts. Corporate taxes are one of the main reasons that overall receipts will be lower than estimated. Last year there was relatively flat growth in corporate income tax receipts. Corporate tax receipts were up 2 percent, and LLET receipts were down 3 percent. The first quarter of FY 2019 saw corporate receipts fall 5.1 percent.

The cigarette tax and floor stock tax both exceeded expectations. First-quarter receipts for the taxes are up 85.3 percent compared to last year. The floor stock tax brought in $21.2 million in receipts in the first quarter of FY 2019, exceeding the official estimate of $19 million. The 50-cent tax increase on packs of cigarettes led to only a 1.64 percent decrease in first-quarter sales in FY 2019 compared to FY 2018.

Year-to-date receipts have shown encouraging growth of 4.5 percent. Interim estimates are running close to the enacted budget estimates. The revenue surplus of FY 2018 is unlikely to repeat in FY 2019. The remainder of FY 2019 is expected to be similar to the first-quarter receipt patterns.

Closeout of Fiscal Year 2017–2018

The state budget director, the deputy state budget director, and two deputy executive directors discussed the closeout of FY 2017–2018.

The FY 2018 General Fund experienced a revenue surplus of $119,800,000, with actual receipts of $10,838,200,000. Sales and use tax receipts for FY 2018 were $6.3 million below the official estimate. Individual income tax receipts were $94.6 million above the official estimate.

One deputy executive director reviewed the sales and use tax and the individual income tax. The sales and use tax brought in $120.4 million of new revenues in FY 2018. The individual income tax brought in $209.7 million of new revenues in FY 2018. The sales and use and individual income taxes made up most of the $360.4 million in new revenues that were brought in during FY 2018. Income tax growth exceeded General Fund growth from FY 2014 to FY 2018. General Fund growth relies on the sales and income taxes. The sales tax and individual income tax account for 75 percent of the General Fund total revenue. Overall growth in the individual income tax in FY 2018 was 4.8 percent.

FY 2018 ended with a $15.8 million General Fund Surplus. Revenues in excess of the official revised estimate came in at $119.8 million.

The deputy state budget director discussed the Budget Reserve Trust Fund (BRTF). It had a beginning balance of $150.5 million for FY 2018. 2018 HB 303 appropriated use of $56.7 million from the BRTF. The BRTF had a FY 2018 ending balance of $93.8 million.

Necessary government expenses (NGEs) for corrections totaled $52.1 million in FY 2018. Additionally, $49.2 million has been included in the base budget for corrections NGEs in FY 2019, with $54 million being budgeted for FY 2020.

NGEs for guardian ad litem totaled $14.1 million in FY 2018. In addition, $9.5 million has been included in the base budget for guardian ad litem NGEs for FY 2019 and FY 2020.

NGEs for military affairs totaled $3.9 million in FY 2018. FY 2019 and FY 2020 each have a base budget of $4.5 million for military affairs NGEs.

NGEs for natural resources and fire suppression totaled $3.2 million in FY 2018. Additionally, $2.3 million was allocated to the base budget for natural resources and fire suppression NGEs for FY 2019 and FY 2020.

NGEs for county costs totaled $6 million in FY 2018. For FY 2019 and FY 2020, $4 million was allocated to the base budget for NGEs for county costs.

The second deputy executive director discussed the Tobacco Fund. Actual receipts for the Tobacco Fund in FY 2018 were $12,047,460 below the official estimate. In part, a national drop in the volume of cigarettes sold caused actual receipts to be lower than the official estimate for FY 2018.

The Road Fund had a revenue surplus of $7.7 million in FY 2018. Road Fund growth from FY 2017 to FY 2018 was 0.2 percent. The motor fuels tax and motor vehicle usage tax make up over 80 percent of the Road Fund. The FY 2018 Road Fund surplus totaled $19.6 million.

The sales tax is projected to grow by $208.2 million in FY 2019, while tobacco taxes are projected to grow by $128.6 million.

Estimated NGEs for FY 2019 will exceed the $15.8 million reserved from the General Fund surplus from FY 2018. Over 30 percent of FY 2019 General Fund dollars will be spent on Medicaid and pensions.

House Bill 487 Impact on Individual Income Tax

The committee staff administrator (CSA) for the Appropriations and Revenue Committee discussed 2018 HB 487's impact on the individual income tax. The CSA explained that the Legislative Research Commission does not have the microdata to determine the impact of tax reform on individuals. The Department of Revenue's data is confidential. The Office of State Budget Director has microsimulation models but not specific return data. The CSA reviewed examples of the impact from HB 487 on specific returns.

KRS Exit Strategies for Quasi-Governmental Agencies

The executive director of the Kentucky Retirement Systems (KRS) and the general counsel of the Advocacy Division of the KRS legal department discussed KRS exit strategies for quasi-governmental agencies.

Agencies could not leave KRS until 2015, when HB 62 defined a process for doing so. The executive director said that KRS had some issues with HB 62. HB 351 from the 2017 Session allowed for lump-sum payments only. 2018 HB 362 froze the Kentucky Employee Retirement Systems (KERS) quasi-governmental rate at 49.43 percent for FY 2019.

Most quasi-governmental agencies cannot afford higher contributions in FY 2020. Most of the agencies also cannot afford to withdraw from the system.

KERS has $15.6 billion in actuarial liability, with $13.5 billion in unfunded liability. Retirees account for 71 percent of the actuarial liability. In addition, 0.83 active employees are making contributions for every retiree who is receiving payments.

State Police Retirement Systems has $967 million in actuarial liability. Retirees make up 79 percent of the liability.

Retirements will most likely continue to accelerate for the next 10 years. Some agencies are not replacing employees as they leave. Some agencies are also attempting to outsource their employees. KERS has seen a drop of 10,000 active employees in the last 8 years.

Legalization of Sports Betting

The CSA and the legislative committee analyst for the Appropriations and Revenue Committee discussed legalization of sports betting.

The legislative committee analyst reviewed the history of sports betting in the United States. Congress passed the Professional and Amateur Sports Protection Act (PASPA) in 1992. PASPA effectively outlawed sports betting nationwide. *Murphy v. NCAA* struck down PASPA in its entirety. *Murphy v. NCAA* did not affirmatively legalize sports betting, but it allowed states to legalize sports betting.

The CSA discussed sports betting. Nevada legalized wagers for sports bets from online websites in 2013. Nevada allows wagers on all professional sporting organizations as well as on collegiate activities governed by the National Collegiate Athletic Association. The Nevada Gaming Commission is charged with regulation of the entire industry in that state.

Nevada collected approximately $16 million in receipts from sports betting in 2017. Most of the $4.8 billion wagered in Nevada in 2017 was returned in the form of payouts. The margin in the industry is between 4 percent and 5 percent. The federal excise tax on wagers is 0.25 percent.

The Kentucky state lottery and charitable gaming are authorized under section 226 of the Constitution of Kentucky.

Limited Liability Entity Tax

The vice president of government affairs for the Kentucky Society of Certified Public Accountants (KyCPA), a senior manager in tax services with Ernst & Young, and the chief financial officer of Congleton-Hacker Company discussed the limited liability entity tax.

The KyCPA vice president discussed the LLET that applies to all entities that offer limited liability to their owners.

The Ernst & Young manager gave a breakdown of how the tax is calculated with two alternative calculations of gross receipts or gross profits. Of the entities that file the LLET, 92 percent pay the minimum tax of $175. Thousands of entities in Kentucky have minimal to no activity. Low-volume, high-margin businesses use the gross receipts calculation, while high-volume, low-margin businesses use the gross profits calculation. The manager summarized how cost of goods sold is viewed and what can be deducted.

The Congleton-Hacker CFO reviewed expenses for his company that are left out of the calculation of cost of goods sold. Some expenses that are integral to project success are not considered when calculating the LLET.

The Ernst & Young manager discussed the LLET income tax credit. It is nonrefundable. In order to use the tax credit, there must be an income tax liability.

Receipts from the LLET have been fairly consistent over the last several years. FY 2019 projections for the LLET include $220 million in gross revenues, with $135 million in credits given. The projected net revenue from the LLET for FY 2019 is $85 million. Most states bordering Kentucky do not have both an income tax and a parallel gross receipts or gross profits tax.

The KyCPA vice president reviewed possible options, which include repealing the LLET and fixing the definition of *cost of goods sold* to mirror the federal definition.

Sales Tax for Online Purchases

The commissioner of the Department of Revenue and the executive director of the Office of Sales and Excise Taxes discussed sales tax for online purchases. 2018 HB 487 enacted a remote retailer economic nexus standard similar to that of South Dakota. The Department of Revenue has posted guidance on its website instructing retailers that meet the transaction or receipt thresholds to register for collection and remittance of Kentucky sales and use tax.

Seven certified service providers have been certified with the streamlined sales and use tax governing board.

Tourism in Western Kentucky

The president and CEO of the Kentucky Travel Industry Association (KTIA) and the executive director of the Paducah Convention and Visitors Bureau (CVB) discussed tourism in Western Kentucky.

The KTIA president presented the Kentucky Economic Engine Award to McCracken County. Kentucky’s travel and tourism industry is a $15 billion industry that provides over 196,000 jobs. Tourism in McCracken County has an economic impact of more than $367 million; tourism there supports 3,000 jobs.

The Paducah CVB executive director testified that tourism and economic development go hand in hand. Paducah is designated as a United Nations Educational, Scientific and Cultural

Organization (UNESCO) Creative City. UNESCO Creative Cities are built on culture, creativity, and innovation. Paducah follows the sustainable development goals of the UNESCO Creative Cities program.

Tennessee Valley Authority In-Lieu-Of Taxes

The commissioner of the Department for Local Government (DLG), the executive director of the Office of Grants, and a DLG staff attorney discussed Tennessee Valley Authority In-Lieu-Of Taxes. The commissioner explained that many communities struggle to match federal funds from the DLG. On September 11, 2018, DLG sent copies of the application for the set-aside program to all of the 39 counties that were eligible to participate in it.

Update on Receipts on June 28, 2018

The deputy executive director of the Office of State Budget Director gave a revenue update for FY 2018. He reviewed revenue patterns, past forecasting accuracy, and receipts month to date, and he discussed General Fund and Road Fund predictions for June 2018.

Estimated payments are received in September, December, April, and June. Property tax payments are received in December and November. February and March revenues are low because of refunds for the individual income tax. April revenues are high because of the income tax.

In the past, forecasts have been both too high and too low. The estimate will be exceeded in FY 2018.

Estimated payments for calendar-year corporation income tax filers are due in June. Estimated payments for calendar-year corporations will be lower in FY 2018 than in FY 2017. Estimated payments for individual income tax filers are also due in June. FY 2017 individual income tax estimated payments were exceeded.

Sales and withholding receipts for June FY 2018 exceeded totals for June FY 2017. Individual declarations exceeded those of last year, and refunds were lower.

The deputy executive director predicted a General Fund revenue of $1,074 million for the month of June. A total of $35.5 million was expected from the Kentucky Lottery in June. A total of $20 million less in General Fund receipts was expected to be processed in the month of June because of an eMars update.

The enacted estimate for the Road Fund was $1,503.3 million. The Office of State Budget Director predicted that the Road Fund receipts would be approximately equal to the official estimate. Not much growth was predicted in the Road Fund estimate.

Volkswagen Mitigation Settlement Fund

The secretary of the Energy and Environment Cabinet (EEC), the EEC deputy secretary, and a representative of the Office of Energy Policy reviewed the Volkswagen (VW) Mitigation Settlement Fund.

The secretary explained that VW cheated on emissions testing for certain VW and Audi light-duty diesel engines. A court settlement with the US Department of Justice in 2016 provided funds for mitigating the adverse effects due to the nitrogen oxide (NOx) emissions from those engines. Approximately 3,621 vehicles registered in Kentucky were affected by the VW settlement; most were registered in the Louisville Metro area and in Northern Kentucky.

VW agreed to pay over $14 billion to settle litigation. Most of the funds were used to buy back or modify the vehicles involved. A total of $2.7 billion was to be distributed to the states, in proportion to the number of vehicles sold in those states, for grants to remediate the effects of the excess NOx emissions. Kentucky's total allocation from the settlement is $20,378,649. There is a 10-year time frame—which started on October 2, 2017—to expend the funds.

The intended use of the fund money is for mitigating ozone—a product of NOx emissions—and for the replacement of existing diesel engines. The EEC has proposed to allocate at least 80 percent of funds to transit bus grants. The EEC has also proposed that 15 percent of funds be allocated to expanding infrastructure for light-duty zero-emission vehicles.

The deputy secretary explained that VW Mitigation Settlement funds cannot be appropriated and authorized without the express authorization of the General Assembly.

Subcommittee Activity

The Interim Joint Committee on Appropriations and Revenue is organized into six Budget Review Subcommittees. Their purpose is to review revisions to the enacted budget, to monitor the budgetary operations and programs of state government, and to address agency budget needs for the 2018–2020 biennium.

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

The Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection held two meetings during the 2018 Interim.

The commissioner and general counsel of the Department of Alcoholic Beverage Control and the director of the Division of Fiscal Responsibility, Public Protection Cabinet, provided an overview of the department's budget and programs. The presenters also addressed inquiries regarding compliance rates, investigations, and dry jurisdictions.

The commissioner of the Department of Housing, Buildings, and Construction, the executive adviser of the Division of Fire Prevention, and the director of the Division of Fiscal

Responsibility, Public Protection Cabinet, provided an overview of the Division of Fire Prevention's budget and responsibilities. The presenters addressed inquiries about the division's relationships with local fire departments, inspections of churches, and owner-requested inspections.

Individuals from Paducah discussed tourism prospects and projects undertaken in Paducah. The presentation included a video showing how Paducah's Lower Town has transformed into an artistic community.

The president of the Kentucky Travel Industry Association spoke about the impact of tourism on local economies and answered questions on the effect of the restaurant tax on the tourism industry.

Budget Review Subcommittee on Education

The Budget Review Subcommittee on Education held six meetings during the 2018 Interim.

Representatives from the University of Kentucky (UK), Morehead State University, and the Kentucky Community and Technical College System represented the public postsecondary educational research, comprehensive, and community/technical college institutions. Along with the president of the Council on Postsecondary Education, they provided information about the implementation of postsecondary education performance funding legislation, including the history of postsecondary funding, the development of the current model, and the components of the distribution formula for different institutions.

Representatives of Kentucky State University and UK provided agricultural information concerning federal land grant institutional programs and related state/federal matched funding requirements for agricultural instruction, research, and extension services.

Representatives of the UK Veterinary Diagnostic Laboratory and the Murray State University Breathitt Veterinary Center discussed institutional focus on statewide animal disease surveillance information, agricultural animal health, and public food supply.

Representatives of public postsecondary educational institutions presented program and budget information concerning Eastern Kentucky University, Model Laboratory School, Northern Kentucky University, the Kentucky Center for Mathematics, Western Kentucky University, Kentucky Mesonet, and the University of Louisville Kentucky Center for Autism Training.

Representatives of the Kentucky Higher Educational Assistance Authority/Kentucky Higher Educational Student Loan Corporation provided information on the Work Ready Kentucky Scholarship program, the Kentucky Affordable Prepaid Tuition program, and actuarial projections for future program and administrative funding.

Kentucky Department of Education officials spoke about the department's implementation of the FY 2018–2019 budget, focusing on program eliminations and reductions from FY 2017–

2018 funding levels as well as programs for which funding increased, such as Family Resource and Youth Service Centers. They also discussed changes to school accountability and performance standards under federal legislation and 2017 SB 1. Particular attention was paid to how schools are determined for placement in Continuing School Improvement and Targeted School Improvement programs and what resources the state has available to help school districts in this area.

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

The Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement held three meetings during the 2018 Interim.

The director of the Plant Division, Office of Agriculture Marketing, Kentucky Department of Agriculture (KDA), the manager of the KDA Industrial Hemp Research Pilot Program, and the KDA general counsel provided an update on the Industrial Hemp Research Pilot Program. A hemp processor from Victory Foods, Campbellsburg, and a hemp farmer from Cynthiana each shared their experience of the effects of the program. The presenters addressed inquiries on the insurability of the hemp crop, the use of herbicides, the status of federal legislation, licensing, regulating, and research.

The executive director of the Kentucky Retirement Systems provided an overview of retirement trends and potential budget impacts of the five systems under the KRS umbrella and responded to inquiries regarding types of investments being used and employer contributions.

The deputy executive secretary of the Kentucky Teachers' Retirement System (KTRS), who is also the general counsel, provided an overview of retirement trends and potential budget impacts of the agency. He also responded to inquiries regarding the number of retirees and employees in the system, the efforts made to educate KTRS members, and a breakdown of contributions.

The deputy executive director of the Governor's Office of Economic Analysis provided an overview of the coal severance tax and addressed inquiries regarding the pricing of coal and the outlook for future revenues.

The fiscal branch manager and the Area One manager of Kentucky Emergency Management (KEM) provided an overview of the agency, as well as past and planned activities specific to Area One. Presenters addressed inquiries regarding KEM federal funds, and how KEM partners with local and state law enforcement in preparing for emergency situations.

Budget Review Subcommittee on Human Resources

The Budget Review Subcommittee on Human Resources held two meetings during the 2018 Interim.

The commissioner of the Department for Community Based Services (DCBS) of the Cabinet for Health and Family Services (CHFS), the deputy commissioner of DCBS, and the DCBS chief of staff provided an update on the Kinship Care program.

The secretary of CHFS, the commissioner of the Department for Medicaid Services (DMS) of CHFS, the chief financial officer of DMS, and the executive director of the Office of Finance and Budget of CHFS provided an overview of FY 2018 year-end Medicaid expenditures, as well as the FY 2019 projection for Medicaid expenditures.

The services development manager of the Division of Medicaid Development and Administration of the Ohio Department of Developmental Disabilities, the executive director of Rest Assured, the executive director of No Boundaries Case Management, and the executive director of the Kentucky Association of Private Providers testified on the use of technology in intellectual and developmental disabilities services.

Budget Review Subcommittee on Justice and Judiciary

The Budget Review Subcommittee on Justice and Judiciary held four meetings during the 2018 Interim.

The auditor of public accounts testified on findings from the examination of certain operations, internal controls, and policies of the Administrative Office of the Courts (AOC), including remedial recommendations. The Chief Justice of the Kentucky Supreme Court and the director of the AOC responded to the auditor’s testimony.

The AOC governmental affairs liaison presented an update on the implementation of AOC’s accounts receivable system, including a discussion on fines and court costs. The public advocate and the director of the Law Operations Division of the Department of Public Advocacy testified on how partial fees provide a source of revenue for the agency, while also pointing out instances where they believe the fees are unfairly levied on defendants. Testimony also addressed the process and practice of determining indigence, the logistical timing of levying partial fees, and the difficulty in collecting nonwaivable fees.

Various District and Circuit Judges, the public advocate, representatives of the Kentucky Association of Criminal Defense Lawyers, county attorneys, and the president of the Kentucky Jailers Association testified on bail reform.

The chief family court judge in Jefferson County, parents, and representatives of AOC testified on the function and impact of parenting coordinators.

Budget Review Subcommittee on Transportation

The Budget Review Subcommittee on Transportation held three meetings during the 2018 Interim.

The deputy secretary of the Kentucky Transportation Cabinet (KYTC), along with the cabinet's director of program management and a manager for KYTC's Bridging Kentucky program, presented an update on the Six-Year Highway Plan as well as a progress report on Bridging Kentucky. They provided up-to-date information on the amount of funds being spent on projects, funding levels needed for anticipated future projects, and the process by which bridges would be rehabilitated or rebuilt. The executive director of the Office of Budget and Fiscal Management gave an overview of the Road Fund for FY 2018, noting that the estimates for revenues were very close to the actual revenue collected.

The director of the cabinet's Division of Driver Licensing gave an update on REAL ID implementation. Kentucky is on track to finish implementation in 2019, with several changes to the current licensing system. The new licenses will have an 8-year lifespan, instead of the current 4-year lifespan, as well as new pricing. KYTC is planning two types of driver licenses: one—the voluntary travel ID—is REAL ID compliant and will allow for US domestic plane travel and access to federal facilities, and the other is a standard license for Kentucky residents.

The director of the Lexington Area Metropolitan Planning Organization (MPO), the director of transportation for the Kentuckiana Regional Planning and Development Agency, and the deputy executive director of the Ohio-Kentucky-Indiana Regional Council of Governments gave an overview of their respective MPOs. The directors discussed planning, funding, and consensus gathering needed for the MPOs to function and best serve their respective areas.

The general manager of the Transit Authority of Northern Kentucky gave an overview of the state of public transportation in Kentucky. He reiterated the need for more state-level funding for transit, since the expiration of toll credits would necessitate the need for $4 million to $8 million more each year in funding to keep the same level of services. Since a significant number of Kentuckians use public transit to travel to their businesses and schools, the expiration of the toll credits would have a detrimental impact on the state.

The chief executive officer of the Cincinnati/Northern Kentucky Airport gave an overview of the airport and its budget. The airport is now the 8^{th} largest cargo airport in North America, with expansion plans for several companies that will develop the airport. The CEO expressed multiple concerns about the availability of transit for the airport. Employees need to be able to get to work at the airport, so there is a need for public transit, and cargo needs to get to and from the airport, so there is a need for functional roadways that can handle high-capacity trucks.

Report of the 2018
Interim Joint Committee on Banking and Insurance

Sen. Tom Buford, Co-Chair
Rep. Bart Rowland, Co-Chair

Sen. Julie Raque Adams
Sen. Jared Carpenter
Sen. Rick Girdler
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. Dennis Parrett
Sen. Dorsey Ridley
Sen. Albert Robinson
Sen. John Schickel
Sen. Dan "Malano" Seum
Rep. Will Coursey
Rep. Jim DuPlessis
Rep. Joseph M. Fischer
Rep. Jim Gooch Jr.
Rep. Jeff Greer
Rep. Dennis Keene
Rep. Adam Koenig
Rep. Stan Lee
Rep. Chad McCoy
Rep. Michael Meredith
Rep. Steve Riggs
Rep. Dean Schamore
Rep. Wilson Stone
Rep. Scott Wells
Rep. Addia Wuchner

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

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Banking and Insurance

Jurisdiction: Matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity, and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; and principal and income.

Committee Activity

The Interim Joint Committee on Banking and Insurance met four times during the 2018 Interim.

Economic Growth, Regulatory Relief, and Consumer Protection Act

US Rep. Andy Barr, Kentucky Sixth Congressional District, chairman of the Monetary Policy and Trade Subcommittee of the US House of Representatives Committee on Financial Services, testified on the effects of the Dodd-Frank Financial Control Law and the changes made by the Economic Growth, Regulatory Relief, and Consumer Protection Act (S.2155). Significant changes include appraisal relief for certain real estate transactions under $400,000, relief from certain home mortgage disclosure act requirements for banks and credit unions that originate fewer than 500 mortgages and 500 open lines of credit, escrow relief for banks with under $10 billion in assets that have originated 1,000 or fewer loans secured by a first lien on a personal dwelling, and greater access to reciprocal deposits for well-managed community banks. Community banks will be exempt from the Volcker Rule, and certain banks with up to $3 billion in assets will be eligible for an 18-month exam cycle instead of a 12-month cycle. In addition, S.2155 will provide a number of specific benefits for veterans, consumers, and homeowners including free account credit freezes, free credit monitoring for active duty military, and foreclosure relief for military personnel under the Service Member Civil Relief Act.

Rep. Barr reviewed regulation changes for regional and custodian banks including two bills he sponsored: the Portfolio Lending and Access Act and the Preserving Access to Manufactured Housing Act. He discussed other issues, including the National Flood Insurance Program, the Bank Secrecy Act and Anti-Money Laundering Act, the Federal Reserve System's monetary policy, housing finance, and the Federal Insurance Office. Key issues that arose included whether community lending had increased since the passage of S.2155, private market inclusion in the National Flood Insurance Program, recent changes to the Qualified Mortgage Rule of the Home Mortgage Disclosure Act, and consumer protection reforms related to credit freezes in data security breaches.

Kentucky Financial Institutions and Industry

The commissioner of the Kentucky Department of Financial Institutions discussed the health of the financial industry in Kentucky, general economic growth in the state, and the state and national housing market. The commissioner addressed changes reported by both the Non-Depository and Depository Divisions of the department, including an increase in several types of licensees. The commissioner spoke about the October 2018 Community Bank Conference, an initiative between the Federal Reserve Board and the Conference of State Bank Supervisors whose purpose is to provide research and study regarding community bank issues.

The commissioner explained the purpose and process of liquidation of the Louisville Metro Police Credit Union. The credit union was placed out to bid; the Commonwealth Credit Union won the bid. The decision was executed June 29, 2018. The president and chief executive officer of Commonwealth Credit Union was present to answer committee questions.

The commissioner discussed the department's legislative priorities for the 2019 Session, including updating and modernizing the Consumer Loan Act and expanding the use of the Nationwide Multistate Licensing System and Registry (NMLS) for licensing. The commissioner discussed the benefits of allowing uniform use of the NMLS.

The president of the Kentucky Credit Union League announced his upcoming retirement and introduced his successor. The president-elect reviewed the history and structure of credit unions. The president of the Kentucky Bankers Association (KBA) presented information on Kentucky's bank franchise tax and the disadvantage it poses for Kentucky banks, compared to banks in surrounding states. The KBA president provided a historical overview of the state's bank taxation disparity and noted the effects of excessive taxation on local banks and their communities. Surrounding states no longer use the franchise tax; they use the corporate tax instead. He said that acquisition of Kentucky banks is accelerating, resulting in reduced franchise taxes collected along with other tax receipts. The KBA president discussed the organization's intent to bring this issue before the 2019 General Assembly.

PLS Financial Services provided an overview of itself and its products. PLS worked with the Department of Financial Institutions to create a new limited license for a check-cashing transaction that did not meet the definition of a deferred deposit transaction. PLS asked that the legislature have statutes delineate between a pure check-cashing license and a deferred deposit transaction license.

Long-Term Care Insurance in Kentucky

The deputy commissioner of policy for the Kentucky Department of Insurance explained the purpose of long-term care insurance (LTCI) and provided an overview of current issues in LTCI costs. He also discussed the department's role in approving rate increases and in publishing an LTCI consumer guide.

An actuary from Lewis & Ellis discussed the history of LTCI and the misassumptions that have led to current instability in the market. He noted that changes in the Life and Health Guaranty

Act caused a major impact on the health insurance industry, and he provided details on the Penn Treaty liquidation. He discussed regulatory approaches, pricing approaches, and review approaches to rate increases, and the long-term pricing subgroup created by the National Association of Insurance Commissioners (NAIC).

The executive director of the Kentucky Life and Health Insurance Guaranty Association (KLHIGA) gave an overview of the agency. He explained what happens when a multistate insolvency occurs, and the role of the National Organization of Life and Health Insurance Guaranty Association in such a circumstance. He also said that KLHIGA cannot make a recommendation or express an opinion on matters associated with the NAIC's recent health maintenance organization (HMO) amendments to the Guarantee Model Act. The general counsel for KLHIGA explained the need for the guaranty association since insurance companies are excluded from the federal bankruptcy code. He further discussed the Penn Treaty liquidation and aftermath. He opined that Penn Treaty reflected all of the problems with the LTCI industry from an actuarial perspective.

The senior director of government relations for Anthem Blue Cross and Blue Shield reviewed the guaranty process when a company is liquidated. He further explained the NAIC's compromise language in the proposed amendments to the Guarantee Model Act. This language included a provision requiring HMOs to be added to the Guaranty Association fund, and requiring long-term care insolvencies to be equally addressed by health and life insurers. He expressed Anthem's support for the recommended amendments to the Model Act.

The executive vice president and general counsel for Investors Heritage Life Insurance Company provided background on the company. He expressed opposition to the NAIC's proposed amendments and said that small insurance companies face a significant impact from the changes in the guaranty fund assessments. Long-term care was originally categorized as a health insurance product, and the guaranty association system was based on that categorization. Given the potential impact, he expressed a request for an exemption for the small life insurance company segment if the General Assembly adopts the NAIC's proposed amendments.

Kentucky Farm Bureau Mutual Insurance Company

The president of Kentucky Farm Bureau Mutual Insurance Company gave a history of the company. In 2019, Kentucky Farm Bureau will celebrate its centennial, having been the voice of agriculture for 100 years, and it will continue to advocate for rural members. The executive vice president and chief executive officer said that Kentucky Farm Bureau is the only farm bureau in the United States to be the number 1 market shareholder in its state and that it is the 4th largest farm bureau, with 475,000 family memberships.

Mandated Study of Medical Costs for Reparation Benefits

The deputy commissioner of policy for the Kentucky Department of Insurance reviewed the Kentucky personal injury protection (PIP) system and its medical billing process. The study was the product of 2018 General Assembly House Bill 464 directing the department to perform a comparison study of billing rates for medical bills submitted by providers in the PIP system with other fee schedules. He explained the data request and the process the department took in comparing the data to the Kentucky Workers' Compensation Fee Schedule (WCFS). He highlighted information regarding the most frequently billed services, and he noted that the adoption of the fee schedule would have a greater impact on codes that are less frequently billed but that have a higher per-transaction cost. He also discussed the department's Division of Insurance Fraud Investigation and reviewed internal PIP fraud claims. Key issues included total PIP premiums collection, whether other states had adopted a fee schedule, exhaustion of PIP dollars, information on the legal fees association with PIP claims, correlation between Florida's legislative actions and Kentucky's PIP claims increase, excessive billing fraud, and the time of the most recent change to the PIP limit.

The deputy commissioner also provided an update on hospital data obtained during the review of the medical billing process under the PIP system. A substantial number of the hospital bills were not paid, which he believed was either because of exhaustion of PIP benefits or because of redirection of expenses at the individual's request. He explained the different way hospitals are paid under the WCFS compared to other providers. Hospitals submit claim forms and receive a predetermined percentage of billed charges ranging from 10 percent to 60 percent, with an average of 35.66 percent. He compared the current reimbursed costs under the PIP system and then noted what they would have been under the WCFS. He also outlined the most commonly billed hospital procedures.

Department of Insurance

The deputy commissioner of policy for the Kentucky Department of Insurance discussed the availability of Consumer Protection Division analysts to review health insurance denials for the public. He noted that open enrollment on the health exchange was to close December 15. There have been 18,295 new plan enrollments. He discussed the NAIC Life Insurance Locator Tool, which has located approximately $4.4 million in life insurance proceeds and annuity contracts for 421 Kentuckians since November 2016. The department is working on a regulation to House Bill 69 from the 2018 Regular Session regarding medical necessity criteria. The agency is collaborating with the Department for Medicaid Services as required by statute. He also discussed the department's legislative priorities for the upcoming session.

Insurance Issues Surrounding Air Ambulances

Sen. McGarvey discussed his request to address air ambulance billing after sending letters to several insurers earlier in the year and failing to receive responses from some. An attorney with Morgan & Pottinger explained that, after a recent medical event involving one of his prematurely born twin sons, he and his wife began receiving bills from air ambulance company Air Methods for $57,621.99 for an emergency air flight. Anthem, his insurer, covered $10,632.59 of the flight claim. He and his wife were responsible for the balance.

Sen. McGarvey explained that air ambulances fall under the Federal Aviation Administration and the Airline Deregulation Act, preventing flight cost regulations by a state legislature. He explained that he has drafted a bill that mirrors North Dakota's, and he discussed the details of the approach.

The senior director of government relations for Anthem Blue Cross and Blue Shield agreed that air ambulance fees and coverage have been an issue for years. He discussed Anthem's determined rates for air ambulance providers in relation to the Medicare rate. In 2016, Anthem contracted its first rotary service. Since then, Anthem has worked diligently to contract with additional carriers. He explained that Anthem has successfully contracted with two additional carriers and now contracts with five companies. He said Anthem has diligently pursued contracts to avoid exorbitant consumer bills.

The regional director of government relations for Air Evac, an air ambulance company, briefed the committee on the relevant provisions of federal House Resolution 302, which addressed air ambulance billing issues.

Report of the 2018 Interim Joint Committee on Economic Development and Workforce Investment

Sen. Alice Forgy Kerr, Co-Chair
Rep. Philip Pratt, Co-Chair

Sen. Perry B. Clark
Sen. Rick Girdler
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Jimmy Higdon
Sen. Stephen Meredith
Sen. Wil Schroder
Sen. Reginald Thomas
Sen. Mike Wilson
Sen. Max Wise
Rep. Lynn Bechler
Rep. McKenzie Cantrell
Rep. Jim DeCesare
Rep. Daniel Elliott
Rep. Al Gentry
Rep. Mark Hart
Rep. Dennis Horlander
Rep. Joni L. Jenkins
Rep. James Kay
Rep. Kim King
Rep. Adam Koenig
Rep. Russ A. Meyer
Rep. Jerry T. Miller
Rep. Jason Petrie
Rep. Steve Riley
Rep. Rob Rothenburger
Rep. Dean Schamore
Rep. Diane St. Onge
Rep. Wilson Stone
Rep. Walker Thomas
Rep. Gerald Watkins
Rep. Russell Webber
Rep. Scott Wells
Rep. Addia Wuchner

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

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Economic Development and Workforce Investment

Jurisdiction: Matters pertaining to commerce, industry, economic and industrial development, the workforce and the workplace, and tourism not specifically assigned to another committee; economic development planning; international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; and industrial weights and measures.

Committee Activity

The Interim Joint Committee on Economic Development and Workforce Investment held seven meeting during the 2018 Interim. One meeting was held jointly with the Interim Joint Committee on Tourism, Small Business, and Information Technology.

Cabinet Updates

Finance and Administration Cabinet. The executive director of the Office of Equal Employment Opportunity and Contract Compliance discussed two programs and certifications for small business owners available for service disabled veterans, women, and minorities. The Service-Disabled Veteran-Owned Small Business (SDVOSB) program is for Kentucky residents, and the business must be physically located in Kentucky. The Minority and Women Business Enterprise (MWBE) program requires that the owner is a US citizen or a lawfully permanent resident of the United States. To be eligible for certification, at least 51 percent of the business must be owned by a service-disabled veteran, a minority, or a woman; the business must meet small business size requirements; owners must own the business for at least 2 years; the business must be fully operational for at least 1 year; and the business must have filed a federal tax return consisting of 1 full calendar or fiscal year. The applicant must submit an application to the Finance and Administration Cabinet; approvals are valid for 3 years. There are 233 companies in the MWBE program, with 184 companies employing 3,219 employees, and there are 23 businesses in the SDVOSB program, with 220 employees.

Education and Workforce Development Cabinet. *Apprenticeship Program.* The secretary of the Education and Workforce Development Cabinet said that, as of June 30, 2016, the Apprenticeship Program has 148 registered programs and four competency-based programs. There were 2,422 registered apprentices, encompassing 94 females, 298 minorities, 266 veterans, 1,082 youth (ages 16 to 24), and 0 people with disabilities. Since 2016, the program has received additional state and federal funding. The apprenticeship program is now part of the Education and

Workforce Development Cabinet. There are 251 registered programs and 9 competency-based programs. There are 3,391 registered apprentices encompassing 403 females, 201 minorities, over 600 veterans, 1,614 youth, and 5 people with disabilities.

Unemployment Insurance (UI). The deputy secretary and the director of the Division of Unemployment Insurance provided an update on the modernization of the system after the passing of legislation in the 2018 Regular Session that allowed the cabinet to upgrade the Service Capacity Upgrade Fund (SCUF); they also provided an update on the status of UI funds and benefits. Technology was upgraded through the acquisition of new software to increase delivery capacity in support programs administered by UI. Projected SCUF collections are $1.5 million for the third quarter of 2018 and $1.4 million for the fourth quarter. For each of calendar years 2019 to 2023, projections are between $10 million and $12 million. The UI Assistance Line was implemented in February 2018 in response to local office service alignment. As of August 31, contributions to the UI in 2018 totaled $295,875,221 and benefits paid totaled $211,020,992—numbers that have decreased dramatically since 2012 because fewer people are on unemployment. The fund balance has a total of $543,455,889. The maximum weekly benefit is $502, the average weekly benefit is $341, and the maximum weeks of eligibility is 26; each of those three numbers is higher than the corresponding number in surrounding and competing states.

Kentucky Center for Statistics. The executive director discussed the evolution of the agency, the process of data collection, and reports that are available. The Kentucky Center for Statistics was originally a project known as the P-20 Collaborative with one staff member, but it has grown to be a national model with 13 full-time researchers. Staff researchers collect and analyze data from sources such as the public school systems, public and private postsecondary education institutions, and the unemployment insurance system to create meaningful connections between education, workforce, and economic development. Numerous reports are available online such as the Kentucky Workforce Profiles, the Kentucky Future Skills Report, the Education Detours to the Workforce Report, and the Work Ready Communities Report.

Cabinet for Economic Development. Department leaders updated the committee on the mission of the cabinet, progress during the Governor’s administration, areas of emphasis, the incentive program, and initiatives for the 2019 Regular Session. The cabinet is the primary state agency responsible for encouraging job creation, business retention, and new investments in the state. Since the start of the current administration, there have been $17.2 billion in new investments, more than 47,500 jobs created, and more than 950 new projects started. Areas of emphasis within the cabinet include business development, international affairs, entrepreneurship, marketing and public affairs, and financial services. The cabinet also is responsible for tax incentive programs, which are all mostly performance based. For the upcoming legislative session, the cabinet plans to work with legislators to address fixes to HB 366 and HB 487 that were passed during the 2018 Regular Session, Open Records Act amendments, abolishing the Kentucky Industrial Revitalization Act program and rolling it into the Kentucky Reinvestment Act program, and amending the Kentucky Business Investment program.

Manufacturing Industry

Alltech. The committee met during the Alltech ONE Ideas Forum in Lexington. Alltech's global headquarters are located in Jessamine County, but it also has operations in 129 countries and 100 manufacturing facilities. The company's roster of employees numbers over 5,000, 65 of whom are in the state. It is involved in the animal feed business, the soil business, and beer and spirits. Alltech has an annual revenue of $3 billion, and the conference's economic impact totals $11 billion in Lexington.

Nucor Steel Gallatin. The committee met at Nucor Steel Gallatin in Ghent. The vice president and general manager discussed the company's presence in the state, including investments in various steel processing plants along the Ohio River. Nucor is the largest steel producer in the United States, capable of producing approximately 27 million tons of steel per year. Nucor is also North America's largest recycler, recycling 18.8 million tons in 2017; 100 percent of the steel produced by Nucor is from scrap steel. The plant in Ghent produces sheet metal. Nucor acquired Gallatin Steel Company in 2014, primarily for its location and good cultural fit with the company. Nucor immediately impacts 14 additional steel processing, recycling, and scrap metal companies in the state. Nationally, the steel industry supports approximately 2 million jobs and contributes $520 billion to the economy. In Kentucky, the steel industry supports 39,782 jobs and contributes $11.3 billion to the economy. The Nucor Steel Gallatin plant generates approximately $1 billion per year in sales revenue. Nucor Steel Gallatin does business with 25 other companies in the area of Kentucky, southern Indiana, and southern Ohio and serves approximately 40 customers. It is estimated that 80 percent of the sale output is consumed within 200 miles of the plant. With the expansion of the new facility at the Ghent location in the next few years, 75 additional jobs will be added.

Stitch Kentucky. The company, formally known as SnapDolls, is located in Casey County. It initially opened as a manufacturer of fabric dolls after the Oshkosh B'Gosh plant in the county closed, leaving displaced workers with extensive seamstress skills. The company's name was changed to Stitch Kentucky after it began to manufacture a large array of products for clients. Stitch Kentucky works with entrepreneurs and transforms their drawings, sketches, and prototypes into something that can be reproduced. The company offers the production of large and small quantities and the sourcing of materials, which sets the company apart from others. Stitch Kentucky is doing research and development for the housing and fulfillment of products for clients.

Aerospace Industry

The Kentucky Aerospace Industry Consortium (KAIC) was formed after the passage of HJR 100 in the 2015 Regular Session. That resolution directed the Transportation Cabinet, the Cabinet for Economic Development, and the Commission on Military Affairs to study the economic impact of the aerospace and aviation industry in the commonwealth. The executive director of KAIC discussed the organization's purpose and goals. The four main objectives of the group of businesses and partners are to promote, advocate, and advance the knowledge of the industry; to facilitate connections and partnership with existing and future organizations within the industry; to create a strong aerospace and defense supply chain; and to maintain an environment conducive to the creation of a sustainable industry through education, workforce development, and industry-led research and development. The aerospace and aviation industry employs an estimated

17,000 people in the state. With $11.7 billion in exports in 2017, products and parts are the state's top export. Although there are some obstacles such as regulatory systems and infrastructure, KAIC is working to foster partnerships among universities, companies, and government entities to create a unified approach to the industry.

Economic Development Updates

Kentucky Distillers' Association. The president and the director of government and external affairs of the Kentucky Distillers' Association (KDA) testified on tariffs that the federal government has put in place and the effects they could have on the industry. Due to legislation passed by the General Assembly in the past 10 years, bourbon and distilled spirits is an $8.5 billion industry that employs over 17,500 people with $800 million in payroll and $825 million paid in local, state, and federal taxes. Placing federal tariffs on goods could affect the industry's business with the European Union, Canada, China, and Mexico. Tariffs were decreased by 99 percent between the EU and Japan, which may have been a direct response to the US tariffs. The KDA and other industry counterparts held a summit in Louisville to discuss the imposed tariffs and ways to move forward.

Junior Achievement of the Bluegrass. The mentoring program's goal is to provide students with skills and knowledge needed to explore, choose, and advance in their future career path. Volunteers instruct students with a curriculum based on requests from the teachers at each participating school. The curriculum's pillars include youth development, economic development, and education development in entrepreneurship, financial literacy, and work and career readiness. Research shows that students of the program finish high school at a rate of 93 percent and are 30 percent more likely than others to obtain a college degree. The program also offers hands-on curriculum such as JA Biztown, which allows students to be a part of a simulated town where they have the opportunity take on the roles of employers and employees.

Microbrewery Update. The state has 62 licensed craft and microbreweries that represent over 50 different companies, with 14 additional new breweries that have either opened or are in the planning stages. Thirty-one breweries have expanded, resulting in an additional $22 million in investment, and 25 additional breweries are planning for expansion that would add $6.9 million, for a new investment total of $28.9 million. Kentucky ranks 27th in the nation on positive economic impact, with an annual economic impact of $657 million, even though it ranks 40th for the number of breweries located in the state. Craft brewers export to more than 42 states and over 25 countries, and they directly employ more than 800 Kentuckians. The industry has added 147 new jobs since January 2018, and expansion has continued to lead to the location, creation, and expansion of various new support industries. The brewers partner with various cabinets and departments to continue to develop the microbrewery industry.

Muhlenberg Alliance for Progress. The committee was informed about a major partnership involving the Muhlenberg Alliance for Progress (MAP), which allows the organization to foster the economic development of Muhlenberg County. The partnership is with the Felix E. Martin Jr. Foundation, which is able to aid in the development of the county because of $50 million that Felix E. Martin Jr. willed in 2007 to support civic, cultural, and educational projects of Muhlenberg. The Felix E. Martin Jr. Foundation has assisted MAP with constructing the Paradise

Regional Business Park, forming a county-owned wireless broadband network, setting up a ride-to-work program, building the Madisonville Community College-Muhlenberg Campus, and contributing to early childhood education. In addition, MAP is collaborating with the Greater Muhlenberg Chamber of Commerce, the Muhlenberg County Board of Education, Madisonville Community College, and the Education and Workforce Development Cabinet to obtain full Work Ready Certification.

Lexington Convention Center. The center's president and chief executive officer detailed its upcoming $300 million renovation and expansion and explained that it is necessary in order for the center to continue competing with other convention and meeting destinations. The president shared images of the designs and explained that funding was obtained through an increase in the transient room tax in Lexington, a state contribution of $60 million, $210 million in private bond placement, and $30 million in funding from the city of Lexington. After the expansion is complete, the center will have the potential of a $57.3 million economic impact.

Visit LEX. In 2017, the tourism industry had an economic impact of $15 billion; it affects every county in the state. Approximately 25,000 people in Fayette County are employed in the tourism and hospitality industry. The expansion of the Lexington Convention Center, the addition of Town Branch Commons and Park, the opening of the James E. Pepper Distillery and the Castle and Key Distillery, and the completion of the City Center will all have a major economic impact on the city of Lexington.

Wrigley Media Group. The chief executive officer and the owner of Wrigley Media Group explained the following goals that will lead the film, video, and media industry to have a significant economic impact within the state:

- Providing enticement and incentives for the production of content, including film, television, and commercials
- Forming a workforce that will support production
- Creating accommodating studio space

Other states such as New Mexico, Georgia, and Louisiana have provided companies with tax incentives and invested in infrastructure after realizing the potential economic impact. Kentucky's film incentive program is currently suspended; however, from 2016 to the time of the suspension, with a 30 percent to 35 percent incentive, $31.9 million was generated at a cost of $9.4 million. According to the representatives from Wrigley Media Group, the following aspects of the film tax incentive program should be established in order for the film industry to thrive and be a successful investment for the state:

- A competitive tax incentive of at least 30 percent
- A refundable amount for qualified expenses that are transferable
- A 4- to 6-month allotted period to start production once approved
- A period of 14 to 18 months to finish the project
- Renewals for long-term and repeating projects
- A $100 million annual cap on refunds

Kentucky Chamber of Commerce. Speakers representing the chamber stressed the importance of transportation to the economic development of the state. Having functioning roads, bridges, and railways, as well as connecting various modes of transportation, is a key issue for the business industry. It will allow the state to remain competitive and encourage in-state businesses to use in-state means of transportation instead of seeking those out of state.

Proposed Legislation

2019 Rural Jobs Act. This legislation is intended to create opportunities for rural communities by creating access to capital for rural businesses and small firms. It is modeled after the New Markets Program. Similar legislation has been enacted in Utah, Ohio, Georgia, and Pennsylvania. The program would be available to businesses that are in counties with populations under 50,000, that have fewer than 250 employees, and that have not more than $15 million in net income. It would require investors to have a federal license with the Small Business Administration or the US Department of Agriculture. The tax credits that fund part of the investments are delayed, so there is no fiscal impact on the General Fund until the third fiscal year after the implementation, and 100 percent of the capital raised has to be invested within the first 2 years. A company receiving the tax credit must show that it has created a predetermined number of new jobs; otherwise, there are back-end penalties. Rep. John Blanton, along with speakers from E-Z Pack, Harrison County government, and Advantage Capital, testified about the legislation and how it could aid in rejuvenating the economies of the most rural parts of the state.

Kentucky Pregnant Workers' Rights Act. The prefiled BR 51 would require employers to provide employees affected by pregnancy, childbirth, or related medical conditions "more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, appropriate seating, temporary transfer to a less strenuous or less hazardous position, job restructuring, light duty, modified work schedule, and private space that is not a bathroom for expressing breast milk." Proponents from the American Civil Liberties Union, A Better Balance, and the Catholic Conference of Kentucky, along with a police officer who filed a lawsuit against her employer after not being provided with reasonable accommodations, all spoke about the need for the legislation.

Project Labor Agreements. Representatives from the Associated Builders and Contractors and other business counterparts said that planned legislation would eliminate government-mandated construction agreements, thereby creating fair and open competition and avoiding contract provisions that discourage most merit shop contractors from bidding on projects. Government-mandated project labor agreements may require contractors to obtain employees from union hiring halls and union apprenticeship programs. Although there is not a law that requires projects to operate under project labor agreements, excluding government control could decrease labor, compliance, and competitive costs. The legislation was introduced during the 2018 Regular Session as HB 471. Since 2011, 23 other states have passed fair and open competition legislation.

Constitution Section 164. On behalf of the Kentucky Aviation Association, the Aviation Museum of Kentucky, and the Airport Zoning Commission, a liaison informed the committee of a word usage issue within the Constitution of Kentucky that prohibits local governments from granting a franchise or privilege for terms exceeding 20 years; franchise or privileges of less than 20 years may be granted only after advertising. Airports may have an issue with this limit when trying to attract businesses that want to invest longer than 20 years. One option to fix the problem is to amend the constitution to allow economic development projects to extend more than 20 years. Another option is for the General Assembly to offer a legislative interpretation that will allow these projects to proceed with their investments with the state's airports without hindrance.

Report of the 2018
Interim Joint Committee on Education

Sen. Max Wise, Co-Chair
Rep. John Carney, Co-Chair

Sen. Julie Raque Adams
Sen. Danny Carroll
Sen. David P. Givens
Sen. Jimmy Higdon
Sen. Alice Forgy Kerr
Sen. Stephen Meredith
Sen. Gerald Neal
Sen. Reginald Thomas
Sen. Johnny Ray Turner
Sen. Steve West
Sen. Mike Wilson
Rep. Linda Belcher
Rep. Danny Bentley
Rep. Jim DeCesare
Rep. Mark Hart
Rep. Regina Huff
Rep. Mary Lou Marzian
Rep. Reginald Meeks
Rep. Charles Miller
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Rep. Jill York

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

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Education

Jurisdiction: Matters pertaining to elementary, secondary, and postsecondary education; the Kentucky Board of Education; the Department of Education; powers and duties of local boards of education; state support of education; operation of school districts; conduct of schools; attendance; curriculum; pupil transportation; school property and buildings; teachers' qualifications, certification, and retirement; vocational education and rehabilitation; state universities and colleges; community colleges; regional education; and educational television.

Committee Activity

The Interim Joint Committee on Education met five times during the interim. Three of the meetings were at the Capitol Annex in Frankfort, and two meetings were held off-site at Trigg County High School in Cadiz and the Barren County Career and Technical Center in Glasgow. The committee heard reports relating to school and student safety, student mental health, statewide academic standards, the Kentucky Community and Technical College System (KCTCS), career and technical programs in local school districts, the Work Ready Skills Initiative, and school-based decision-making councils.

School Safety

The executive director of the Kentucky Center for School Safety provided an overview of Kentucky's school safety laws and six categories of school safety measures being addressed across the nation, including developing emergency operating plans, requiring emergency drills, training school resource officers (SROs), strengthening building security, increasing access to mental health services, and arming teachers.

Since the school shootings earlier this year, local boards of education have considered many of the following safety measures: metal detectors, book bag checks, more law enforcement personnel in schools, changes in fire alarm protocols, and ways to address threats. Some strategies recommended by the executive director were situational awareness drills, building student/teacher relationships, and increasing the number of SROs.

The commissioner of the Department of Criminal Justice Training presented information on three school safety recommendations: hardening the target, detection and prevention, and SROs. Suggestions for funding these measures included forming 501(c)(3) organizations as well as contributions from parents, family, community, and corporate sponsors.

The director of law enforcement of Montgomery County Schools said SROs develop relationships with students and can see incidents that lead students to want to commit an act of violence in the school. There are 271 SROs in 118 school districts across the commonwealth. They cover 1,220 public schools with approximately 656,588 students, which is a ratio of roughly one officer per 4.5 schools. Kentucky's eastern region has the weakest presence of SROs in schools.

SROs create positive law enforcement engagement with students, serve as a contact for community resources, develop safe school strategies in partnership with school administrators, work with guidance counselors and others to assist students in accessing social services, serve as positive role models, provide law enforcement and police services for school events, help prevent juvenile delinquency, support crime prevention programs for students, and help students with conflict resolution. All of this serves to create a more positive and safer school environment.

Sources of Strength Program

Following a student's suicide, Trigg County High School implemented the nationally recognized program Sources of Strength in an effort to prevent suicide by harnessing the power of peer social networks.

The program began with a group of 60 students from diverse backgrounds, representing a tenth of the student population, to serve as student leaders. Adult partners from the school and community provide ongoing support to the program.

Sources of Strength works to change the mindset of students through improving their attitudes and their lives with the help of positive adult supporters and peer leaders. Strategic messages are used to create positive cultural change and a shared sense of community in the school environment. This kind of approach seeks to prevent youth suicides by addressing negativity before it reaches a breaking point and to steer students who need enhanced levels of support to services when a problem is identified.

The implementation of Sources of Strength focuses on eight components: family support, positive friends, mentors, healthy activities, generosity, spirituality, medical access, and mental health. Trigg County High School students provided examples of how each component was being implemented at the school, including connection groups, school activities, social media, art, presentations, events, and audiovisual messaging.

An additional 45 schools across the state participate in the Sources of Strength program. The cost for program implementation is $5,000 per school, and funding support is provided through a youth suicide prevention grant administered by the Division of Behavioral Health.

Ensuring the Psychological Safety of Students

Representatives of the Department for Behavioral Health, Developmental and Intellectual Disabilities and the Kentucky Department of Education (KDE) provided information on the various ways Kentucky is attempting to address the psychological needs of students. Their key points were that physical safety, combined with psychological safety, results in student safety; that psychological safety requires multitiered systems of support; and that Kentucky already has several best practices in place that can be taken to scale.

Recent reports show that Kentucky students encounter a higher than average amount of childhood adversity, so many students are experiencing significant traumas that they carry with them to school. Studies show that one in five youth from birth to age 18 years has a diagnosable mental disorder, meaning that in a classroom of 30 students, 6 have a diagnosable mental health disorder but may not have been diagnosed or may not be receiving any treatment. Approximately half of all lifetime mental health disorders start by the midteens, and the onset of all major mental illnesses happens as early as 7 to 11 years of age. Detection of mental health needs at an early age is critical to ensuring not only student learning but also school safety and positive community engagement as adults.

Several strategies being implemented in Kentucky to support students include Sources of Strength, the Olweus Bullying Prevention Program, Ripple Effects, Restorative Practices, Youth Mental Health First Aid, and many other relationship-building programs and strategies. There are many that are also low to no cost, such as greeting all students by name; increasing positive interactions versus negative ones; and taking advantage of mental health screening tools in the form of private, self-reported questionnaires that allow students to answer without fear of stigma or ridicule. There are also intensive strategies for the most chronic or complex mental health needs, including individual therapy, wrap-around services from a multidisciplinary team of professionals and family, and functional behavioral assessment-based behavior intervention plans.

Another program in use is Kentucky AWARE (Advancing Wellness and Resilience in Education). Kentucky AWARE is part of a 5-year award from the US Department of Health and Human Services. The purposes of the program are to increase student access to mental health services and to make schools safer.

Youth Mental Health First Aid is initial help offered to a person developing a mental health or substance abuse problem or experiencing a mental health crisis. This treatment is provided until appropriate treatment and support are arranged or until the crisis resolves. One of the primary aims of the Kentucky AWARE project has been to increase the knowledge and skills of communities so that more individuals are certified to provide this form of first aid. At the end of March 2018, over 3,000 individuals had been certified in mental health first aid and over 8,000 youth were connected to mental health supports by an individual certified in first aid.

Safe School Assessments

Representatives of Oldham County Schools presented the district's model for school threat assessments. A Threat Assessment Team of at least two individuals is assembled, comprising school administrators, guidance counselors, SROs, school psychologists, and/or teachers. The school receives threat information from the safe schools anonymous tip line via text message, email, or voice message. Last year, Oldham County received approximately 58 tips in this way. The Threat Assessment Team investigated all of the tips, which ranged from reports of bullying to reports of weapons possibly being brought to school. Threat information is also gathered from students who report concerns to teachers or administrators or on social media.

A threat assessment is started whenever there are reports or observations containing references to weapons, suicide, lethal violence, severe rage, severe destruction of property, serious or repetitive fighting, or severe depression, anxiety, or other mental health concerns. From the available information, the Threat Assessment Team determines whether there is an imminent threat. If there is no imminent threat, they develop an in-school plan, which can involve guidance, mental health referrals, parent conference, an intervention plan, or some other follow-up procedure. If a threat is found to exist, the team conducts a Safe Schools Assessment, which usually includes suspension from school and a follow-up assessment before the student in question is allowed to return to school. The process is a collaborative effort involving several individuals who can bring in information from all sources and multiple perspectives in order to have a more complete understanding of the risk and any potential solutions.

Proposed Changes to State Academic Standards

KDE representatives gave an overview of proposed changes to state academic standards for reading and writing, mathematics, and social studies. According to Senate Bill 1 of the 2017 Regular Session, the standards and assessments review process is to occur every 6 years and is composed of 12 major steps. Presentation of the standards to the Interim Joint Committee on Education is the eighth step in that process.

During the public comment period on reading and writing standards, there were responses from 456 people—primarily teachers, but also school administrators, students, state education agency personnel, retired teachers, parents, personnel from institutions of higher education, business/community members, and others. Highlights of the draft proposal include a reconstructed framework and vision to align the goals and purposes of the standards; 10 interdisciplinary literacy practices; revised standards for early literacy that denote comprehension strategies, development of schema, and increased analysis; a multidimensional approach highlighting the three dimensions of literacy; and standard K-12 progressions in addition to the grade-level view.

More than 800 people participated in the public comment period for the mathematics standards. Highlights of the proposed changes to the mathematics standards include an architecture structured to emphasize essential ideas or conceptual categories in mathematics; standards that emphasize the importance of mathematical practices; connections between content standards and practice standards where applicable; intentional alignment to numeracy trajectories; coherence to indicate the mathematics connections within and across grade levels; and better communication of expectations to teachers, parents, students, and stakeholders through examples and illustrations.

Over 1,200 people provided input during the public comment period for the social studies standards; more than 78 percent were current classroom teachers. The review process included focus groups, including practicing classroom teachers, instructional coaches, district leaders, preservice teachers, current high school students, and representatives of various Kentucky organizations.

Highlights of the proposed changes to the social studies standards include

- organizing the standards by discipline strand, grade level, inquiry practice, discipline, concepts, and practices; and
- including grade-level content standards to promote foundational learning for grades K-3, grade-level inquiry standards for grades K-12, and Kentucky studies for grades K-12.

Kentucky Community and Technical College System

The president of the Kentucky Community and Technical College System gave an overview of the system and how it has changed over time. KCTCS differs from other systems across the country because it is a single system with 16 accredited colleges, a system office, one governing board, and 16 advisory boards. Other systems are not similarly arranged, and their individual schools are not accredited in the same manner. All the schools within the system share resources and curriculum but have the ability to customize to meet local employment demands. During the decade between 1998 and 2008, there was an emphasis on improving access through building new buildings, increasing enrollment, and investing in technology and distance learning. In the next 5-year span, postsecondary education experienced increased budget cuts, and KCTCS turned its focus toward improving the number of degrees completed by students, which continues to be a focus for the system.

Approximately 40 percent of undergraduates in the commonwealth are enrolled in a KCTCS college. KCTCS also offers a majority of the certificate programs necessary to meet the midskill employment needs of the state. Despite the decline in enrollment following recent improvement of the economy, KCTCS awarded a record number of credentials in the 2016-2017 school year, an increase of 12 percent over the prior year.

KCTCS has the capacity to meet Kentucky's workforce needs but needs greater enrollment and higher completion rates in order to fully realize that goal. Regular surveys of area employers are used to determine whether graduates are meeting local needs; indications are that they do, but there are simply not enough graduates.

Thirteen new college presidents have been hired during the last 4 years, nine of whom have specializations in technical education. This situation has led to expanded programming to meet technical demands, with the creation of over 290 new programs and the removal of over 500 programs that were no longer beneficial. The advisory boards of each college in the system also incorporate input from local businesses, and over 2,000 companies are represented in advisory board membership.

The president said that KCTCS represents a significant return on investment for students and their families. According to a study performed by Economic Modeling Specialist Incorporated, for every $1 that students invest in a KCTCS education, they receive a $5.80 increase in lifetime earnings. Additionally, the state sees a return on investment of $3.40 in added taxes and public sector savings. To maintain low costs across the system, the governing board has focused on efficiency and reducing costs while still providing an excellent education.

Caverna Independent School District

Caverna Independent School District has implemented workforce development initiatives to help students and teachers reach their potential. It is a Google District, allowing for complete integration of technology into the classroom and preparation of globally competent graduates. The district strengthened its efforts to incorporate technology through the creation of hands-on STEAM (science, technology, engineering, arts, and mathematics) makerspaces and the use of 3D virtual goggles for instruction. This system allows students to work collaboratively and harnesses multiple learning styles. Caverna High School recently launched its Project Lead the Way (PLTW) initiative through the support of the Dart Foundation and is now offering a biomedical science pathway. The district has a pathway in industrial maintenance, offering electrical technician certification and maintenance mechanic certification. More than 50 students are involved in the program, which was built directly through support and recommendations from local business stakeholders. Caverna Independent has also added a culinary program, which recently began offering catering services in the community.

Glasgow Independent School District

Among Glasgow High School's student population, 71 percent receive free or reduced-price lunch and 14 percent experience homelessness, and yet U.S. News & World Report ranked it as the 7th best high school in Kentucky. It is a PLTW school and offers open enrollment in Advanced Placement (AP) courses, which is a key to the district's success. Over 80 percent of students have college aspirations, and the administration has worked hard to ensure that 100 percent of the student population can succeed after school, whether in college or in the workplace. One of the many programs that are unique to Glasgow is an internship program creating opportunities for students to work with businesses in the area. Glasgow Independent School District also offers career and technical certification programs in engineering, advanced medicine, computer science, information technology, and culinary arts.

Barren County Career and Technical Center

Barren County Schools has worked to incorporate business opportunities and educational opportunities into the programs at the new career and technical center facility. The district incorporates over 34 career pathways, PLTW, and STEAM labs throughout the elementary, middle, and high school levels. The school system has adjusted the courses provided at the career and technical center to better align with local career needs based on new thinking that there are post-high school credentials for all, but all may not be attained in a traditional college environment. There are four programs at the facility that incorporate apprenticeship opportunities: Culinary Arts, Computer Science and Information Technology, Biomedical and Health Sciences, and Engineering and Design. The school will be establishing a diesel mechanics program on the campus next year because it is such a high-demand field for the area. Approximately 55 percent of seniors graduate with dual credits, and one in five seniors earn college credit through AP coursework. Barren County Schools tries to identify students who would benefit from career and technical education and assists them in getting certifications in career pathways.

Barren County Schools also recognized that many students lacked essential skills to be successful after high school, and the district implemented a mentoring program to "build Trojans" that incorporates core values into all the classes offered at the school. The goal is to ensure that every student is life-ready upon graduation, regardless of whether the pathway is to postsecondary education or to the workforce.

Barren County Interapt Skills

The Barren County Interapt Skills program educates students by narrowing the technology skills gap in Barren County and surrounding communities and by deploying graduates into the technology workforce or higher education. The program has 36 students, ranging in age from 16 to 36, who come from diverse cultural and educational backgrounds. The students also come from various application sites from Kentucky to California. Participants primarily are learning iOS app development but will be working on web development and responsive website design. They are learning the professional skills necessary to be successful in the long term, including the ability to network on LinkedIn and other social media. Students graduate from the program as junior software engineers, a career pathway with as many as 71,000 apprenticeships available on Indeed.com. Each of those jobs has the opportunity to achieve a salary of $24 to $35 per hour. Those who choose to transition to higher education may pursue careers in cyber security, computer science, and web development.

Work Ready Skills Initiative

Prior to the implementation of projects made possible through Work Ready Skills Initiative (WRSI) grants, there was little to no training for workforce development in many parts of the state, specifically in the areas of engineering and health care services. There is an aging infrastructure to support workforce training in Kentucky, as well as a pronounced skills gap, especially for middle skills, which are those above high school diploma level and below college education level. The goal of the initiative is to bring together employers, educators, and communities across the commonwealth to create cutting-edge programs through employer-led partnerships and modernization of facilities and equipment. The General Assembly's support has been critical, specifically through the passage of 2016 Regular Session House Bill 303, which allocated $100 million in construction pool bonds for the WRSI.

Public-private partnerships have been valuable in helping to align curriculum, provide financial support, and provide physical support through the use of facilities and equipment necessary to train workers to meet demonstrated demand for jobs. Before being considered eligible, applicants are required to secure at least one private sector employer partner, one high school or secondary technical school partner, and one postsecondary institution partner, and they are encouraged to have collaborative partnerships with local elected officials, workforce development boards, and economic development agencies. Applicants also must have a minimum of 10 percent local investment match of funds. Funds from a WRSI grant can be used for construction and equipping of new facilities; renovation or upgrade of existing facilities; or the purchase of new or upgraded equipment, software, and furnishings. Operational costs are disallowed and must be carried by the project partners.

Forty projects have been awarded, with a total community investment of over $220 million, including approximately $98 million of WRSI funds and committed match funds of over $121 million. Match funds must be spent before any applicant can access WRSI funds.

Each region of Kentucky has received funding for a WRSI project. Twelve projects had used their match funds, making them eligible to draw down WRSI funds, and an additional

10 projects were already drawing on WRSI funding. Of the 25 projects with a construction component, 23 were in the construction phase, and 8 projects were nearing completion. The WRSI provides monitoring and oversight by visiting project sites monthly to assess project status, answer questions, and verify that requirements are being met.

School-Based Decision-Making Councils

Sen. John Schickel testified on the need for legislation revising school-based decision-making councils (SBDMs), including a concern that the people making decisions about schools—particularly about the allocation of funds—do not always live in the relevant taxing district. He said the current structure of SBDMs holds superintendents, who are hired by school boards, responsible for situations over which they have no authority.

The superintendent of Boone County Schools said the statutes governing school councils need revision because of differing legal interpretations over the past 20 years. This situation has driven up costs, confuses taxpayers, and causes discrepancies in textbooks and curriculum among schools within the same district.

The president and chief executive officer of the Bluegrass Institute said there is little evidence that the SBDM model is fulfilling its statutory mandate to improve student achievement. He asked what the SBDM governance model had really accomplished in terms of improved school cultures and parental involvement across the state.

A representative of Save Our Schools Kentucky and two parent representatives of SBDMs testified that school councils empower parents, teachers, and principals and provide the venue for each group to have a voice and effect change. Although school councils are not the entire solution to achievement gaps, councils put decision-making capabilities in the hands of those most closely connected with students in terms of curriculum, staffing, and budgeting.

Report of the 2018 Interim Joint Committee on Health and Welfare and Family Services

Sen. Julie Raque Adams, Co-Chair
Rep. Addia Wuchner, Co-Chair

Sen. Ralph Alvarado
Sen. Tom Buford
Sen. Danny Carroll
Sen. Julian M. Carroll
Sen. David P. Givens
Sen. Denise Harper Angel
Sen. Alice Forgy Kerr
Sen. Stephen Meredith
Sen. Reginald Thomas
Sen. Max Wise
Rep. Danny Bentley
Rep. Robert Benvenuti III
Rep. George Brown Jr.
Rep. Larry Brown
Rep. Daniel Elliott
Rep. Joni L. Jenkins
Rep. Mary Lou Marzian
Rep. Chad McCoy
Rep. Russ Meyer
Rep. Kimberly Poore Moser
Rep. Darryl T. Owens
Rep. Melinda Gibbons Prunty
Rep. Steve Riley
Rep. Attica Scott
Rep. Russell Webber

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

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Health and Welfare

Jurisdiction: Matters pertaining to human development, health, and welfare; fire prevention and protection; delivery of health services; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; children's homes; disabled persons; family welfare; aid to the blind; commitment and care of children; mental health; substance abuse; health, medical, and dental scholarships; local health units and officers; vital statistics; communicable diseases; hospitals, clinics, and long-term care facilities; health professions; physicians, osteopaths, and podiatrists; chiropractors; dentists and dental specialists; nurses; pharmacists; embalmers and funeral directors; psychologists; optometrists, ophthalmic dispensers; physical therapists; senior citizens; eliminating age discrimination; non-public-sector retirement; problems of aging; and violent acts against the elderly.

Committee Activity

The Interim Joint Committee on Health and Welfare met seven times during the 2018 Interim.

Aging Issues Resolutions

The aging-related issues addressed by 2018 House Resolution 284 and 2018 HR 283 sponsored by Rep. Wuchner were discussed by an advocate for positive aging who is a consultant on aging and community issues and by an associate professor, University of Louisville School of Medicine, Department of Pharmacology and Toxicology. Age-friendly communities feature easy access to information and resources, active community involvement, and respect and social inclusion. The "baby boomers" are the largest population of aging people, and they have a higher risk of substance abuse.

AmeriCorps

The executive director, Serve Kentucky, Cabinet for Health and Family Services, said that effective July 1, 2018, Serve Kentucky's name was changed from the Kentucky Commission on Community Volunteerism and Service. Serve Kentucky has a 15- to 25-member bipartisan board that is appointed and reappointed by the governor. He discussed the AmeriCorps grants and programs in Kentucky.

Cancer Treatment

The president and chief executive officer of Bexion Pharmaceuticals testified on clinical treatment trials with the experimental drug BXQ-350, made from a human protein that destroys cancer cells without destroying healthy cells. The University of Kentucky, University of Cincinnati, Ohio State University, and New Mexico University recruit and refer patients to Bexion for its clinical trials.

Decubitus Ulcers

Rep. John Blanton said that in the United States, approximately 2.5 million patients a year will be diagnosed with pressure ulcers, with almost 60,000 deaths and an estimated cost of almost $11 billion. A father discussed his daughter's particular case. The inspector general, Office of Inspector General (OIG), Cabinet for Health and Family Services, said that upon review of this woman's case, the OIG's surveyor found wound care and infection control deficiencies against the hospital.

External Child Fatality and Near Fatality Review Panel

Members of the External Child Fatality and Near Fatality Review Panel testified about the panel's goals and case review activities. The cases are divided between the panel's analysts and groups for panel discussion. The analyst summarizes each case and creates a timeline. Each group reviews a certain number of cases and reports back to the full panel for in-depth, comprehensive discussions of each case to see how Kentucky can do better. They discussed the 2017 panel findings and recommendations for prevention and for system and process improvements to help prevent child fatalities and near fatalities that are due to abuse and neglect.

Federal Health Benefit Exchange: Kentucky Enrollment and Call Center

The chief analytics officer, Cabinet for Health and Family Services, said that 89,569 people signed up on HealthCare.gov during the 2018 benefit year, of whom 27,598 were new consumers. Open enrollment ran from November 1, 2017, to December 15, 2017, compared to the previous enrollment period of November 1, 2016, to January 30, 2017.

HEALTH Medicaid Section 1115 Waiver

The deputy secretary, Cabinet for Health and Family Services, said that Kentucky's projected spending on expanded Medicaid over the next 5 years is $1.2 billion. Kentucky Helping to Engage and Achieve Long Term Health (HEALTH) is the new health and well-being program for certain low-income adults and their families. Enrollment of nondisabled adult and child beneficiaries was to begin in July 2018. The secretary of the Cabinet for Health and Family Services said that the key components of Kentucky HEALTH are cost sharing, deductible accounts, My Rewards accounts, the Partnering to Advance Training and Health Community Engagement Program, and employer-sponsored insurance that was to begin in 2019.

Home and Community Based Services

The acting commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, said that the cabinet hired Navigant to assess the Section 1915 Medicaid waiver programs for home and community-based services and to make recommendations for improvements. The three areas Navigant was to assess were the operational redesign, the waiver redesign, and stakeholder engagement. Navigant submitted final recommendations in August 2018.

Infectious Disease

Infectious disease epidemiologists and specialists testified on the extent and causes of the hepatitis A outbreak. They said that, although it is hard to determine the cause of the outbreak in Kentucky, homelessness, illicit drug use, and poor sanitation of drug users were contributing factors. They also testified on the rate of diagnosed human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome cases. In November 2017, the Department for Public Health detected an increase in HIV cases in the Northern Kentucky Area Development District with injecting drug use as a primary risk factor. The Northern Kentucky District Health Department, Three Rivers District Health Department, and Centers for Disease Control and Prevention (CDC) were contacted, and a cluster investigation was initiated.

Institute for Health Innovation

The Institute for Health Innovation develops pioneering solutions to health challenges facing Northern Kentucky and drives change that directly addresses urgent unmet health needs. The chief strategy officer of St. Elizabeth Healthcare, along with the vice president for health innovation and St. Elizabeth executive director of the Institute for Health Innovation at Northern Kentucky University, testified about public-private partnerships with Northern Kentucky University and the University of Kentucky.

Lyme Disease

Sen. Jimmy Higdon, the founder of the Kentucky Lyme Disease Association, and the founder's daughter testified about the need to educate the public about Lyme disease. Some people are misdiagnosed because the disease can come on very slowly and can have confusing symptoms that mimic those of other diseases, such as multiple sclerosis.

Paramedic Shortages

Representatives of the Jefferson County Suburban Fire Chiefs testified on issues creating shortages in the numbers of trained paramedics.

Pediatric Cancer Research Trust Fund

The president of the Kentucky Pediatric Cancer Research Trust Fund thanked the General Assembly for the $5 million appropriation to the trust fund in the 2018–2020 biennial budget. Scientific peer reviewers have looked at proposals and decided how the appropriation would be spent. A private donor has given a $6 million donation for other projects to run concurrently with the projects at the University of Kentucky and the University of Louisville.

The director of cancer informatics, Kentucky Cancer Registry, said that registry data showed that over 2,000 children were diagnosed with cancer in Kentucky from 2007 to 2016. A physician from Kentucky Children's Hospital, University of Kentucky, said that data from the registry show that cancer is the major cause of death from disease in young people.

Public Health Departments

The public health director of Louisville Metro Public Health and Wellness and the public health director of the Buffalo Trace District Health Department testified on the importance of having local health departments, local government agencies, and state government agencies work together to improve public health. Many opportunities for improvement are missed because of lack of cooperation.

Prevent Child Abuse Kentucky

The executive director and the director of programs and prevention services, Prevent Child Abuse Kentucky (PCAK), testified on their organization's vision to engage partners to use PCAK to end child maltreatment. PCAK's mission is to prevent the abuse and neglect of Kentucky's children. They discussed the programs and services that PCAK provides in all 120 counties, including parent education, self-help, and support services.

Substance Use Disorder Treatment for Pregnant Mothers and Babies

Officials from St. Elizabeth Healthcare testified about the Kentucky Opioid Response Effort grant the organization received to fund the Baby Steps program. In 2017, there were 525 referrals to the program. While mothers are in recovery, mothers and babies stay together. Of the mothers who go through recovery with their children, 80 percent use the Comprehensive Opioid Response with Twelve Steps.

Sullivan University College of Pharmacy and Physician Assistant Program

The dean of Sullivan University College of Pharmacy, who is also a professor, said that approximately 150 students graduate annually from the college. Between 60 percent and 70 percent of the students who enroll are from Kentucky. As part of clinical education, students are located all over Kentucky in pharmacies and clinics.

The program director of the Sullivan University Physician Assistant (PA) Program said that Sullivan received its PA accreditation in April 2018 and would have to wait 5 years to begin a satellite PA program.

Teen Suicide Prevention

After an introduction by Sen. Damon Thayer, a national youth speaker said that suicide is the number 1 killer of children and that teen suicide has become an epidemic. He discussed methods to help combat the problem.

Violence, Mental Health, and Guns: Public Health Crisis

A pediatric emergency physician, University of Louisville School of Medicine, Department of Pediatrics, Emergency Medicine, testified that firearm-related injuries and deaths have become a public health problem that affects everyone, especially since some of the injuries are preventable. A pediatric surgeon, University of Louisville School of Medicine, Department of Pediatrics, Surgery, testified that this year approximately 1,300 children will die from firearm injuries and 5,800 will be treated for firearm injuries in the United States. A child and adolescent psychiatrist, University of Louisville School of Medicine, Department of Pediatrics, Child and Adolescent Psychiatry and Psychology, testified that firearm-related deaths are the second leading cause of death, are preventable, and have become a public health crisis. A child abuse pediatrics fellow, University of Louisville School of Medicine, Department of Pediatrics, said that according to the CDC National Violent Death Reporting System, in 2013, approximately 53,000 people died of violence-related injury. An emergency medical services (EMS) provider and project director, Kentucky Emergency Medical Services for Children, Kentucky Board of Emergency Medical Services, said that the statewide database on EMS incidences indicates that in 2017, there were 51 incidences of firearm injury to children 1 to 18 years of age.

Referred Block Grant Applications

Pursuant to KRS 45.353, the committee held legislative hearings on one block grant application: the Federal Fiscal Year 2019–2021 Child Care and Development Fund Block Grant application.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee reviewed 68 administrative regulations on referral from the Legislative Research Commission under the review process established in KRS Chapter 13A.

Referred Executive Orders

Pursuant to KRS 12.028, the committee held a legislative hearing on two executive orders on referral from the Legislative Research Commission: Executive Orders 2018-325 and 2018-780, both relating to reorganization of the Cabinet for Health and Family Services.

Report of the 2018
Interim Joint Committee on Judiciary

Sen. Whitney Westerfield, Co-Chair
Rep. Joseph M. Fischer, Co-Chair

Sen. Joe Bowen
Sen. Danny Carroll
Sen. Perry Clark
Sen. Ray S. Jones II
Sen. Alice Forgy Kerr
Sen. John Schickel
Sen. Wil Schroder
Sen. Dan "Malano" Seum
Sen. Robert Stivers II
Sen. Robin L. Webb
Rep. Robert Benvenuti III
Rep. Jon Blanton
Rep. Larry Brown
Rep. McKenzie Cantrell
Rep. Jeffery Donohue
Rep. Daniel Elliott
Rep. Angie Hatton
Rep. Jeff Hoover
Rep. Joni L. Jenkins
Rep. Stan Lee
Rep. Chad McCoy
Rep. Reginald Meeks
Rep. C. Wesley Morgan
Rep. Kimberly Poore Moser
Rep. Jason Nemes
Rep. Darryl T. Owens
Rep. Jason Petrie
Rep. Brandon Reed
Rep. Kevin Sinnette
Rep. Gerald Watkins

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

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Judiciary

Jurisdiction: Matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills, and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, circuit courts, and district courts; family courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation, and retirement; clerks of courts; juries; attorneys; receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional facilities; civil rights; and juvenile matters.

Committee Activity

The Interim Joint Committee on Judiciary held six meetings during the 2018 Interim.

Expungement

Sen. Jimmy Higdon gave an update on 2016 HB 40 and explained how his SB 171 would address some of the concerns with felony expungement. Representatives of the Kentucky State Police gave an overview of the certification process. The legislative liaison of the Administrative Office of the Courts (AOC) answered questions regarding outreach efforts being made to those eligible for expungement, the method of determining eligibility for expungement, and data entry errors.

Safe Act Update

The director of the Kentucky State Police Laboratory gave an update on the number of rape kits submitted, the turnaround time for completion, the retention period for rape kits, the tracking of rape kits, and issues with retaining staff.

Uniform Fiduciary Access to Digital Assets Act

An attorney with Wyatt, Tarrant & Combs testified on the benefits of adopting the Uniform Fiduciary Access to Digital Assets Act.

eNotarization, eClosing, and eRecording

Representatives of Quicken Loans and Amrock testified on the benefits of eClosings, such as convenience and enhanced security. Representatives of the Kentucky Bankers Association and Morgan & Pottinger addressed the need for electronic recording and the benefits of adopting the Revised Uniform Law on Notarial Acts (RULONA). The assistant secretary of state spoke in favor of RULONA as a base for eNotarization legislation.

Capital Punishment

The Justice Cabinet's general counsel testified on the need for updated regulations regarding capital punishment. Commonwealth's attorneys from the 8th and 29th judicial circuits discussed their process for deciding whether a case warrants the death penalty. Opponents of the death penalty highlighted the findings of the American Bar Association's Death Penalty Assessment of Kentucky, issued in December 2011, including the number of death penalty convictions overturned on appeal and the number of those sentenced to death whose attorneys were later disbarred. In addition, opponents highlighted the expense of seeking the death penalty.

Justice and Public Safety Cabinet Update

The secretary of the Justice and Public Safety Cabinet gave an update on the prison and jail population, and offered suggestions for how Kentucky can work toward lowering these numbers. There was discussion of the cost of housing inmates, medically assisted substance abuse treatment funded by SB 192, issues in the hiring and retention of probation officers, and needed changes to SB 133. The secretary agreed to report the top five issues that the cabinet would like the committee to consider.

Criminal Defense Issues and Concerns

The public advocate testified on the difficulties of hiring and retaining employees, high caseloads, aging technology, and efforts to offer the best legal service possible. He recommended expanding the eligibility for felony expungement, automatic expungement of dismissals and acquittals, and necessary changes regarding "untouchables" (persistent felony offenders, violent offenders, and sex offenders). He discussed gross misdemeanors, reexamination of prison terms, and the benefits of the 3DaysCount movement.

The Association of Criminal Defense Lawyers' legislative agent emphasized that her organization's main concerns are the protection of the Bill of Rights, and just, fair, and workable justice reform. She also highlighted other areas of concern, such as mistaken eyewitness identifications, the need for data collection, and restoration of the proper role of corrections as rehabilitation.

Drugged Driving

Representatives of the Kentucky State Police Forensic Lab testified that the ratio of cases being tested for drugs jumped from approximately 35 percent to 72 percent. In addition, as users continue to find new drugs, the lab is testing for an ever-widening range of drugs. The lab now uses a line of processes called Pinpoint, which allows it to analyze samples more accurately and quickly. In regard to the outsourcing of testing for synthetic drugs, the director stated that only 18 percent of the cases tested positive. She noted that the cost of testing, as well as the percentage that will test positive, is considered when determining whether to add a drug to the drug screening list. It was noted that approximately 60 percent of cases include marijuana, the largest proportion of all the drug findings. Benefits versus costs of outsourcing as well as equipment dependability were discussed.

Ignition Interlock Issues

Representatives of the Department of Public Advocacy, the Kentucky Transportation Cabinet, the Administrative Office of the Courts, the Henderson County attorney, and the Hardin County attorney discussed the advantages of an ignition interlock device (IID) and the need for statutory changes to clarify the IID process.

Medical Marijuana

Rep. Nemes, Rep. Diane St. Onge, Rep. Mark Hart, and Rep. John Sims Jr. discussed the benefits of medical marijuana for patients. Rep. Nemes and Rep. St. Onge stressed that their proposed bill would not be for purposes of recreational use or revenue. They gave an overview of changes made to the bill since the 2018 Session. Testimony was given on an individual's medical condition and support of medical marijuana. Other topics discussed were the FDA's approval, the cost of the proposed medical marijuana legislation, and cost savings for patients.

Disproportionate Minority Contact

Representatives of the Administrative Office of the Courts, the Department for Community Based Services, and the Department of Juvenile Justice reviewed the disproportionate number of African American youth who receive complaints filed against them and are held in detention. Concerns such as transportation to appointments and inadequate services available for youth were mentioned. The lack of success with SB 200 among African Americans versus white youth was addressed. Changes made by the AOC in an effort to rectify some issues, as well as recommendations for future changes, were discussed. A representative of the Cabinet for Health and Family Services reported overrepresentation of African American youth in the system and listed some possible causes. Kentucky is implementing the Family First Prevention Services Act.

Updates from the Kentucky Association of Sexual Assault Programs

Representatives from the Kentucky Association of Sexual Assault Programs gave an overview of their programs, and addressed the importance of making survivors aware of these programs. A report on the number of rape kits received and processed was given, and the tracking of the kits was noted as a concern.

Survivor Bill of Rights

A representative of Rise conveyed that Rise was founded to protect the rights of survivors of sexual assault by keeping evidence from unknowingly being destroyed, by offering counseling, by having efficient rape kit procedures, and by informing survivors of their legal rights.

State of the Judiciary

The Chief Justice of the Kentucky Supreme Court gave an update on the judicial branch, outlining concerns and successes, and reported on the following:

- The Civil Justice Reform Initiative

- The Court Efficiency Committee
- Judicial redistricting
- Pretrial justice reform
- The pilot of the Pretrial Assisted Reentry and Treatment Services Program
- The Open Family Court Pilot Project
- Juvenile justice reform
- The Working Interdisciplinary Network of Guardianship Stakeholders program
- Court technology
- The audit of the Administrative Office of the Courts
- Court facility projects

Prosecutorial Issues and Concerns

The commonwealth's attorneys from the 8th and 16th judicial circuits reported on the increase in case filings, staffing issues, the success of the Rocket Docket Program, their proposed felony strangulation bill, and possible bail reform.

The Henderson County attorney, the Kenton County attorney, and the Jefferson County attorney gave an overview of their duties, the decline in funding, rising caseloads, success of traffic safety programs, low salaries, and shortage in staffing. They mentioned their outlook regarding the opioid crisis, IIDs, medical marijuana, Marsy's Law, and shared-custody guidelines.

Firearm Storage

Rep. Brown, Rep. Jim Wayne, the Jefferson County attorney, and gun safety advocates urged the passing of their gun safety legislation during the upcoming session. They said their emphasis was on gun safety, not gun control.

Hate Crime Law

Rep. Nemes and Rep. Jerry T. Miller urged the passing of their hate crime legislation during the upcoming session. The legislation would add criminal homicide and fetal homicide, as well as the attempt to commit or solicitation of those crimes, to Kentucky's hate crime law.

Report of the 2018 Interim Joint Committee on Licensing, Occupations, and Administrative Regulations

Sen. John Schickel, Co-Chair
Rep. Adam Koenig, Co-Chair

Sen. Joe Bowen	Rep. Chad McCoy
Sen. Tom Buford	Rep. Jerry T. Miller
Sen. Julian M. Carroll	Rep. C. Wesley Morgan
Sen. Denise Harper Angel	Rep. Kimberly Poore Moser
Sen. Jimmy Higdon	Rep. David Osborne
Sen. Paul Hornback	Rep. Ruth Ann Palumbo
Sen. Ray S. Jones II	Rep. Phillip Pratt
Sen. Dan "Malano" Seum	Rep. Sal Santoro
Sen. Damon Thayer	Rep. Arnold Simpson
Rep. Tom Burch	Rep. Diane St. Onge
Rep. Al Gentry	Rep. Walker Thomas
Rep. Dennis Keene	Rep. Susan Westrom

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

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Licensing, Occupations, and Administrative Regulations

Jurisdiction: Matters pertaining to professional licensing not assigned specifically to another committee; racing; prizefighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable, and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salespeople; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; trade practices.

Committee Activity

Medical Marijuana

Proponents of Medical Marijuana. Rep. St. Onge told members that she and Rep. Jason Nemes are developing legislation to legalize medical marijuana. She stressed that the bill is not a path forward for legalization of recreational marijuana and that it should not be considered a major source of tax revenue. It is intended to treat illness and people in the last stages of their lives. A portion of the tax revenue generated by the sale of medical marijuana will be distributed to the state for sustaining the administrative oversight of the program. A portion of the revenue will also be distributed to local law enforcement. The bill will remove the list of ailments that qualify for medical marijuana, leaving it to physicians' discretion.

Doctors will have to notify the Kentucky Board of Medical Licensure that they intend to make these certifications, similarly to the practice used for the Kentucky All Schedule Prescription Electronic Reporting system today. The sponsors believe that medical cannabis can help some people and that government should not stand in the way of people who are trying to help themselves or their children. The intent of this legislation is to be a solution for patients with nausea or extreme pain whose physician believes medical marijuana will help them.

Rep. Nemes said this bill will create a regulatory agency to ensure that physicians are doing their part and not overprescribing. There will be no sharing among patients. If a patient shares, sells, or otherwise violates the right to have a card, the patient will lose use of the card and could also be prosecuted. There will be no smoking in public or in public accommodations. Landlords are allowed to prohibit the growing of marijuana on property they own. There will be no "medical use" defense. If a person does not have a card and is in possession of cannabis during a traffic stop, the person is in violation of the law.

Homegrown marijuana will be limited to six plants in a regulated framework to reduce the cost, because the cost of going to a dispensary could be prohibitive. The quality of the product is also assured in a homegrown plant. If a patient self-grows from home, the plants must be inside, in a locked facility. Law enforcement will have a register of who is allowed to grow and who has a prescription or a card, but would not be able to enter a home without probable cause. Law enforcement will be allowed to enter a business that sells medical marijuana. Most states are moving to allowing homegrowing of marijuana plants for medical use.

Some of the language in the proposed legislation was supplied by the Chamber of Commerce to protect employers' liability. Based on employer guidelines, a person cannot be singled out for drug testing, nor can an employer decline to hire someone because the person has a medical marijuana card. In the hiring process, employers cannot discriminate against someone who is using medical marijuana, but they would be able to establish whether or not employees would be allowed to use medical marijuana on premises. Regulations would be established for hazardous-duty employees to prohibit their use of medical marijuana use.

In response to a question from Rep. Palumbo, Rep. Nemes said that, if the proposed bill passes, medical marijuana will be legal across the Commonwealth of Kentucky. However, if a city or county jurisdiction does not want medical marijuana businesses, it can opt out, and businesses will not be able to come to that area to grow and sell medical cannabis. There also will be no marketing that will be attractive to children, and there is a prohibition on buying across state lines.

Sen. Seum commented that several doctors have asked for this legislation. As a cancer survivor, Sen. Seum said that using conventional medication does not relieve nausea. Rep. Miller commented that, in a survey of his constituents, 84 percent were in favor of medical marijuana. Sen. Schickel encouraged Rep. Nemes and Rep. St. Onge to file a bill so that the committee would have a document to review.

In response to a question from Sen. Thayer, Rep. Nemes said that cannabidiol (CBD) oil from hemp can be used for some maladies, but not all. The full effect of the marijuana plant is helpful in ways that the CBD oil derived from a hemp plant is not. A doctor will decide which method will best suit the patient.

The executive director of Kentuckians for Medicinal Marijuana said many Kentuckians have been affected by cancer and have consumed cannabis to help with the side effects of chemotherapy. There is an ongoing debate as to which is more beneficial, oil or flower. Having access to the flower allows use of cannabis in any form. Many states permit only cannabis oil, which patients do not often use because of expense and lack of insurance coverage. Also, in most cases the exact product used in a pill or oil form is unknown. CBD oil was legalized in 2014. However, people consuming this legal product are testing positive for marijuana product and are losing jobs and even child custody.

Nationally, there are 16,000 arrests per year for marijuana possession. However, there has not been a single recorded death from marijuana use. In response to a question from Rep. Moser, the executive director said that, because a prescription would put a doctor's Drug Enforcement Administration license at risk, physicians make a recommendation. Cannabis is a botanical, not a factory-produced pill, and there are too many variables that can happen to a botanical for the FDA to approval of qualifying conditions. The flower is the weakest form of cannabis. The oil is the concentrated form, and it takes many flowers to produce even a small vial for use.

A partner of Herbal Healing said other states use Marijuana Enforcement Tracking Reporting Compliance to track medical marijuana. Each plant is tagged, and the tag stays with the plant throughout its life cycle. The tags have a radio frequency chip so that when authorities wand a room, the plants' identification information appears on a screen. This technology automates the inventory in each room where plants are kept or processed. After the plant is harvested from its stalk, the plant tag becomes a package tag. When the product is transferred to another company, a manifest goes with the package. Also, a list of ingredients is on each package, as well as an estimate of the onset of action, which lets the patient know the approximate window for feeling the effect of what has been ingested.

Opponents to Medical Marijuana. The president of Smart Approaches to Marijuana (SAM) said that SAM is not about criminalizing users or denying medicine for people, but that science, not politics, should determine medicine. There are separate issues, often conflated, in the legalization of marijuana. The plant is highly complex, with hundreds of components. Science has revealed a few uses of these components, but little is known about most components of the plant. All the questions about medical marijuana are difficult to answer. Opium is not smoked to get the effects of morphine. Willow bark is not chewed to get the effects of aspirin. He questioned why there is a need for whole-plant-based applications for marijuana.

There is some promise in the medical potential of the components of marijuana, but claims are being made outside the bounds of science. Some groups are trying to sell CBD drugs without going through the Food and Drug Administration (FDA) process. Those drugs have no safety assurances. Random testing of approximately two dozen CBD products sold on Amazon and other online venues show that some do not contain the CBD that the label claimed. Rather, these products contained tetrahydrocannabinol (THC), heavy metal, mold, pesticides, and bacteria.

There are marijuana-based medications that have passed FDA muster. There are also many groups researching the benefits of marijuana for medical use. There could and should be exceptions made for people who have terminal illnesses, but they are a very limited subset. Marijuana is a schedule one drug. The FDA recently performed an exhaustive analysis of the scheduling of marijuana, with no input from the Department of Justice. This review found no basis to reschedule the marijuana plant. However, the president of SAM said he is a proponent of expanding research to make it easier for researchers to study the plant.

There is a mistaken idea that there is a difference between medical and recreational marijuana. In Colorado, after marijuana was legalized, stores put up a curtain to separate identical inventories. Surveys reveal that the average user of medical marijuana is an otherwise healthy male, usually young, with no history of life-threatening disease. When a state legalizes marijuana, there is a cycle beginning with medical marijuana. Home growing gives cover for the black market. Legalization increases supply and lowers the price, and the black market undercuts the legal price and thereby thrives. There are more locations as a result of legalization of medical marijuana. This situation leads to acceptance of marijuana, and then recreational marijuana is made legal.

Legalization also leads to issues such as crime and use by youth. There are also many regulatory failures because of cartels that use a license to cover for other operations. There are companies that promise seed-to-sale tracking of plants, but there are worrisome loopholes in this business. Law enforcement is constantly devoting resources to prevent sales to minors. Edibles are increasing because of the decline of smoking. Top researchers have debunked the theory that, if marijuana is legalized, opioid use will decrease. The president of SAM said marijuana should not be legalized. If it is legalized, however, Louisiana and perhaps New York and New Jersey provide more successful models of legalization.

The president of the Kentucky Society of Addiction Medicine said there need to be safeguards in all jurisdictions where marijuana has been legalized or may be legalized. The society does not support the legalization of marijuana and recommends caution on the part of jurisdictions that have not yet legalized it. The society does support research monitored by safety regulations through FDA research, but its position on cannabis-based products is that they are outside the normal practice of modern medicine and should be subject to the same efficacy and safety standards applicable to all other prescription medications. The society rejects smoking as a way of drug delivery. Cannabinoid receptors one and two were discovered less than 20 years ago. Research and development of drugs takes a long time. The policy regarding the legalization of hemp as an agricultural product should not be confused with the legalization of marijuana.

In response to a question from Rep. Moser about testing individuals for their level of marijuana intoxication, the president of SAM said tests are in development. The body does not metabolize THC in the same manner as alcohol, however, and different people react in different ways, making impairment difficult to prove. An employee testing positive for marijuana can say he or she was not high on the job because the THC in marijuana is fat soluble and stays in the system longer than alcohol does. There are regular lawsuits, either by employees who feel they have been discriminated against or by employers who claim there is damage to their business, as a result of drug use, often with marijuana.

Legalized Gambling

Sports Betting. The director of government affairs for Global Market Advisors (GMA) said that in May the Supreme Court ruled in *Murphy vs. NCAA* that the Professional and Amateur Sports Protection Act is unconstitutional. That ruling removed federal restrictions on sports betting and left the regulation of sports betting to the states. Currently, 30 states are having active discussions about how to implement sports betting. Some states will use casinos to manage sports wagering; others may use lotteries. Racetracks will also be considered as gaming outlets.

Pennsylvania just approved two licenses for sports betting. In West Virginia, the lottery is the controlling interest, and licenses are obtained through four casino facilities. Sports betting is a high-volume, low-margin business, so the lower the tax rate, the better the operator’s ability to compete with illegal bookies and the market off-shore. A strong regulatory market is also needed, allowing legal operators to operate, but controlling illegal operators.

Most of the major sports leagues have been advocating an “integrity fee,” which would be an additional 1 percent of handle. However, many expect that the sports leagues will see an increase in profits due to revenues from increased TV fees, fan engagement, and sponsorships. There is little support for an integrity fee. GMA estimates a potential handle of up to $138 billion nationally, depending on convenience and availability. Factors affecting revenue include the convenience of mobile betting, which is key to competing with illegal bookies. Another consideration is offering “in play” wagering—bets that are made during a live game, such as what the halftime score will be, or other in-game statistics along the way. Another consideration is betting on college/amateur or e-sports. E-sports are organized, multiplayer video game competitions. Another consideration is making sure that customers know that they are gaming in a secure environment.

The president of the Kentucky Lottery Commission (KLC) said Kentucky will have to decide where sport wagering will be available, what the license fees will be, whether licensing fees will be one-time fees or annual fees, whether collegiate sports will be included, what the tax rate will be, who will oversee and operate sports wagering, and whether the tax rate will be on gross or net gaming revenue. The KLC has estimated that the revenue from these taxes could be $6.7 million to $26 million. Delaware, Rhode Island, and West Virginia offer sports wagering through the lottery. Mississippi has a gaming commission that is within its lottery. Globally, lotteries regulate 70 percent of sports wagering.

The vice president, sports betting, for International Game Tech said sports betting is an extremely complex data-intensive activity. It involves investing hundreds of millions of dollars in technology, in people, and in infrastructure. The integrity fees that the sports leagues are seeking are just a money grab, and integrity is served by having a good regulatory system.

The vice president of business development for Scientific Games said considering the lottery to manage sports betting is not paving new ground. A total of 65 countries have legalized sports betting, with 70 percent of the betting going through organizations that are managed by a lottery. Kentucky retailers are widely positioned across the state. They have fully regulated, age-controlled environments. Delaware's lottery is good model for lottery-based sports wagering. Spending on the lottery is a discretionary dollar to begin with, so any other type of competition potentially takes away from that dollar. Sports betting probably would take money away from the lottery. The KLC will work hard to keep those dollars. To the lottery's advantage, there are online products and mobile apps, which are important to the younger consumer.

Equilottery Games. The chief executive officer of Equilottery Games said he began with the idea of lottery games based on the results of live horse racing. That idea has grown to the game called Win Place Show, due to launch in March 2019 through the lottery. A Win Place Show player will purchase a $2 ticket, which features three horse numbers and names, along with corresponding race track information. A random number generator quick-picks the horses. Each ticket has a QR code to download a mobile app to watch races. Stores have been recruited in Louisville, Lexington, and northern Kentucky to test the game. Other live sports games—Baseball Bucks, Golfing for Gold, and Car Cash—are built on the same platform as Win Place Show. Equilottery envisions four categories in the future: draw games, instant-play scratch-off tickets, keno, and virtual sports/live sports. A percentage of the money goes to the league or content provider for licensing, but also for cross promotions. The payout depends on the number of matches per ticket.

Poker Alliance. The president of Poker Alliance said his organization's mission is to promote a safe, well-regulated environment for the sport of poker. Online gaming already exists in Kentucky. Thousands are playing online games that are unlicensed, with no consumer protection. Kentucky allows residents to wager over the internet on horse races. The Kentucky Lottery also offers games online. Poker Alliance is asking for the same protections for those who would like to play poker online in a safe environment. It views the state of New Jersey as an excellent example of how regulation works well for both the consumer and the state. New Jersey reported revenue in August of approximately $18.9 million. When asked whether poker is a game of skill or a game of chance, he said it is a game of skill that requires great mathematical ability to calculate odds. There is no doubt that poker is a game of tremendous skill.

Impact of the Horse Racing Industry in Kentucky. The executive vice president of the Kentucky Equine Education Project (KEEP) said KEEP advocates for issues that affect the Kentucky horse industry. There are $23.4 billion of horse industry assets in Kentucky. Horse racing brings in $1.6 billion annually, and it has a ripple effect of $2.7 billion in hay, feed, and other supplies. The industry also brings in $5.2 billion of tourism money every year. As an example, American Pharoah generates $2.7 million in taxes from his stud fees. The industry employs 44,000 workers and supports 64,000 indirect jobs. It is the number 1 impact on Kentucky's economy.

KEEP is working to implement the Kentucky Chamber of Commerce Talent Pipeline, a program made possible by a grant from the US Chamber of Commerce that aims to develop workers for key industries in each state. The Kentucky chamber has agreed to make the equine industry one of those targeted industries. The first step of the program is to organize employer collaboratives for farms, trainers, sales personnel, consigners, and veterinarians. The complete rollout of the pipeline will occur from 2018 to 2020.

The chief development officer for Exacta Systems said historical horse racing (HHR) was the horse industry's response to the loss of profits to casino gaming. HHR has helped increase the Breeder Incentive Fund from $3 million to $9 million, and it represents 11 percent to 12 percent of all horse race wagering. The executive director of the Kentucky Thoroughbred Association added that the impact of HHR is seen in the increase of the payout to Kentucky-bred horses from 78 percent in 2010 to 87.4 percent in 2017. Kentucky is third in the pari-mutuel handle in horse racing. The handle has contracted in many states, but it continues to rise in Kentucky. (On October 24, the Franklin Circuit Court upheld the legality of historical horse racing, finding that the form of electronic gaming is pari-mutuel in nature and permitted under Kentucky law.) Under existing regulations, the HHR race must meet certain parameters. It has to have taken place at a licensed US racetrack with 10-horse fields and must have ended with an official order in which horses crossed the finish line.

The executive director of Horse Country Inc. said it is a member-based organization that promotes the equine industry through tourism activities at member locations. The organization began in 2014 and now has 39 members. The goal is to inspire a love for the animal and for Kentucky. The company has sold 86,000 tickets for a revenue of $2 million. Thirty percent of the guests are from Kentucky; 70 percent are from outside the state. An out-of-state visitor typically spends 2 to 6 days in the state.

Charitable Gaming. Rep. Chad McCoy said he intends to prefile a bill to help veterans groups resolve an issue relating to pull tabs. To raise money, veterans groups use charitable gaming, including pull tabs, but the General Assembly passed a bill that inadvertently restricts the frequency of using pull tabs. Rep. McCoy's bill will resolve this problem. The Charitable Gaming Commission agrees with the change.

Licensing

Federal Grant Concerning Licensing Requirements for Veterans. The chief of staff for the Department for Local Government said his department had secured two grants to study licensing in the state. The department has four goals:

- Understand how Kentucky licenses professions and occupations, and whether the model works.
- Make licensing boards more efficient.
- Remove impediments for veterans, legal immigrants, the chronically unemployed, and people with criminal records.
- Increase the portability of licenses with other states.

The vice president of the Kentucky Science and Technology Corporation (KSTC) said his organization works to match local businesses with federal contracts. It aims to use the new Veteran Accelerated Learning for Licensed Occupations grant to target veterans. KSTC has partnered with community colleges, the University of Louisville, and the Kentucky Commission on Military Affairs, and it chose 35 licensed occupations to research, in order to better understand gaps between these licensed occupations and veterans returning from service.

SB 183 (Kerr) — *An Act relating to cosmetic services.* Current law requires cosmetologists, nail technicians, and estheticians to practice in licensed salons. If they have a client who has become homebound, they are not permitted to go to that person to render a service. Mobile units would make it possible to service those who homebound. A mobile unit would not differ from a mobile dental clinic or a mobile massage unit, which are already authorized. All have equal or higher sanitation standards and inspections, and all are legal in Kentucky. There are 30 states that allow mobile salons. The administrator for the Kentucky Board of Hairdressers and Cosmetologists said the board fundamentally opposes this legislation. She understands the need to serve infirm individuals, but this legislation will put the public at risk with regard to safety and infection control. The proposed scheduling of inspections would defeat the purpose of surprise inspections.

HB 601 (Fischer) — *An Act relating to the disposition of human remains.* Rep. Joe Fischer said that, under his bill, funeral directors would have the option to inter ashes if cremated human remains are unclaimed for 2 years. If they choose to inter, they could deliver the remains to a bona fide religious society, veterans' organization, or civic group to allow for a proper burial. Funeral directors would be required to keep records for 10 years pertaining to the disposition or transfer. This bill regards only cremated remains and not bodies. The Kentucky Funeral Directors Association has no objection to the legislation. Rep. Simpson said there should be language requiring that, if an address is known, the funeral director must notify the family that remains are available to be picked up.

Interstate Medical Licensure Compact. Sen. Ralph Alvarado, sponsor of SB 153 from the 2018 Regular Session, said it is a straightforward bill addressing interstate medical licensure. The compact is a legal agreement among states, addressing the licensing of physicians in multiple states. It expedites the ability of high-quality doctors from other states to come to Kentucky, or for Kentucky physicians to practice in other states. 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. Currently, 24 states and one territory are members of the compact. Five others, including Kentucky, have introduced legislation. Sen. Alvarado will introduce a bill again in 2019. The Kentucky Board of Medical Licensure and the Kentucky Hospital Association agree with the current language. The bill is especially important for rural hospitals that lack access to specialists and need telehealth services from doctors in specialized practices.

Kentucky Board of Embalmers and Funeral Directors. The chairman of the Kentucky Board of Embalmers and Funeral Directors said it would like to create a license allowing transport of bodies by someone with training in blood-borne pathogens. The transport license will be a relief for smaller funeral homes that are currently restricted because licensees must be on the premises when there is a funeral. If there were a call to pick up a body at certain times, leaving the funeral home unattended would violate the law. This new license will allow for trained individuals to be available to the funeral directors to make the transport run. This legislation will not affect coroners.

Kentucky Distillers' Association. A representative from the Kentucky Distillers' Association said top priorities for the upcoming session include legislation to bolster the ignition interlock device, stronger laws on fake IDs, and expansion of the DUI court to mirror the one in Jefferson County. He added that this industry is the most heavily taxed in the state. During this legislative session, the association will address the business-to-business tax, asking to be exempted from this double taxation. It 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.

If a distillery wants to locate in a dry territory, the territory must have a local option to vote a precinct wet. Becoming wet allows for sampling and sale of the product in that precinct. The pertinent provision, however, will sunset in 2019, and the association will ask that it be made permanent in the statutes. Additionally, the association wants to clarify the statutes allowing distilleries to outsource packaging, and it would like for Kentucky to become reciprocal with other states in order to ship spirits.

SB 207 (Meredith) — *An Act relating to causes of actions for building code violations*. Representatives of the Home Builders Association of Kentucky said that KRS 198B.130 provides incentive for litigation rather than reconciliation or remediation, because it allows attorney fees to be added to a monetary award. Eliminating the recovery of attorney fees in suits when a licensed inspector issues a certificate of occupancy will incentivize builders to have inspections performed during construction, giving a reasonable assurance that the home meets or exceeds consensus-based standards. In rural areas that do not adopt the building code and do not issue a certificate of occupancy, people would not be required to pay attorney fees required from people in areas that have inspections. Approximately one-third of the counties in Kentucky do not have code enforcement inspectors to issue final occupancy certificates.

Kentucky Real Estate Commission. The Kentucky Real Estate Commission proposed changes to the licensing statutes that would extend the life of a license from 1 year to 2 and would raise the continuing education requirements for renewal from 6 hours to 12, in keeping with the increased length of the license period. The proposal would authorize the commission to establish fees and fines through administrative regulations, with a maximum amount set in statute.

Board of Auctioneers. The Board of Auctioneers proposed new legislation similar to HB 368 from the 2018 session. The proposal would define *escrow account*; would stipulate that *auction house* means a physical location, not an internet auction platform; and would authorize the board to waive the high school diploma requirement for applicants. It would also establish conditions for license suspension or revocation and would require licensees to submit requested documentation to the board within 30 days.

Mechanical Systems. Rep. DJ Johnson introduced a measure to eliminate certain requirements for heating, ventilation, and air conditioning (HVAC) license examinations and to allow a licensed mechanical engineer with 2 years' experience to satisfy the experience requirement for a master HVAC contractor. The measure would also allow an applicant for an HVAC inspector's position to become certified after being hired.

Alcohol-Related Issues

Small Farm Wineries. The Kentucky Winery Association presented its priorities for the 2019 legislative agenda, including increasing the production cap for small farm wineries from 100,000 to 500,000 gallons. The association would also like clarification on KRS 243.884; clarification on the wholesale tax exemption; an extension of Sunday sales hours to allow opening at 11:00 a.m.; and, for wineries that sell less than 50,000 gallons, authorization to self-distribute wine. The association would like to dedicate 5 percent of the wholesale/excise tax on wine to fund wine-based agricultural programs in the state.

Alcohol in Dry Territories. Rep. Meredith spoke on the need to clarify existing statutes relating to individuals' rights to consume alcoholic beverages in their own homes in dry territory. He said that there is some concern about people's ability to consume alcohol and serve it to guests on their property in dry territory, and that he did not think the original intent of the statutes should have led to such concern.

Shipping Wine. Sen. Max Wise introduced a proposal to allow a new license for direct shipping of wine. It would allow customers to order wine without an in-person sale, and it would allow shipment direct to the customer's residence.

Administrative Regulations

Proposed Administrative Regulation 201 KAR 012:280

The administrator for the Kentucky Board of Cosmetology said this regulation sets parameters for safe practice in the esthetics industry. It adds more training for basic exfoliation during dermaplaning and requires physician oversight for advanced practices. Rep. Miller said he has a constituent who was concerned about the language of the original amendment to the regulation. Rep. Miller met with people in the industry. All parties are happy with the new amendment.

Public Protection Cabinet Regulations

The Office of Legal Services, Public Protection Cabinet, said HB 443 passed in the 2017 General Assembly session, creating the Kentucky Real Estate Authority in the Public Protection Cabinet. This development brought together four boards governing all the licensees that are central to real estate transactions, including the Board of Auctioneers. It was discovered that the Board of Auctioneers had failed to properly incorporate some fees within regulations. Therefore, fees are not being increased within the amended regulations, but the regulation is being amended to reflect fees that are already being charged.

Report of the 2018
Interim Joint Committee on Local Government

Sen. Joe Bowen, Co-Chair
Rep. Rob Rothenburger, Co-Chair

Sen. Ralph Alvarado
Sen. Denise Harper Angel
Sen. Stan Humphries
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. Dorsey Ridley
Sen. Albert Robinson
Sen. Wil Schroder
Sen. Dan “Malano” Seum
Sen. Damon Thayer
Rep. Danny Bentley
Rep. George Brown Jr.
Rep. Ken Fleming
Rep. Kelly Flood
Rep. DJ Johnson
Rep. Kim King
Rep. Adam Koenig
Rep. Stan Lee
Rep. Michael Meredith
Rep. Jerry T. Miller
Rep. Robby Mills
Rep. Phil Moffett
Rep. Steve Riggs
Rep. Attica Scott
Rep. Arnold Simpson
Rep. John Sims Jr.
Rep. Kevin Sinnette

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

Presented to the
Legislative Research Commission
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2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Local Government

Jurisdiction: Matters pertaining to the officers, organization, government, and financing of county and city governments; city- and county-imposed taxes and licenses; special purpose assessment and taxing districts within a city; financing of local government improvements; issuance of bonds for county, city, and special district projects; local government and special district indebtedness generally; compensation of county and city officers and employees; the imposition of duties and costs on local governments; interlocal government cooperation and consolidation of services; local government employees, civil service, and retirement; powers, duties, and composition of fiscal courts and municipal legislative bodies; offices of county judge/executive, magistrate, county attorney, sheriff, constable, jailer, coroner, surveyor, and county clerk; forms of local government; incorporation and classification of cities; housing projects; manufactured housing; urban renewal and redevelopment; planning and zoning; annexation of territory; public works; parks and playgrounds; police and fire departments and their retirement systems; county roads; city streets and sidewalks; local government utilities and waterworks; acquisition of waterworks and water districts by local governments; sewers; metropolitan sewer and sanitation districts; public road districts; water districts; fire protection districts; drainage districts and local flood control and water usage; local air pollution control districts; urban service districts; library districts; city and county libraries; and special districts not assigned to another committee.

Committee Activity

New Active Shooter Training for First Responders

The curriculum coordinator of the Kentucky Fire Commission noted the work of a task force that was formed earlier in the year to look at what steps could be taken in light of active shooter events and other hostile events. The task force recommended development of a hands-on, tactical course that builds on current National Fire Protection Association best practices.

Community Paramedicine Program

The executive director of the Kentucky Board of Emergency Medical Services (EMS) noted that the seven-county pilot initiative of the Community Paramedic Program

- expands the role of EMS to correctly navigate low-acuity patients (super users) away from using urgent resources,
- engages in proactive efforts to improve community health and wellness, and
- provides continued care for an acute event to prevent unnecessary readmission to inpatient facilities.

Kentucky Mesonet

The director of the Kentucky Mesonet provided an overview of the system, a dense network of automated weather stations. It is recognized as the official source of climatological observations for the state, and it receives federal funding via the National Weather Service. The director discussed the stations' site selection protocols, components, maintenance, and utility for local, state, and federal purposes.

Operation of Enhanced Jail Programs and Related Potential State Considerations

Sen. Jimmy Higdon, the secretary of the Public Protection Cabinet, the president and vice president of the Kentucky Jailers Association, and the Marion County jailer discussed the operation of enhanced jail programs that provide services relating to substance abuse recovery and related social and reintegration services, as well as GED attainment. The idea of performance-based funding for jails that offer enhanced services was mentioned, as jails do incur costs in hosting those programs.

NextGen 911 Services and 2016 HB 585 Update

The executive director of the Kentucky Office of Homeland Security (KOHS), who is also the chair of the commonwealth's 911 Service Board, and the deputy executive director of KOHS discussed the importance of the Geographic Information System and other data-based information (such as texts, photographs, and video) in cellular services' integration in 911 emergency services. They discussed federal grants, the operations of the 911 Services Board, the interoperability of call centers, and the effects of 2016 HB 585 relating to collecting 911 fees from prepaid cellular customers.

FirstNet Program Implementation From AT&T

The field operations director for the First Responder Network Authority, and the principal consultant for AT&T's FirstNet Program told the committee that the FirstNet Program is an independent federal agency charged with deploying a public safety broadband network that will prioritize identified emergency services cellular communications in times of emergency, and at other times, ensuring successful communications. They discussed the history and implementation of the physical network.

Firefighter Post-Traumatic Stress Disorder

The president of the Kentucky Professional Firefighters Association, a representative of the International Association of Fire Fighters Advisory Committee for the Center of Excellence for Behavioral Health Treatment and Recovery, a therapist with Bluegrass Family Therapy, and a private citizen discussed post-traumatic stress disorder (PTSD) experienced by firefighters, with a policy objective of having PTSD included presumptively under workers' compensation benefits. The discussion included citations of research, a description of the presentation of PTSD in firefighters, a review of evidence-based treatment strategies, a summary of impediments to treatment, and an account of a personal effect of PTSD on a firefighter and his family.

KLC Legislative Platform for the 2019 Session of the General Assembly

The deputy executive director, president, and first vice president of the Kentucky League of Cities (KLC) outlined KLC's legislative platform for the 2019 Regular Session of the General Assembly. These are some of the primary platform items that have been discussed:

- Separating the governance and administration of the County Employees Retirement System from the Kentucky Retirement System
- Modernizing the Road Fund tax
- Expanding consumer-based restaurant revenue options to all cities
- Protecting the occupational license tax credit
- Amending the Constitution of Kentucky to allow cities to levy local sales taxes
- Taking a proactive stance on substance abuse
- Eliminating certain inequities among city governments based on population as well as those grandfathered in during the recent classification reform effort
- Receiving tools to deal with the enforcement and rehabilitation of dangerous, blighted, and abandoned properties
- Modernization of requirements for publication of notices in newspapers
- Allowing additional investment options for city governments
- Eliminating the peace officer powers of constables absent certified training and fiscal court approval
- Changing the certification process of paramedics and emergency medical technicians in order to improve the hiring of qualified candidates

KACo Legislative Platform for the 2019 Session of the General Assembly

The president of the Kentucky Association of Counties (KACo), the president of the Kentucky Association of Circuit Court Clerks, the co-chair of the Kentucky Commonwealth Attorneys Association, the legislative chair of the Kentucky Coroners Association, the president-elect of the Kentucky County Clerks Association, the legislative chair of the Kentucky County Judge/Executive Association, the Oldham County jailer, the president of the Kentucky Magistrates and Commissioners Association, the Russell County property valuation administrator, the executive director of the Kentucky Property Valuation Administrators Association, and the president of the Kentucky Sheriffs Association presented the legislative platform of KACo and its affiliates for the 2019 Session of the General Assembly. These are some of the primary platform items that have been discussed:

- KACo
    - Reforming transportation infrastructure funding
    - Reforming tax laws for local governments
- Kentucky Association of Circuit Court Clerks
    - Amending drivers' license laws to allow reprint of license or ID cards for persons medically unable to go to the clerks' offices or for those who have lost their license or ID card
    - Reinstating drivers' licenses renewal notification
    - Increasing jury duty pay
- Kentucky Commonwealth Attorneys Association

- Opposing any medical cannabis legislation that is judged to have deleterious effects
    - Making strangulation a felony under specific circumstances
    - Monitoring criminal justice reform bills
- Kentucky Coroners Association
    - Introducing legislation that will regulate the removal, storage, and disposal of prescription drugs coming into the coroner's possession during the course of the coroner's duties
    - Use of volunteer deputy coroners
- Kentucky County Attorneys Association
    - Monitoring any criminal justice reform legislation
    - Tracking and advising on any public pension reform legislation
    - Supporting local control for the collection of child support
- Kentucky County Clerks Association
    - Supporting e-recording legislation
    - Supporting transportation infrastructure legislation
    - Supporting specific voter registration legislation
    - Proposing legislation dealing with the recruitment and retention of election officers
- Kentucky County Judge/Executive Association
    - Increasing funding for transportation infrastructure needs
    - Separating the County Employees Retirement System from the Kentucky Retirement Systems
    - Supporting criminal justice reform efforts, including no money bail
    - Supporting KACo-led tax reform efforts
- Kentucky Jailers Association
    - Increasing the per diem for housing state inmates in county jails
    - Supporting comprehensive bail reforms
- Kentucky Magistrates and Commissioners Association
    - Supporting county jail correction funding models and costs
    - Supporting legislation proposed by the Kentucky Infrastructure Coalition for transportation infrastructure funding
    - Supporting local tax reform efforts, specifically with regard to the occupational tax
- Kentucky Property Valuation Administrators Association
    - Disallowing assessments of big-box retailers' property taxes on the dark store tax theory through legislation
    - Taxing watercraft fairly and equitably
- Kentucky Sheriff's Association
    - Supporting comprehensive changes to the sheriffs' fee structure
    - Coordinating state auditing methods with federal methods to better take advantage of state-allowed streamlined auditing allowances that recently became law
    - Streamlining and expediting the rehiring of retired peace officers relative to the retirement systems

Discussion of Prefiled Legislation: 2019 BR 12

Rep. Miller and Rep. Riggs discussed 2019 BR 12, which was prefiled and deals with local government investment options.

Discussion of Special Purpose Government Entity Reports

The Department for Local Government Cities and Special Districts Branch Manager and other staff of the Department for Local Government presented the annual report required by KRS 65A.020 dealing with special purpose governmental entity fiscal and administrative reporting compliance in conformity with KRS Chapter 65A. The legislative director and a staff member of the Kentucky Fire Commission presented the annual report, required by KRS 95A.055, on the fiscal and administrative reporting compliance of fire departments that are required to be registered with the fire commission for annual reports in lieu of registration with the Department for Local Government pursuant to KRS Chapter 65A.

Administrative Regulations Review

The committee reviewed the following administrative regulations:

- 815 KAR 7:110, criteria for expanded local jurisdiction related to building code enforcement
- 815 KAR 7:120, Kentucky Building Code
- 815 KAR 7:125, Kentucky Residential Code
- 815 KAR 8:011, repeal of 815 KAR 8:007 and 815 KAR 8:045 relating to heating, ventilation and air conditioning (HVAC)
- 815 KAR 8:070, HVAC installation permits
- 815 KAR 8:080, HVAC inspections and tests
- 815 KAR 8:100, criteria for local jurisdiction HVAC programs

Report of the 2018
Interim Joint Committee on Natural Resources and Energy

Sen. Jared Carpenter, Co-Chair
Rep. Jim Gooch, Jr., Co-Chair

Sen. C.B. Embry Jr.
Sen. Ernie Harris
Sen. Paul Hornback
Sen. Ray S. Jones II
Sen. Chistian McDaniel
Sen. John Schickel
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Rep. Robby Mills
Rep. Rick G. Nelson
Rep. Jim Stewart III
Rep. Jim Wayne
Rep. Jill York

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

Presented to the
Legislative Research Commission
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2019 Regular Session of the
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Interim Joint Committee on Natural Resources and Energy

Jurisdiction: Matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas, and salt water wells; state and national parks; drainage districts; water pollution; noise pollution; air pollution; management of waste; protection of the environment; Energy and Environment Cabinet; privately owned public utilities; rates, permits, and certifications of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development; energy waste disposal; the Public Service Commission; solar and other renewable energy; hydroelectric and thermonuclear energy; and gasohol and other alternative fuels.

Committee Activity

The Interim Joint Committee on Natural Resources and Energy held six meetings between June 1 and December 1 of the 2018 Interim, with plans to hold an additional meeting in December to discuss transparency in electricity markets. No subcommittees were authorized. The committee considered a wide range of topics during the 2018 Interim, including electric utility generating capacity and plant retirements, the brownfield redevelopment program, water and wastewater infrastructure needs, wildlife diseases and herd management, economic development opportunities with alternative coal uses, and the proposed Affordable Clean Energy Rule of the US Environmental Protection Agency (EPA). The committee approved the Low Income Home Energy Assistance Program (LIHEAP) block grant application for the 2019 fiscal year. The committee held out-of-town meetings at the Miller-Welch Wildlife Management Area in Berea to discuss fish and wildlife issues, and at the Owensboro Grain Company to discuss the planned nearby construction of a direct coal hydrogenation plant. The Owensboro meeting was a joint meeting with the Interim Joint Committee on Transportation.

Electric Utility Generating Capacity and Plant Retirements

Update from the Public Service Commission. The executive director of the Public Service Commission, which regulates all electric cooperatives and investor-owned utilities in the commonwealth, testified that 12 coal-fired electric generating units (EGUs) and one natural gas-fired EGU have closed since 2013, and one of the coal units has been converted into a natural gas EGU. Cane Run Station closed three coal EGUs and opened a new natural gas combined-cycle EGU. The average retired EGU was 54 years old. There are five more planned retirements of coal-fired EGUs. The reasons for retirements were low natural gas prices, age, efficiency, emission rules, and declining demand. In 2016, 83 percent of electricity was generated by coal, and 10 percent was generated by natural gas. In 2018, all investor-owned utilities have excess electric generating capacity greater than 20 percent.

Environmentally Contaminated Property Redevelopment

Superfund Program. Officials from the Energy and Environment Cabinet (EEC) gave an update on the programs it administers to clean up and redevelop properties contaminated by hazardous and nonhazardous waste. The state's Superfund Program, instituted under the federal Comprehensive Environmental Response, Compensation, and Liability Act, deals with the hazardous-waste sites that offer the greatest challenges for cleanup. Most of the sites do not have a viable responsible party, so EEC is authorized to take action necessary to protect human life and the environment by taking the lead on cleanup. The program has conducted a review of the site list to prioritize actions to identify waste sites with the greatest potential risks.

Brownfield Redevelopment Program. The Brownfield Redevelopment Program was created by the General Assembly to allow more flexibility in the redevelopment process for properties that were having legal, financial, or technical difficulties under federally created redevelopment programs. The Brownfield Redevelopment Program allows parties who did not cause contamination at a site to purchase the property without assuming the cleanup liability, while still holding the responsible parties accountable. The objective of the program is to provide a process for a site purchaser to receive a Notice of Concurrence from EEC that the site purchaser is not responsible or liable for contamination.

Underground Storage Tank Program. Funded by a portion of the state gasoline and special fuels tax, the Underground Storage Tank Program has recently significantly reduced the number of backlogged cleanup sites. The program has also reduced cleanup time and costs, which has allowed for quicker redevelopment of properties. Because many of the sites had been gas stations, they are in prime redevelopment locations in cities throughout the commonwealth.

Kentucky Solid Waste Program. This program governs the handling of waste that does not meet the definition of hazardous waste. Previously, cities and counties operated their own landfills and dumps, but federal regulation forced those facilities to close in 1992. Kentucky now has 30 permitted regional municipal contained landfills.

Kentucky PRIDE Program. The Kentucky Personal Responsibility in a Desirable Environment Program (PRIDE) generates $11 million annually for historic landfill and litter cleanup through a fee of $1.75 per ton on solid waste disposed of in the commonwealth. EEC is evaluating whether a reallocation and increase in the PRIDE fee will address increased remediation needs and redevelopment opportunities.

Abandoned Well Plugging. The Division of Oil and Gas operates a well-plugging program to address the nearly 14,000 abandoned wells in Kentucky. Wells are prioritized for closure based on environmental or safety impact. Funding for the program is currently generated by oil and gas well bond forfeitures.

Water and Wastewater Infrastructure Needs

Maintenance and Future Investment. Officials from EEC explained that water and wastewater infrastructure includes water treatment plants, wastewater treatment plants and their distribution and collection systems, and dams. Kentucky has already made significant strides in expanding water and wastewater infrastructure throughout the commonwealth, with over 95 percent of Kentuckians being provided public water. Most Kentuckians are connected to regional sewers that require extensive infrastructure. However, the current investment is not sufficient to meet the needs for long-term maintenance. Consolidation of systems is ongoing, but those merged systems involve old infrastructure where maintenance had been deferred.

The challenges facing water and wastewater plants include the age of infrastructure, deferred maintenance and investment, and insufficient planning for the future. There are approximately 800 wastewater treatment plants that are beyond their design lives. The average age of a plant is 36 years, and the average age for the 18,000 miles of sewer lines is 42 years. With regard to water infrastructure, there are 213 water treatment plants, with an average age of 38 years. There are 64,000 miles of distribution lines, with an average age of 40 years, as well as aging water storage tanks and pumping stations. According to the Environmental Protection Agency's 2014 Clean Watersheds Needs Survey, Kentucky needs over $14 billion in investment funding through 2035 to address its water and wastewater infrastructure needs.

Fish and Wildlife Issues

Hunting and Fishing Trends. Representatives from the Kentucky Department of Fish and Wildlife Resources (KDFWR) gave an overview of fishing and hunting trends in the commonwealth, and an overview of administration of the department. Over the past 10 years, an annual average of 590,000 fishing licenses and 350,000 hunting were purchased in the commonwealth. There are over 100 KDFWR conservation officers responsible for enforcing hunting, fishing, and boating laws.

Wildlife-Borne Illness. An enhanced rabies surveillance area was created in eastern Kentucky with regulatory changes effective in 25 counties. Wildlife rehabbers cannot accept, obtain, or possess infected species, and movement of infected species in or out of the surveillance area is prohibited.

Tick-borne disease is a pernicious problem in Kentucky, in part because of warmer temperatures. Tularemia is a disease caused by a bacterium transmitted by touch, bites, or other exposure. It has been transmitted through rabbits, ticks, and even mowing. Infection by certain varieties of the bacterium can result in 30 percent mortality if untreated.

Chronic wasting disease is similar to mad cow disease. It is a fatal disease of deer, elk, and moose. It is not seen in Kentucky, but it is found in the surrounding regions and in a total of 25 states. It is spread by the transport of animals and the harvest of infected specimens.

Epizootic hemorrhagic disease (blue tongue) is common in deer during late summer and early fall. It is caused by biting midge flies. There is no treatment to control or prevent the disease. In 2017, approximately 5,000 cases were reported in Kentucky.

Asian Carp. Asian carp were introduced in the 1970s to assist with fish farming and to reduce nutrients throughout the Mississippi River Basin, but they escaped from the basin shortly after being stocked and are now prevalent in Kentucky. Asian carp pose an ecological threat to the waters that they infest, because they successfully outcompete native species, thereby decimating their populations. Since 2010, KDFWR has been trying to get commercial fisheries to process the

Asian carp species for Asian and European markets. The commercial harvest is 2.8 million pounds annually. The minimum harvest required to control the species is 5 million pounds.

Economic Development with Alternative Coal Uses

Direct Coal Hydrogenation. The president of Riverview Energy Corporation (REC) explained the company's plan to build a refinery in Spencer County, Indiana, that will produce 22,000 barrels of diesel fuel per day from coal using direct coal hydrogenation. This process allows for direct conversion of coal to marketable liquid products and does not require combustion or gasification, making it a more efficient and cost-effective alternative to those methods. REC personnel believe that producing diesel from coal will increase US energy security by displacing imported petroleum-derived gasoline and diesel fuels, which will result in economic gains for consumers and potential national security benefits.

Affordable Clean Energy Rule

Federal Greenhouse Gas Regulation. In August, the US Environmental Protection Agency proposed the Affordable Clean Energy (ACE) Rule to replace the Clean Power Plan that was proposed in 2015 but never went into effect. Officials from EEC explained that the new ACE Rule establishes guidelines for greenhouse gas emissions from power plants but allows states to develop their own plans to make those reductions. This approach is a departure from the Clean Power Plan, which mandated the state adoption of emissions standards by source. Under ACE, on-site heat-rate efficiency improvements are defined as the best system of reduction of greenhouse gas emissions from existing power plants, with a list of candidate technologies that can be used to achieve those increases in performance. ACE also updates the EPA's New Source Review Permitting program to incentivize efficiency improvements at existing power plants.

Reports Received

- Hazardous Waste Management Fund, 2018
- Audit of Kentucky 911 Services Board, Fiscal Years 2014–2017
- LIHEAP Block Grant Program Status Report, January–June 2018
- Telecommunications Access Program Annual Report, Fiscal Year 2017–2018
- Kentucky Interagency Groundwater Monitoring Network Annual Report, Fiscal Year 2018
- Audit of the Kentucky Reclamation Guaranty Fund, Fiscal Year 2018

Referred Block Grant Applications

- Low Income Home Energy Assistance Program Block Grant Application, Fiscal Year 2019

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee, as of November, had reviewed 39 administrative regulations upon referral from the Legislative Research Commission under the review process established in KRS Chapter 13A.

Referred Executive Orders

- Executive Order 2018-601: Relating to the Reorganization of the Energy and Environment Cabinet

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Sen. Joe Bowen, Co-Chair
Rep. DJ Johnson, Co-Chair
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Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on State Government

Jurisdiction: Matters pertaining to the sovereignty and jurisdiction of the commonwealth; the General Assembly, its committees, officers, and service agencies; redistricting; the governor; the lieutenant governor; intergovernmental cooperation; state-federal relations; interstate compacts; administrative organization; administrative regulations; statutory administrative agencies; Department of Law; constitutional offices; state personnel; state retirement systems; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths, and bonds; public information; disaster and emergency services; state and regional planning; the libraries; archives and records; public corporations; commonwealth's attorneys; circuit clerks; the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local, and school board positions; election commissioners, officers, and precincts; qualifications, registration, and purging of voters; conduct of primary and regular elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; and absentee ballots.

Committee Activity

The Interim Joint Committee on State Government held five meetings during the 2018 Interim, focusing on the Kentucky Public Employees' Deferred Compensation Authority; 2019 Kentucky Employees' Health Plan (KEHP); Public Pension Oversight Board (PPOB); facilities management reform; Governor's Red Tape Reduction Initiative (RTR); Commonwealth of Kentucky's tip line web portal; Kentucky state parks update; election security and voting machines; update and 2019 RS legislative agenda for the Secretary of State, State Board of Elections, Kentucky County Clerk's Association (KCCA), Registry of Election Finance, Kentucky State Treasury, and auditor of public accounts; proposed changes to the Legislative Ethics Code; 19 RS BR 164, relating to the naming of state properties, highways, bridges, and programs; prefiled bills 19 RS BR 202, relating to reemployment of elected officials, and 19 RS BR 420, relating to executive branch ethics; and administrative regulations of the Executive Branch Ethics Commission, the State Board of Elections, and the Personnel Cabinet.

Overview of Kentucky Public Employees' Deferred Compensation Authority

The executive director and the general counsel of the Kentucky Public Employees' Deferred Compensation Authority (KDC) discussed the agency and its programs. KDC is the official supplemental retirement system for employees of the commonwealth, local governments, public school systems, public universities, and other political subdivisions.

KDC offers 457(b), 401(k), and IRA defined contribution savings plans. The 457(b) plan has been offered since 1975 to state and public education employees. The 401(k) plan was started in 1986. The Tax Exempt Governmental Entity Division of the Internal Revenue Service reviews and approves all plans. As of December 31, 2017, there were approximately 74,644 plan participants—36 percent state employees, 35 percent public education employees, and 29 percent employees of governmental agencies. Approximately 44,000 participants are actively deferring;

the remainder are retirees. There are 992 participating employers. KDC assets under management total $2.9 billion. The annual operating budget is approximately $9 million, including an estimated $5 million paid to Nationwide Retirement Solutions.

Plan participants elect investments from more than 20 board-approved investment options. KDC's investment consultant and the investment subcommittee recommend investments to the full board. The investment consultant—currently Callan—is chosen through the state procurement process.

2019 Kentucky Employees' Health Plan

The commissioner of the Department of Employee Insurance, Personnel Cabinet, discussed the Kentucky Employees' Health Plan and highlights for the 2019 plan year. Four plans are being offered in 2019: LivingWell CDHP (consumer driven health plan), LivingWell PPO, LivingWell Basic CDHP, and LivingWell Limited High Deductible. KEHP is the largest self-insured plan in the state and covers 6 percent of the state's population. School boards constitute 52 percent of the membership, early retirees 24 percent, state agencies 19 percent, and quasi-governmental agencies 5 percent. In 2019, premiums for most members will not increase because the budget for 2019 and 2020 allowed rollover of surplus funds from prior years. There will be a small premium increase for approximately 17,000 members; couple and family coverage levels in the LivingWell CDHP plan will have per-month increases of $8 and $10, respectively, in order to align claims costs of those plans.

In 2019, all planholders must fulfill the LivingWell Promise by completing either the Go365 Health Assessment or a biometric screening. They must fulfill the promise by July 1, 2019, in order to receive a $40 monthly premium discount in 2020. In 2018, 93 percent of planholders complied.

In 2019, there will be no changes to deductibles, coinsurance, or copayments. The LivingWell CDHP and LivingWell PPO plans will not change; 86 percent of members are in those two plans. LivingWell Basic CDHP is identical to the 2018 Standard CDHP plan; the name was changed to reflect the LivingWell Promise requirement. The new default plan, LivingWell Limited High Deductible, is a "catastrophic" plan that has the lowest premium but higher deductibles and out-of-pocket maximums. It replaces the 2018 Standard PPO, which in 2018 has about 15,000 members.

In 2019, employer-sponsored optional dental and vision coverage will be available to active public employees at no cost to the employer. Premiums will be payroll-deducted. Anthem was selected as the carrier for those benefits.

An eligibility verification audit performed by Alight Dependent Verification Services (formerly Aon Hewitt) led to termination of 9,483 unverified dependents at the end of July 2017. Approved appeals restored coverage to 4,281 dependents, and approval is expected for 1,679 pending appeals. To ensure fiscal responsibility and appropriate member coverage, KEHP will begin an ongoing audit process, starting December 1, 2018.

Public Pension Oversight Board Overview and Update

Legislative Research Commission staff provided an overview of the Public Pension Oversight Board and reported on reviews and studies initiated by the PPOB.

The PPOB, created by SB 2 (2013 RS), is authorized by KRS 7A.200 to 7A.260 to review, analyze, and provide oversight to the General Assembly on the benefits, administration, investments, funding, laws and administrative regulations, and legislation pertaining to the state-administered retirement systems. Oversight was initially limited to Kentucky Retirement Systems (KRS), which includes Kentucky Employees Retirement System (KERS), County Employees Retirement System (CERS), and State Police Retirement System. KERS and CERS have both nonhazardous and hazardous benefit and contribution structures. In 2015, oversight was extended to the Teachers' Retirement System (TRS) and the Judicial Form Retirement System (JFRS). All the systems have pension and retiree health funds, and TRS also has a life insurance fund. The PPOB has 19 members—12 legislators, three ex officio members (state budget director, auditor of public accounts, and attorney general's designee), two appointed by the Governor, and one each appointed by the Senate President and the Speaker of the House. The four appointed members are required to have 10 years of investment or retirement experience.

As of June 30, 2017, KRS membership totaled 372,522. CERS-NH had the largest portion of KRS members—217,359. Combined membership in KRS, TRS, and JFRS totaled 549,959. Assets under management by all systems totaled \$36.8 billion as of June 30, 2017. TRS has the largest amount of pension assets. Each year, all systems furnish the PPOB with actuarial valuation data for their pension and health insurance funds.

A provision in SB 151 (2018 RS) directed the PPOB to establish an advisory committee to study the benefits and drawbacks of separating CERS or restructuring the administration of the systems administered by KRS. Subject to LRC approval, the PPOB established an eight member advisory committee for this purpose in June 2018. A report on the SB 151 directive is due by December 1, 2019.

As employer rates have increased, agency participation issues have grown. HB 62 (2015 RS) allowed certain agencies in KERS and CERS to voluntarily cease participating in the systems by paying full actuarial costs. HB 351 (2017 RS) established required assumptions for employers exiting the systems, but this increased the cost and removed the installment payment option. HB 362, enacted in the 2018 Regular Session, would have provided a window for eligible agencies to cease participating in KERS or CERS by paying actuarial costs through installments without interest over 30 years; however, HB 487 was subsequently enacted and removed the window. HB 362 also would have allowed additional quasi-state agencies to exit the systems. HB 265, enacted in 2018, provided 1 year of employer rate relief to quasi-state agencies in KERS and kept the rate at 49.47 percent of pay for those employers instead of 83.43 percent of pay. The PPOB is studying this issue, and Kentucky Retirement Systems is working on potential options for consideration by the PPOB and the General Assembly prior to the 2019 Regular Session.

Facilities Management Reform

The secretary of the Finance and Administration Cabinet discussed his statutory obligations; organizational structure and functions of the cabinet's Department for Facilities and Support Services; maintenance of infrastructure and deferred maintenance of aging facilities; developing and maintaining partnerships with local governments and the private sector; and his desire to reduce the footprint of state government.

The primary focus of facilities management reform is to reduce the footprint of state government, maintain existing properties and infrastructure, and develop and maintain partnerships. The secretary said he has been able to eliminate three pedways and a parking garage in Lexington and 12 buildings throughout the state with an appraised value of approximately $8.2 million. He promotes conveyance of property to local governments, allowing them to directly control and maintain the property. Examples include the Morehead Youth Development Center in Rowan County, the city of Harlan's workforce development office, and the Stephen Foster Story amphitheater in Bardstown.

Maintenance projects have included cleaning of the Capitol facade, brick replacement on the Capitol Annex terrace, repair of the Capitol campus parking garage, and renovation of Louisville's L&N Building. Deferred maintenance in Frankfort alone has totaled $194 million. In advance of the 2019 legislative session, the cabinet has been working with LRC to upgrade and soundproof the Annex Speaker's office and to upgrade the heating, ventilation, and air conditioning system on the fourth floor of the Capitol.

The secretary emphasized the importance of developing and maintaining partnerships with the private sector and local governments. The cabinet is working with Frankfort's mayor and the Franklin County judge/executive to redevelop the land that formerly housed the Frankfort Convention Center and the Fountain Place Shops. Other public/private partnerships (P3s) include the health clinic opened by the Personnel Cabinet outside Frankfort, the $207 million Kentucky International Convention Center, renovations at Beaver Dam State Park, and the Department for the Blind's food service operation in Frankfort's state office buildings.

The secretary said he is reviewing policy relating to access to state buildings, in response to instances of protest groups being denied access to the Capitol. The review is in partnership with LRC and 8 to 10 other organizations. He is working with the commissioner of the Department of Parks and the secretary of the Tourism, Arts, and Heritage Cabinet regarding deferred maintenance and upgrades needed at the state parks. He has personally met with marina owners near the parks. In the future, some park operations may be leased or deeded to local governments, with the stipulation that the park reverts to state ownership if not maintained as it currently exists. He is examining opportunities for local governments, in conjunction with the state, to help support and maintain the parks. The goal is to develop partnerships, not dismantle the state parks system. Allocation of money for maintenance and repairs is based primarily on safety concerns but also on usage trends and the ability of a park to self-sustain.

Governor's Red Tape Reduction Initiative

The operations director and the legislative liaison, Office of the Governor, testified about the Red Tape Reduction Initiative launched by the Governor in July 2016.

Testimony focused on growth in the number of administrative regulations from 1975 to 2015, the goals and status of red tape reduction, success stories, and pro-business regulation changes. The number of administrative regulations has grown steadily in the past 40 years, and some regulations were outdated. The goals of red tape reduction are to repeal obsolete regulations and amend overly restrictive ones, create the least restrictive regulatory environment without compromising public health or safety, align the regulations with federal requirements, avoid inconsistencies and unnecessary duplication, and make regulations easier to update by modernizing and digitizing the regulatory code and process. As of August 2018, there were more than 4,700 regulations. Of the 2,208—or 47 percent—that have been reviewed, 54 percent required repeal or amending. The goal is to eliminate or revise one third of all regulations by the end of 2019.

The next steps in the RTR program include continued updating and modernization of regulatory promulgation, synchronization of state and federal requirements, and reduction in institutional hesitation. RTR's website (redtapereduction.com) offers the opportunity to submit questions, comments, and suggestions relating to regulations.

Update on TipLine.KY.gov

The executive director of the Finance and Administration Cabinet's Office of Policy and Audit updated the committee regarding the cabinet's tip line web portal. Tipline.KY.gov was launched in May 2017. As of late November 2018, 378 reports had been filed. The majority relate to human resources and financial matters. Of those reports, 70 percent were resolved, and 8 percent were dismissed because there was insufficient evidence to substantiate the report.

Reports come in 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 2 users. There are 25 other cabinet users who deal with issues related to personnel or human resources; 22 other cabinet users handle issues unrelated to personnel. 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 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.

Kentucky State Parks Update

Guest speakers were the secretary and the deputy general counsel of the Tourism, Arts, and Heritage Cabinet; the commissioner of the Department of Parks; and the director of Recreational Parks and Historical Sites. They testified that state parks drive tourism, support job creation, strengthen economic impact, and preserve history. The continuing strategy for the parks system is to partner with local governments; protect resources; require parks operations to continue; develop innovative ownership, management, and operational tools; and ensure that natural and historical resources are preserved and enhanced for generations to come. Funds allocated for the state parks system ($18 million and $20 million over the last two bienniums) have been beneficial. Sales have increased over the last 2½ years. The parks system is improving, but funds are insufficient to address $240 million in deferred maintenance. The cabinet is in the process of updating a strategic plan for the parks.

Election Security—Voting Machines

The county clerks of Trimble, Madison, and Jefferson Counties discussed the use of new voting equipment. Rep. Johnson clarified that their testimony was intended not to promote any equipment manufacturer but rather to discuss security, reliability, and maintainability of election equipment.

In 2009, Trimble County purchased used Hart eSlate voting equipment that had been 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. Hart's Verity Touch Writer voting equipment was deemed best suited for use in Trimble County. It would make Trimble an all-paper county. The machine allows people with disabilities to vote independently. It is never directly connected to the internet or to any systems that connect to the internet. Voter registration data, poll books, and election night reporting systems are never directly connected to the voting machine. Voters cannot insert external card drives or other devices. Data is stored in multiple redundant locations, ensuring no loss of data and easy detection of any attempt to manipulate data. The machines have a battery backup in case of power failure and will run for approximately 2 hours on battery backup. The equipment was purchased in March 2017 and was 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 returns were received by the clerk's office more quickly than in previous elections.

Madison County switched from Hart equipment to Election Systems & Software (ES&S) equipment prior to the 2018 primary election in order to provide a paper backup for all votes. The ES&S machine is compliant with requirements of the Americans With Disabilities Act and is not connected to any other piece of equipment. It is 100 percent secure and cannot be manipulated.

Jefferson County is also an ES&S customer and purchased new equipment a year ago. It cost a little more than $3 million and was used for the first time during the 2018 primary election. The previous equipment was approximately 20 years old and was still in good working order, but it had become difficult to replace parts. The poll workers felt that the new equipment is easier to use, and it provides the added security of paper backup. The previous county clerk and county board of elections had insisted on having paper backup of votes.

Secretary of State/State Board of Elections—Update and Legislative Agenda

The director of communications in the Office of the Secretary of State testified regarding 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.

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 were sent electronically through the portal.

The earliest date to file for office and affix signatures for the 2019 primary and general elections was 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 State 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, using federal funding through the Help America Vote Act (HAVA). The cost for statewide implementation of e-poll books is paid entirely from federal funds allocated through HAVA. Kentucky budgeted $5.5 million toward the project, and implementation came in under budget. 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 used in those counties during the 2018 primary election. They were placed in every precinct in Franklin and Madison Counties. Statewide, 37,241 voters checked in with e poll books at precincts during the 2018 primary election. A scan of a driver's license was the method of identification for 90.5 percent of the voters.

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; to remove the 4:00 p.m. deadline for online voter registration and allow online registration until midnight; and to allow delivery of absentee ballots to voters by e mail in emergencies.

Rep. Nemes expressed concern 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. The director of communications said that the Secretary of State's Office and the State Board of Elections are working with the US Department of Justice on a compliance plan relating to the consent decree. The communications director said he did not know when the compliance plan will be final but that the Board of Elections website includes information regarding the voter list maintenance program. Kentucky is complying with state and federal law governing the purge of legal voters, but funding has not been sufficient to monitor the number of voters who move out of state.

When asked about voter fraud, the director of communications said he is not aware of any instances of voter impersonation, which rarely occurs in the United States. When the Secretary of State assumed office, she established an Election Integrity Task Force composed of state, federal, and local officials. It includes representation by the Kentucky attorney general, the US 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.

Kentucky County Clerk's Association—Update and Legislative Agenda

The Fayette County clerk, the Spencer County clerk, and the executive director of the Kentucky County Clerk's Association discussed KCCA's legislative proposals.

The Fayette County clerk said that county clerks supported HB 273 and HB 274 during the 2018 legislative session. The House and the Senate passed both bills, but the governor vetoed them. KCCA is again supporting that legislation for introduction during the 2019 session.

Some voters have been canceling their registration after December 31 and reregistering with a different party in order to vote in that party's primary election. Current law requires that a voter who wants to change party affiliation after December 31 must wait until after the primary election. 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 a newly registered voter for purposes of party eligibility.

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; it would permit a county clerk to transmit an application for a mail in absentee ballot to the voter by email; and it would require cancellation of a mail in absentee ballot no later than 14 days before the election.

The Fayette County clerk said it has become difficult for county clerks to fill election officer positions. Under current law, election officers cannot change party affiliation during the year prior to appointment, which is supposed to occur by March 20. This means they would not be allowed to change party for more than a year prior to a primary election. County clerks want to allow persons registered as independents to serve as election officers; independents 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.

The Fayette County clerk said that SB 101, enacted during the 2018 Regular Session, requires school board candidates to provide a high school transcript as evidence of graduation. Persons who attended high schools that no longer exist are unable to obtain a transcript, and KCCA proposes amending the law to allow other documents to substitute as proof of graduation.

Registry of Election Finance—Update and Legislative Agenda

The chair of the Registry of Election Finance, the vice chair, the executive director, and the general counsel testified. The chair said that there were 7,462 candidates in the 2018 general election and that 1,559 of them had raised campaign funds of $3,000 or more. Only 106 of those candidates filed electronically. The registry's goal for the 2019 legislative session is to have mandatory electronic filing (e-filing) enacted for all candidates.

The chair said that the regulatory function of the registry has changed over time. The budget has been reduced significantly, with subsequent reductions in staff and spending. The registry had previously had 20 employees but in October 2018 had only 12 full time staff, one part time employee, and one vacant position. It has become physically impossible to provide needed information to the public, candidates, and the media in a timely fashion. Mandatory electronic filing of campaign finance reports is needed in order to provide transparency to the citizens of the commonwealth. The majority of states now require electronic filing; during the 2016 election cycle, it was required in 30 states. Mississippi is the only state with no electronic filing, and it began only recently in West Virginia.

The General Assembly granted requested funds to update the registry's computer system. The new system should be functional and able to handle electronic filing from every candidate for the 2020 election cycle. That is a great step forward and provides an opportunity for the establishment of mandatory electronic filing. When the new system is activated, the process of filing campaign finance reports 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. Candidates may also bring their reports to the registry on disk or other electronic storage medium for uploading by registry staff.

Mandatory electronic filing for candidates for statewide office was established by HB 90 (2012 RS). It allowed the registry and staff to address problems or omissions before voters go to the polls. Candidates who raise $3,000 or less are not required to file a campaign finance report.

Proposed Changes to the Legislative Ethics Code

Rep. Ken Fleming and Rep. Kimberly Poore Moser plan to file legislation similar to 2018 RS HB 9 in the 2019 Regular Session. HB 9 involved research by a bicameral, bipartisan task force that worked with the private sector and received input from experts in human resources. One provision of the new legislation would require the Kentucky Legislative Ethics Commission (KLEC) to create a 24 hour telephone tip line to allow employees of the legislative branch to report complaints of fraud, theft, ethical or official misconduct, discrimination, harassment, or sexual harassment allegedly committed by legislators, legislative agents, or other persons who interact with legislators or employees of the legislative branch. The goal is to provide an efficient reporting mechanism for employees and allow them the comfort of feeling protected in their workplace. Rep. Fleming said he intends to incorporate the Legislative Ethics Commission's recommended changes to the Legislative Ethics Code in the 2019 legislation.

The commission's executive director, the general counsel, and a commission member discussed six recommended changes to the Code of Legislative Ethics, which the commission approved in August 2018:

1. Create a comprehensive ethical prohibition against discrimination and harassment by legislators and legislative agents against legislative employees, legislators, or legislative agents. This would include provisions similar to 2018 HB 9.

2. Authorize the commission to dismiss a complaint without prejudice via teleconference call, if the complaint or preliminary inquiry is publicly disclosed by the complainant, or the complainant comments publicly about the complaint.

3. Clarify that KLEC has authority to adjudicate a complaint filed against a legislator, even if the legislator leaves office after the complaint is filed, as long as the complaint is based upon action that occurred not more than a year prior to the separation from office. Clarify that the commission may adjudicate a complaint filed against a legislative agent up to a year after the agent is no longer a registered legislative agent.

4. Amend the financial disclosure requirements to include a listing of all out-of-state travel associated with the performance of a legislator's duties.

5. Add a requirement for ethics training for legislative staff and change the commission's current issues seminar to two hours. Require that the seminar qualify for continuing legal education credit.

6. Restrict the political activity of commission staff in the same way as commission members are restricted.

Kentucky State Treasury—Legislative Agenda

The State Treasurer testified that 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 also been an increase in the amount of allowed contributions to STABLE accounts.

The Treasurer said financial literacy is a major cause for her. HB 132, enacted during the 2018 Regular Session, 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 class entering ninth grade in the 2020 2021 school year. The Treasurer has created a financial empowerment coalition to focus on financial literacy empowerment and education and proposes the passage of legislation 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.

The Treasurer said 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 how to handle unclaimed cryptocurrency. Digital property is an issue that needs to be addressed in the near future. The Treasury's proposal would be to liquidate it upon receipt, similar to the method for handling unclaimed stocks. The Treasury would also like to have codified in statute that mineral proceeds such as oil, gas, or coal are not deemed unclaimed property.

The Treasury proposes creation of a separate and distinct nonseverable trust for payment of unclaimed property claims. Claims for unclaimed property are currently paid from the Abandoned Property Fund, which is a part of the General Fund. Under current accounting practices, there is risk that the payment of claims could adversely affect the budget and the General Fund. A trust could eliminate the risk and help secure and protect people's property. The Treasury has consulted with the state budget director 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 legislative agenda also includes passage of a bill to correct a citation to federal law in SB 126 (2018 RS), relating to the Commonwealth Council on Developmental Disabilities, and a bill to codify continuance of the STABLE Kentucky program that was launched in December 2016.

Office of Auditor of Public Accounts—Legislative Agenda

The auditor of public accounts and his chief of staff discussed activities of the agency and legislative proposals for 2019. The auditor 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 available only 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 percent to 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.

HB 189, enacted during the 2017 Regular Session, was known as the Area Development District (ADD) Transparency Bill. It 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 legislative agenda for 2019 is not final, but recruitment and retention of audit staff is a major issue. Statute requires all audit staff to have at least a bachelor's degree, and most must 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 among the best recruiting tools, but current law is an obstacle to hiring interns to assist with audit work. The auditor said he would like to propose legislation 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 6 month initial probation. This would enable more competitive and improved recruiting of interns who can assist with audit work.

The auditor discussed the findings of the 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. An audit finding recommended that the General Assembly require an annual independent audit of AOC. The report on KentuckyWired, released in September 2018, 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 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 the Kentucky Economic Development Finance Authority can issue bonds.

19 RS BR 202, An Act Relating to Reemployment of Elected Officials

The legislation, prefiled by Rep. Miller, 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. Rep. 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. Sen. Bowen, Sen. McDaniel, and Rep. Wayne spoke in support of the legislation.

19 RS BR 164, An Act Relating to the Naming of State Properties, Highways, Bridges, and Programs

Sen. Stephen West said he plans to prefile BR 164 for the 2019 Regular Session. It is identical to his SB 72, passed by the Senate in the 2018 Regular Session. BR 164 prohibits naming a state building or property for any living current or former statewide constitutional officer, member of the General Assembly, justice or judge of the Court of Justice, state employee, or employee of the postsecondary education system as defined in KRS 164.001. At the request of state university officials, the legislation would not prevent an institution in the postsecondary education system from enforcing or carrying out the bona fide terms of any gift, grant conveyance, devise, or bequest from any private person, corporation, foundation, estate, or other entity contributing funds or any other thing of value to the institution as permitted by KRS 164A.615. The intent of the legislation is to remove politics from decisions regarding naming. During committee discussion, it was suggested that BR 164 include a review process and establish standards for potential "unnaming" when warranted.

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

Rep. Miller discussed his prefiled bill BR 420. He said he prefiled the bill 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.

The executive director of the Executive Branch Ethics Commission testified regarding BR 420, which amends KRS 11A.010 to expand and update the definitions of officer and public servant in the Executive Branch Code of Ethics. Members of the State Board of Elections, Parole Board, Workers' Compensation Board, Kentucky Occupational Safety and Health Review Commission, and 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 covered by the Code of Ethics. The new language would add the Board of Elections, and any salaried boards or commissions created in the future, to the definition of officer and public servant. The new language also defines salaried and also adds full-time, nonseasonal contract employees to the definition of officer and public servant.

Administrative Regulation Review

The following administrative regulations were referred to the committee for secondary review and were included on meeting agendas:

- 9 KAR 1:015 and 9 KAR 1:015 E. Pre-administrative proceedings.
- 9 KAR 1:030 and 9 KAR 1:030 E. Administrative proceedings.
- 31 KAR 3:010. Current address of Kentucky registered voters and distribution of voter registration lists.
- 101 KAR 2:020. Job classification plan.
- 101 KAR 2:034. Classified compensation administrative regulations.
- 101 KAR 2:076. Vacancies, detail to special duty and temporary overlap.
- 101 KAR 2:095. Classified service general requirements.
- 101 KAR 3:045. Compensation plan and pay incentives for unclassified service.
- 101 KAR 3:050. Unclassified service; promotion, transfer, and disciplinary actions.

The executive director and the general counsel for the Executive Branch Ethics Commission explained 9 KAR 1:015, 9 KAR 1:015 E, 9 KAR 1:030, and 9 KAR 1:030 E. There was no discussion, and the committee took no action on the regulations.

The executive adviser, Office of the Secretary of State, explained 31 KAR 3:010. The committee discussed amending the regulation but took no action because of lack of a quorum.

The Personnel Cabinet was represented by the deputy secretary and the commissioner of the Department of Human Resources. Because of the lack of a quorum, the committee did not discuss or take action on regulations 101 KAR 2:020, 101 KAR 2:034, 101 KAR 2:076, 101 KAR 2:095, 101 KAR 3:045, and 101 KAR 3:050.

Report of the 2018
Interim Joint Committee on Tourism,
Small Business, and Information Technology

Sen. Alice Forgy Kerr, Co-Chair
Rep. Diane St. Onge, Co-Chair
Rep. Tommy Turner, Co-Chair

Sen. Perry B. Clark
Sen. Rick Girdler
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Jimmy Higdon
Sen. Stephen Meredith
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Rep. Bart Rowland
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Rep. Kevin Sinnette
Rep. Jill York

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

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Tourism, Small Business, and Information Technology

Jurisdiction: Matters pertaining to commerce, industry, economic and industrial development, the workforce and the workplace, and tourism not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures; development and support of small businesses; job creation and job training programs; federal, state, and local regulations that impact small businesses and their employees; all other matters not specifically assigned to another committee relating to administrative, regulatory, or operating issues which, because of their smaller size, uniquely impact small business; information technology planning; statewide standards related to information technology; broadband internet; internet service providers; tourism and travel promotion and development; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; advertising related to tourism development; entertainment establishments; campgrounds; the Tourism, Arts, and Heritage Cabinet; hunting and fishing; boating; horseback riding; hiking; bird watching; rock climbing; recreational use of all-terrain vehicles; mountain biking; cycling; kayaking; and recreational land use.

Committee Activity

The Interim Joint Committee on Tourism, Small Business, and Information Technology held six meetings during the 2018 interim, two of which were at locations outside of Frankfort.

Nucor Steel Gallatin

The committee met at Nucor Steel Gallatin in Ghent. The vice president and general manager discussed the company's presence in the state, including investments in various steel processing plants along the Ohio River. Nucor is the largest steel producer in the United States, capable of producing approximately 27 million tons of steel per year. Nucor is also North America's largest recycler, recycling 18.8 million tons in 2017; 100 percent of the steel produced by Nucor is from scrap steel. The plant in Ghent produces sheet metal. Nucor acquired Gallatin Steel Company in 2014, primarily for its location and good cultural fit with the company. Nucor immediately impacts 14 additional steel processing, recycling, and scrap metal companies in the state. Nationally, the steel industry supports approximately 2 million jobs and contributes $520 billion to the economy. In Kentucky, the steel industry supports 39,782 jobs and contributes $11.3 billion to the economy. The Nucor Steel Gallatin plant generates approximately $1 billion per year in sales revenue. Nucor Steel Gallatin does business with 25 other companies in the area of Kentucky, southern Indiana, and southern Ohio and serves approximately 40 customers. It is estimated that 80 percent of the sale output is consumed within 200 miles of the plant. With the expansion of the new facility at the Ghent location in the next few years, 75 additional jobs will be added.

Drink KY

The Office of Agricultural Marketing in the Department of Agriculture introduced Drink KY, a mobile phone app created by the Grape and Wine Council, which is part of the Kentucky Department of Agriculture. The General Assembly created the Grape and Wine Council in KRS 260.165 to promote and facilitate the development of a grape, grape products, and wine industry. Since 2007, the council has received $400,000 from the General Fund. The app was launched in 2017. It has been updated and is already averaging approximately 850 monthly active users and 9,500 check-ins. Of the grapes used in Kentucky wine, approximately 30 percent is grown in Kentucky.

Kentucky Bourbon Trail

Members of the Kentucky Distillers' Association (KDA) presented updates on the Kentucky Bourbon Trail and the bourbon industry. Kentucky bourbon is now an $8.5 billion industry, generating as many as 17,500 jobs, $800 million in payroll, $825 million in tax revenue, and $1.2 billion in capital investments. The Kentucky Bourbon Trail had 1,194,233 visitors in 2017, 70 percent of whom were from outside the state. New additions to the Kentucky Bourbon Trail include Old Forester (Louisville), Michter's (Louisville), Lux Row (Bardstown), O.Z. Tyler (Owensboro), Bardstown Bourbon Company (Bardstown), and Jeptha Creed (Shelbyville). Kentucky is ranked 11th in the US in operating distilleries. KDA representatives discussed the state tax rate compared to that of other states, as well as the creation of the Responsibility Advisory Group to emphasize the importance of drinking responsibly and establishing best practices for visitor centers, events, and marketing.

Kentucky Department of Fish and Wildlife Resources

The Kentucky Department of Fish and Wildlife Resources will conduct a top-to-bottom review of the agency in order to build a new strategic plan. The department wants to ensure that the Kentucky Department of Fish and Wildlife Resources Commission continues to be the world-class wildlife management and conservation agency that Kentuckians deserve. The goal is to be open, responsive, and accountable to Kentuckians. This will be the department's first strategic plan review in 6 years, and it will be complete in January.

Asian Carp

Representatives from the Kentucky Department of Fish and Wildlife Resources addressed the committee at several meetings over the Interim. The director of fisheries provided an update on the Asian carp problem in Kentucky's waterways. Western Kentucky, the primary area negatively affected by the carp, had as much as a 20 percent reduction in tourism revenues. The tourism industry around Kentucky Lake and Lake Barkley is valued at approximately $1.2 billion annually. The threat to humans arises primarily from silver carp, a species that has a tendency to jump out of the water. Silver carp can get as big as 70 pounds. The big leapers range from 7 to 30 pounds, posing a real concern for families enjoying the water. In 2018, the department received $450,000 to contract carp fishing in the Louisville area.

Kentucky has three processors, which process 2.8 million pounds of carp per year, but these businesses need at least 9.5 million pounds per year to be able to establish markets outside of the Kentucky area. Personnel in the department believe it is possible to make Kentucky the largest US exporter of Asian carp products, while keeping the carp population at a manageable size.

Fishing in Neighborhoods Program

The Fishing in Neighborhoods program creates interest in opportunities to fish in urban areas. There are 44 neighborhood ponds in Kentucky. Other than providing for annual upkeep on these ponds, this program incurs no additional costs for local governance or for the Kentucky Department of Fish and Wildlife Resources. The program is geared toward individuals and families in the urban environment who have never fished.

Fees-in-Lieu-Of Program

The acting commissioner of the Kentucky Department of Fish and Wildlife Resources discussed the report on the Fees-in-Lieu-Of (FILO) program. The report is required biennially as part of the budget requirements set forth by the General Assembly. The FILO program sets aside state money for "compensatory mitigation" for damage to the environment. It is used to compensate for impacts or unavoidable losses to wetlands and streams due to development, road construction, or other projects. The program is available statewide as needed. The report lists approximately 40 capital projects.

Black Bears

A representative from the Kentucky Department of Fish and Wildlife Resources discussed the department's efforts regarding the American black bear. Black bears typically range in eastern Kentucky to as far west as Clinton County; bears are also occasionally seen in some western Kentucky counties. The department's presentation highlighted how it uses science-based bear management for tracking and counting bears. The department also identified the core bear area around Bell, Harlan, and Letcher Counties where it needs to protect the bear population while expanding opportunities for hunters. As the bear population has gradually increased, the hunting quota has increased as well.

Part of the department's work with bears involves dealing with nuisance bears and providing education on how to manage attractants for people in areas with large bear populations. To promote education and the prevention of nuisance bears, states in the southeastern United States created www.bearwise.org to provide a consistent message about how people can learn to live near bears without unnecessarily attracting bears to human habitats. According to the department, Kentucky's bear habitat is not so large that they will stay out of contact with humans; trapping and moving bears will not solve the problem of bear/human interaction, so it is best for people in affected areas to be proactive about not attracting bears.

Kentucky Wild Program

The wildlife program coordinator with the Kentucky Department of Fish and Wildlife Resources spoke about Kentucky Wild, the department's newest program. It offers Kentuckians who do not hunt or fish the opportunity to support the department, which is funded primarily through federal taxes and the sale of hunting and fishing licenses. At each membership level, members have an opportunity to go into the field with staff members to participate in the department's work. The department will offer corporate sponsorships for interested businesses. All money generated will go directly to the department's Wildlife Diversity Program, the program supporting all nongame animals in the state.

Grouse Restoration Project

The deputy commissioner of the Kentucky Department of Fish and Wildlife Resources spoke about the grouse restoration projects being undertaken in eastern Kentucky after years of decline due to habitat loss. The first step in helping to restore grouse was to establish a plan, which is available on the department's website.

MIT Regional Entrepreneurship

The Massachusetts Institute of Technology Regional Entrepreneurship Acceleration Program (MIT REAP) is a global program providing opportunities for communities to engage with MIT in an evidence-based, practical approach to strengthening innovation-driven entrepreneurial ecosystems. Kentucky is the first region in the United States to be selected to participate in this program. The REAP team in Kentucky includes members from Kentucky's universities, the executive branch of government, risk capital entities, Kentucky corporations, and regional entrepreneurs. The idea is to bring regional stakeholders together with research, data, and mentoring from MIT to produce a plan for long-term, sustainable economic growth for the region.

Cincinnati Bell Smart City Proactive Opioid Crisis Project

The Smart City program manager for Cincinnati Bell for the northern Kentucky region discussed the Smart City concept and how to apply Smart City technology to the opioid crisis. A text messaging service was created to provide essential information about opioid-related programs and topics. For non-life-threatening situations, this program can send text messages to participants about essential services in partnership with a 24-hour traditional call center hotline. The program uses artificial intelligence to process the contents of text messages and provide appropriate responses, in order to alleviate the volume of calls coming into the traditional call center, but operators at these call centers would be able to further localize the messages going out to participants. This program can provide safe and readily available options that may eventually lead to recovery. If a person asks for treatment options, the program will ask a series of questions; based on the answers, the program will provide four treatment facilities with beds available that day.

Bexion Pharmaceuticals

The chairman of the board of Bexion Pharmaceuticals discussed the company and how state funds have contributed to its success. Bexion began with seed money from Children's Hospital and received a Small Business Innovation Research (SBIR) Grant to do further research. After Ohio turned down Bexion's request for matching funds, the company applied to Kentucky for matching funds; the funds were approved on the condition that the company relocate to the state, which it did. In 2008, the company applied again to the state for funding from the Kentucky Enterprise Fund. The state approved $400,000, contingent on Bexion's ability to match the funds through another source. If not for that initial SBIR Grant match from the state, Bexion probably would have remained in Ohio.

Innovation District

The president/chief executive officer of Catalytic Fund of Northern Kentucky spoke about Covington's developing innovation district and the part that Catalytic Fund played in developing the Covington area.

An innovation district is a location within a city providing small businesses and start-up companies with access to services, mentoring, capital, and physical space. In order for these businesses to attract highly qualified college graduates, they need to be in a high-quality location within 3 miles of a city center. Covington has the best fundamentals for an innovation district in Kentucky, and perhaps in the entire Midwest. Local investors put together the Catalytic Fund of Northern Kentucky because of northern Kentucky's potential to attract place-based investments, job expansion, and economic development. Catalytic Fund invests hard capital in projects and provides expertise in structuring real estate transactions. With support from companies such as Bexion Pharmaceuticals and from local government, the fund has invested $4.7 million in selective real estate investments, which in turn has attracted more than $150 million in total investment in the Covington area. Investments like these require the continued support of state-funded economic development programs such as the historic tax credit legislation, Kentucky's tax increment financing program, and the industrial bond revenue financing program.

Department of Parks

The commissioner of the Department of Parks provided an update on the state park system. State parks employ 780 people, with employment numbers reaching approximately 1,500 during the summer. Kentucky State Parks topped a $1 billion economic impact on the state for the first time last year, increasing from $840 million in 2013. Although room sales have increased over the last few years, there is still a significant deferred maintenance cost for the department. The department has been partnering with local communities to help with the maintenance of smaller parks or facilities, which are better suited to remedy some of the problems with local parks. The commissioner provided examples, such as Constitution Square Historic Site in Danville, Ben Hawes State Park in Owensboro, the amphitheater at Jenny Wiley State Park, the My Old Kentucky Home theater, and the Lake Malone marina. Multiple communities are interested in supporting state parks or facilities.

The parks will have an altered winter schedule this year, in an attempt to avoid some of the financial losses that the park system incurred last winter. Parks will reopen if a large group or party is interested in using the facilities. Full-time employees will remain on the job to attend to upkeep. Camping will be available throughout the winter.

Kentucky International Convention Center

The general manager of the Kentucky International Convention Center spoke about updates to the center, which was recently expanded to a 200,000-square-foot exhibit hall. This expansion has allowed larger, higher-quality business to come to the center. The expansion also allowed for a larger ballroom and 52 renovated meeting rooms. The convention center is pursuing silver LEED certification to show that it embarked on several green initiatives in order to operate the building as efficiently as possible.

Kentucky Civil War Sites

The committee heard testimony from representatives from the American Battlefield Trust and the Kentucky Civil War Sites Association regarding Civil War battlefield sites across the state. The Kentucky Civil War Sites Association conducted a survey of tourism to Kentucky's battlefields in 2016 to establish the use of current battlefield sites. Out-of-state tourists spent $7.1 million at Kentucky battlefields. Visitors responding to the survey indicated they would spend approximately $10 million within battlefield communities. The battlefield sites generated $1.1 million in local and state tax revenue from out-of-state visitors. Visitors to the sites came from 43 states and five foreign countries within the 6-week period of the survey.

The American Battlefield Trust focuses on three things: land preservation, public education about the conflicts, and advocating for battlefields. Kentucky has 11 Civil War battlefields and 7 Revolutionary War battlefields that the federal government has recognized. The trust has successfully advocated for 2,500 acres and five battlefields in Kentucky. Out of 67,000 acres identified as battlefield land in Kentucky, only a quarter of the land would retain enough integrity to be listed on the National Register of Historic Places. The trust still owns portions of these battlefields, which it would like to eventually transfer to the Commonwealth of Kentucky.

Commonwealth Office of Technology

The chief information officer of the Commonwealth Office of Technology (COT) provided a report on updates that the department is implementing. Some of the solutions to the problems within COT were fixed legislatively, and some were fixed internally. The department will focus on security, enterprise services, contract administration, and training and education for Kentucky.

To reorganize, COT needed to increase the staff who were functionally dependent. Every contract providing services to the state has been reviewed to determine its necessity and whether it could be consolidated with another function or renegotiated for a better cost to the state. COT has added a compliance officer position, 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.

In November 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 (enhancing existing hardware with software updates). As of November 2018, COT has $5.9 million in debt, which it hopes to pay off by the end of the fiscal year.

Small Cell Technology and the Future of Smart Communities

Crown Castle International Corporation presented information about Smart Communities and the small cell infrastructure it provides within them. *Smart City* and *Smart Community* are broad terms implying the use of information or communication technology to enhance performance, reduce waste, or optimize consumption. Crown Castle provides infrastructure that can support such initiatives. In its total operations, Crown Castle owns over 40,000 cell phone towers, 60,000 small cell nodes, and over 60,000 miles of fiber optic cable. Within 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. Crown Castle uses smaller towers closer to the end user to facilitate faster connections with wireless devices. These small cells are high-powered, discreet antennas found lower to the ground or in facilities much closer to the end user. Most of these antennas either are designed to fit in with existing infrastructure or can be attached to telephone poles or other existing infrastructure in order to remain discreet.

Cyber Security

Various individuals discussed cyber security, privacy, and digital commerce. The US Chamber of Commerce is concerned that states are passing a patchwork of digital privacy legislation, potentially making it more difficult for businesses to adhere to regulations if they have locations in multiple states. The chamber has a working group of representatives from approximately 200 companies that proposed 10 privacy principles they would like codified into law. Although the chamber previously advocated for self-regulation as the preferred method of dealing with privacy, it now recognizes the need for Congress and the Trump administration to offer consistent protection to Americans. Several states have enacted digital privacy laws, of which California's are the most comprehensive. The belief of the US Chamber of Commerce is that this patchwork of more than 50 laws enacted on the subject would impede interstate commerce.

Broadband

Members of the Kentucky Cable and Telecom Association addressed the committee on the topic of high-speed and broadband internet in Kentucky. Companies providing broadband are focused on three things: investing heavily in infrastructure and new technologies, upgrading networks throughout the commonwealth to ensure that customers have access to gigabit internet speeds, and making sure that broadband is affordable for low-income families.

Recently, the Federal Communications Commission released a report indicating that 85.8 percent of homes in Kentucky have access to minimum broadband speeds of 25 megabits download by 3 megabit upload. The corresponding report in 2015 showed that only 60 percent of Kentuckians had access to broadband. Kentucky has moved from 45th in the nation in broadband access to 38th. These companies are preparing for future advances in high-speed service by testing new technologies such as fixed wireless services. New technologies show promise in providing ultra-high-speed internet service, and they help expand the services into rural parts of the state. By the end of the year, 85 percent of 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 who receive free or reduced-price lunch from school systems in the state.

Report of the 2018
Interim Joint Committee on Transportation

Sen. Ernie Harris, Co-Chair
Rep. Ken Upchurch, Co-Chair

Sen. Joe Bowen
Sen. Jared Carpenter
Sen. C.B. Embry Jr.
Sen. Jimmy Higdon
Sen. Paul Hornback
Sen. Gerald Neal
Sen. Dorsey Ridley
Sen. Albert Robinson
Sen. Brandon Smith
Sen. Johnny Ray Turner
Sen. Mike Wilson
Rep. Lynn Bechler
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Rep. Kenny Imes
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Rep. Charles Miller
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Rep. Tim Moore
Rep. Darryl Owens
Rep. Rick Rand
Rep. Steve Riggs
Rep. Sal Santoro
Rep. John Sims
Rep. Jim Stewart III
Rep. Walker Thomas
Rep. Scott Wells

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

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Transportation

Jurisdiction: Matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service, and operating regulations; motor carriers; construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the State Police; the Federal Highway Safety law; turnpike authority; state and federal highways; limited access facilities; use of road bond money; automobile recyclers; highway beautification; bridges, tunnels, and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Committee Activity

The Interim Joint Committee on Transportation met six times during the 2017 Interim.

KAVIS

The commissioner of the Department of Vehicle Regulation, Kentucky Transportation Cabinet (KYTC), and the executive director of the Office of Information Technology discussed the new vehicle information system, including implementation of the point-of-sale portion of the process. The statewide point-of-sale solution was completed by March 2018, including the ability to automatically record all transactions from AVIS (the existing system) into KAVIS, improvements in the ease of learning the systems, storage for 5 years' worth of data versus 1 year's worth, and assurance that information is configurable at the county level. The point-of-sale solution also improves processes for reconciliation, midday sweeps, and insufficient funds (NSF) management, and it has the ability to email receipts. It also has support that includes bookkeeping, reports, and normal operations with AVIS processes and procedures, and it enables the use of automated cash drawers. From January 1 to May 31, 2018, 1,452,325 receipts were reviewed, 8,001,198 total sale items were processed, 1,679,062 citizens were served, and $438,654,260 in revenue was collected.

Some implementation challenges have occurred, most notably on the January 2, 2018, implementation. At that time, clerks were ready for the process rollout, and the business application functionality was well tested. However, end-to-end load testing was not performed, and system optimization was needed. Because of that need, there was a rollback on January 2 and 3 that included a configuration of more robust end-to-end load-testing tools that found the optimization needed within the application and infrastructure. A technical solution was developed to allow a phased approach for county-by-county implementation. This situation prepared the teams to handle testing and communication differently with future module releases.

After the rollback and regroup, beginning on January 23, 2018, the system was implemented on a rolling basis. Full implementation was achieved April 9. The third and fourth quarters of 2018 were to be used for training and acclimation to the system.

Print-on-demand decals, web renewals, module 1 (menu and disabled placards), and module 2 (point-of-sale statewide) have been completed. Module 3 (boats) is expected to be completed by February 2019. The boat module is important because it involves most of the shared characteristics of motor vehicle titling and registration. Modules 4 through 11 should be completed in approximately 36 months. The print-on-demand vehicle decal portion of the system was completed by May 2015, which allowed immediate access to documents by multiple agencies, decreased the time in office for customers, eliminated double entry of data for clerks, reduced paper handling and archiving, reduced postage for clerks and motor vehicle licensing, reduced annual audit time, and greatly improved access to vehicle documents. The print-on-demand boat decal process was completed in March 2018.

The web renewal enhancement phases are complete, and new web renewal sites were deployed in summer of 2015. Enhanced usability through design improvements and immediate clerk receipt of money collected are two portions of the web renewal enhancement phases. All eligible plates are renewable online, which has streamlined the process for clerks to approve renewals. The disabled-placard portion of KAVIS was completed in January 2016, which enabled a transition to a web-based application. It shifted from a vehicle-centric model to a customer-centric model, and there were hardware and software implementations to drive accuracy and precision of data. The bar code reader deployment was rolled out in 2016, which enabled driver's license verification integration between driver's license and KAVIS; it also merged customer functionality.

The boat title registration module, which includes continual hands-on feedback throughout a development process focusing on iterative releases and foundational application functionality, is being developed. The target implementation date is early 2019.

Title Issuance

The commissioner of the Department of Vehicle Regulation, KYTC, discussed the titling process. In the first step, the customer or dealer presents title documentation to the county clerk, who scans it and emails it to KYTC. The Department of Vehicle Regulation receives the title documentation, reviews it, and sends it to American Bank Note, which prints the title and mails it to the customer. A chart showed the number of titles received per month. There were 342,561 titles received from January to April 2017. Comparatively, 466,906 titles were received from January to April 2018, an increase of 124,345 titles. Another chart showed the total number of titles completed per month. Most notable were March 2017 (101,410 title applications completed) and March 2018 (125,038 title applications completed).

The Division of Motor Vehicle Licensing Title Branch Verification Section has 2 permanent employees and 19 temporary employees who review an average of 400 applications per day. There are 51 employees in the Division of Motor Vehicle Licensing, which is a historically low number; in the early 2000s, there were 102 employees in the division.

Rebuilt titles were also discussed. Kentucky is among only four states that allow another state's junk title certificates, parts-only title certificates, or otherwise unrebuildable title certificates to be rebuilt and retitled. In 2015, 19,219 rebuilt titles were processed. In 2017, 52,113 rebuilt titles were processed, and from January to April 2018, 24,468 rebuilt titles were processed. This increase is at least partially tied to two major hurricanes in the preceding year, resulting in a large number of storm-damaged vehicles. Three permanent employees and five temporary employees are processing rebuilt titles. It takes approximately 6 to 8 weeks to process a rebuilt title.

Special License Plates

On June 1, 2016, a moratorium was placed on special license plates because of production costs. Kentucky spends approximately $36,000 per year to plate, replate, and redesign an organization's license plate. The process includes plate sheeting. A plate sheeting roll generally produces 1,750 plates at a cost of $2.96 per plate; 1,750 plates cost $5,180. The AVIS programming for a special license plate costs $85 per hour and typically takes 296 hours, for a total cost of $25,160. User acceptance testing and analyst support takes approximately 80 hours and costs $65 per hour for a total cost of $5,200.

There are several additional issues related to special license plates, such as the requirement of 900 signatures to begin the special license plate process. Kentucky has 105 special plates. A few of them have a low purchase rate, such as the ones for the Kentucky Dental Association (428 plates) and the Kentucky Chiropractor Association (158 plates). Another issue is the increasing number of customers who opt out of voluntary donations to the respective organizations. The Friends of Coal organization has had an opt-out rate of 51.52 percent, the Masonic organization has had an opt-out rate of 36.51 percent, and the farm tags have had an opt-out rate of 55.4 percent. To address these issues, suggestions include requiring organizations to pay all of the up-front costs for producing special license plates, so that no minimum applications would be required. Also suggested was a threshold for organizations to achieve and maintain a number of plates after 2 years of availability. A mandatory donation to the respective organization was also suggested.

Implementation of 2018 Legislation

The secretary of KYTC said that, in the 2018 to 2024 highway plan, the Strategic Highway Investment Formula for Tomorrow (SHIFT) program was implemented, overprogramming was reduced from 200 percent to 28 percent, and there was a primary focus on assets and addressing backlogs. Priorities include 583 SHIFT projects, 400 bridges, and 1,275 miles of pavement authorized in the biennium. In the 2018 construction season, the priorities are still safety, bridging and paving needs, and direct job growth. There is a great deal of activity during construction season, and KYTC closely monitors the cash flow. The projected debt service payments and revenue sharing during June, July, and August 2018 were approximately $359,600,000.

A breakdown of $8.5 billion in additional revenue is needed in the following areas:

- Projects added by the General Assembly, as well as Highway Plan Appendix A projects—$7.6 billion
- I-69 construction cost, estimated toll revenue bonds, and the remaining costs of the I-69 project—$455 million
- Brent Spence Bridge I-71 and I-75 construction and reconstruction—$385 million.

The secretary provided an "even if" balance sheet with numbers that assume tolling for the I-69 Henderson bridge project, a self-supporting financing mechanism for the Brent Spence Bridge

Project, and a generous $100 million in federal Infrastructure for Rebuilding America (INFRA) grant funds received for both projects. The document removes all the dedicated funds to the Metro Planning Organization, the Highway Safety Improvement Plan, and other required spending. What remains is a federal spending pool that ranges from $342 million to $474 million and a state pool of $132 million to $370 million left available for projects from 2019 to 2024. Maintenance and repair of structures, roads, and bridges continues to be a priority, so the costs are deducted. The I-69 project assumes INFRA grants, and the money up front is for design, right-of-way, and Kentucky's share of the $700 million gap in 2022 and 2024.

On the Brent Spence Bridge, KYTC is calculating in an INFRA grant, but in all likelihood, those funds would just go into reducing tolls as much as possible. KYTC is still in the design, right-of-way portion of the I-75/I-275 reconstruction project. Most people do not realize that, when there is a major project, the state must spend traditional, federal-state dollars for design and right-of-way even before approaching a financing mechanism. Therefore, there will be some up-front costs from traditional funds.

Because toll credits—which the state has used to match federal highway funds—are expiring in 2020, the need to use road fund money to match federal money will reduce the money available for projects. Currently, each time Kentucky spends federal dollars, the state matches it with 20 percent actual state dollars instead of credits. After all these expenses, the available money for new projects is approximately $840 million over 6 years, an average of $140 million per year. The amount is total federal and state projects if Kentucky constructs the two major bridge projects ahead. The figure is also competing with $4.6 billion of projects in the road plan and another $5.9 billion unfunded and listed in the appendix. Because there is $140 million per year competing for $10.5 billion worth of projects, the outlook is dire.

A 2015 study indicated that Kentucky was 43rd in revenue per mile maintained. State funds are critical to leveraging federal grants. The INFRA grant (formerly FASTLANE) contains $4.5 billion available for FY 2016 to FY 2020, but FY 2017 and FY 2018 INFRA grants have not yet been awarded. There is $900 million available in FY 2019 for projects nationwide, and $1 billion available in FY 2020 for projects nationwide in INFRA grants. The INFRA grant can provide no more than 60 percent of funding, and state and/or local entities must provide 20 percent of the funding.

In FY 2018, nationwide, $1.5 billion is available for the Better Utilizing Investments to Leverage Development (BUILD) program (formerly Transportation Investment Generating Economic Recovery). The BUILD program grants up to $25 million per project, with no state receiving more than $150 million. A 20 percent match is required for urban projects. The US Department of Transportation was quoted as stating "states with a sustainable revenue plan will be the winners going forward. Leverage is the key."

Overview of the Division of Incident Management

The executive director, Kentucky Office of Highway Safety—who is also acting director, Division of Incident Management, KYTC—testified about the division. KYTC's mission is to provide a safe, efficient, environmentally sound, and fiscally responsible transportation system that delivers economic opportunity and enhances the quality of life in Kentucky. The Kentucky Office of Highway Safety's mission is to reduce Kentucky's highway crashes, injuries, and fatalities through education, enforcement, and response. The Division of Incident Management (which includes the Transportation Operations Center [TOC]) and the Roadway Assistance Branch are under the Kentucky Office of Highway Safety. The Safety Assistance for Freeway Emergencies (SAFE) Patrol West Section, SAFE Patrol Central Section, and SAFE Patrol East Section are under the Roadway Assistance Branch. The Division of Highway Safety Programs, which includes the Safety Education Branch and the Grants Management Branch, is under the Office of Highway Safety.

The Division of Incident Management's annual budget of approximately $2 million is invested primarily in trucks, equipment, and personnel. The Roadway Assistance Branch consists of 21 operators, three section support staff, two additional support staff, and five vacant positions. The Traffic Operations Center consists of four first-shift operators, four second-shift operators, three third-shift operators, and three support staff.

The Transportation Operations Center is a 24/7 point of contact for KYTC. The center coordinates and disseminates information on traffic, road closures, and weather events. The SAFE program is also dispatched out of the TOC. The center supports KYTC district incident management teams and provides an expansion of roles to support the division's incident management initiatives. The TOC also manages the dynamic message signs campaign, which coordinates 75 signs on interstates and parkways.

Within the SAFE Patrol and Safety Program, there are 26 Highway Safety Patrol Operators that consist of 13 crews with three sections and three section supervisors. There are also three regional safety administrators who are incident management coordinators and have the cabinet's authority for response and asset coordination.

The mission of the Incident Management Task Force is to improve safety of first responders and motorists and reduce delay on Kentucky's roadways by providing oversight and direction to the Highway Incident Management Program. The goals are to improve safety of responders, highway workers, and motorists; reduce traffic delay; improve motorists' awareness of highway incidents; and improve responder and highway worker preparedness. The task force partners with KYTC, the US Department of Transportation Federal Highway Administration, the Kentucky Office of Homeland Security, the Towing and Recovery Association of Kentucky, the Kentucky Trucking Association, and the Kentucky Association of Chiefs of Police. The task force has several workgroups that focus on the strategic highway safety plan, public policy and education, capabilities and assets, and incident response and management. Kentucky is a leader in training for traffic incident management. Only Oklahoma and Puerto Rico have more responder training than Kentucky.

The TOC administrative branch manager, Division of Incident Management, presented legislative recommendations from the Incident Management Task Force. A main concern was the need to align KRS 189.450 and 189.753, and 502 KAR 15.020, to all have the same guidelines for the timeframe for clearing abandoned vehicles. It was suggested that statute allot 24 hours before removal of an abandoned vehicle is permitted. The alignment of these statutes will prevent crashes, injuries, and fatalities involving abandoned vehicles, vehicle strikes and property damage to emergency vehicles, wide loads, and severe weather maintenance vehicles.

The administrative branch manager, Roadway Assistance Branch, Division of Incident Management, testified about the branch and the operation of SAFE Patrol. A chart highlighted SAFE Patrol activity from 2008 to 2017. There were 70,743 responses to traffic control at incident scenes, 52,607 responses for green-tagging abandoned vehicles, 19,465 responses for changing tires, 45,364 responses to remove road debris, 8,651 responses to provide fuel, 5,067 responses to jump batteries, and 13,627 responses for law enforcement assistance. Partner agencies within the SAFE Patrol program include the Kentucky State Police, the Commonwealth of Kentucky Division of Emergency Management, the Kentucky Board of Emergency Medical Services, Kentucky Public Health, the Kentucky Fire Commission, the Kentucky National Guard, and many more.

The internal workings of the Mobile Operations Center, the satellite data trailer, and the mobile repeater trailer were also shared with the committee. The Mobile Operations Center is for preplanned events such as the Kentucky Derby, Kentucky Oaks, the Kentucky Speedway race weekends, and the eclipse that occurred in 2017. SAFE Patrol trucks maintain the flow of traffic but do not generally direct traffic.

Bridging Kentucky Program

The Bridging Kentucky Program project manager, KYTC, discussed the program. Its plan is to rehabilitate, repair, or replace more than 1,000 of Kentucky's bridges in all counties at a cost of approximately $700 million over 6 years. The goal is to deliver all bridges for construction by 2024. The first bridges that will be addressed will be those that the legislature funded in the biennium budget for FY 2019–2020, which allotted $340 million for rehabilitation and replacement or repair of bridges, $148 million for maintenance and inspection, and $60 million for complex bridges.

The cabinet has assembled a strong team, establishing a quick-start 120-day plan that consists of setting up systems, starting evaluations of structures simultaneously, developing efficient processes to move the project along, and preparing bridges for construction. One of the most valuable parts of the program is the screening process. During the screening and evaluation of bridges, a data-driven, life-cycle cost approach determines rehab versus replacement needs.

The three main factors used to prioritize the bridges are budget matters, condition of the structures, and project challenges. KYTC wants to address closed bridges as soon as possible and then turn its attention to bridges funded in the biennium budget. The highway plan identifies nearly 350 bridge projects. Several bridges are under construction, and rehab projects were set to begin in the fall of 2018. There is an anticipation of a large volume of rehabs or replacements in 2019.

Road Fund Update

The executive director, Office of Budget and Fiscal Management, KYTC, discussed the Road Fund. She said the FY 2018 official revised revenue estimate was a total of $1.503 billion.

The actual revenues received were $1.511 billion, exceeding the estimate by $7.7 million. In FY 2018, KYTC received $764.9 million in motor fuels taxes, $493.1 million in motor vehicle usage taxes, and $252.9 million in other taxes. The FY 2018 actual revenue was $3 million more than the $1.508 billion received in FY 2017.

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

Implementation of HB 410 of the 2017 Session (Travel IDs)

The commissioner of the Department of Vehicle Regulation, KYTC, testified on the implementation of HB 410 of the 2017 Session, which concerns travel IDs. In October 2020, standard licenses will no longer meet federal REAL ID Act requirements for Kentuckians to board US domestic flights or enter select federal facilities. The 9/11 Commission recommended new security standards for identity credentials to prevent the fraudulent use and reproduction of licenses and IDs. Kentucky has been working to come into compliance with the federal requirements and, in response, will begin offering two new versions of all identity credentials: the new Kentucky standard credential and the Kentucky voluntary travel ID.

Kentucky is one of 22 states and US territories operating under an extension from the Department of Homeland Security. This extension allows federal agencies to continue accepting Kentucky licenses, permits, and IDs from people who wish to board US flights, enter military bases, and enter restricted federal facilities such as the White House. A phased statewide rollout of the new credentials will start in January 2019 and end by spring. All credentials will feature mailed delivery, which will entail arrival of the credential in the mail after the recipient has applied with the local Circuit Court clerk. This system will also include an optional lifespan of the ID for 8 years instead of 4. Upgraded security will include a new look and security features that will be among the most state-of-the-art of their kind in the United States. After applying for an ID, the applicant will leave with a temporary document—an altered version of the current credential—and will receive the permanent card in the mail 5 to 10 business days later. For the first 4 years of issuance, applicants not applying for a commercial driver’s license (CDL), along with those 21 and older, will be able to choose a 4- or 8-year credential. Starting January 1, 2023, all applicants will receive an 8-year credential. Although Kentucky’s current credentials meet security standards, the main area of noncompliance with REAL ID Act requirements is the state’s issuance model. By moving production of all credentials from over the counter at more than 140 locations to one central, secure location, as well as adding state-of-the-art card security features, Kentucky is reducing the risk of license and ID fraud.

The standard credential is state-maintained but not federally compliant. Standard licenses and IDs will always be acceptable for voting; age-restricted purchases; access to federal and social benefit services such as VA hospitals, Social Security offices, and federal courthouses; and more. Until federal enforcement begins in 2020, as long as Kentucky remains under extension, standard licenses and IDs can be used for flying in the US and visiting military bases and restricted federal facilities.

The voluntary travel ID is a state-maintained, federally compliant license that will be acceptable for all the uses for which a standard credential may be used, plus flying in the US and visiting military bases and restricted federal facilities. All first-time applicants and anyone requesting a voluntary travel ID credential will need to present proof of identity (birth certificate, US passport, permanent resident card), proof of Social Security number (Social Security card, W-2 form), and proof of residency (utility bill, lease, pay slip, voter registration card). One form of proof of residency will be required for a standard credential; two will be required for a voluntary travel ID. To renew any standard credential, applicants will only need to surrender their current license or ID and have a new photo taken. If the current legal name, date of birth, or gender is different from what is displayed on an identity or lawful status document, the person must show legal proof of the changes (for instance, a marriage license). A full list of acceptable proof documents is available at drive.ky.gov/confidentky.

All credentials will have new pricing to account for the longer shelf life and security improvements. A new 8-year voluntary travel ID license will cost $48. A new 8-year standard driver's license will cost $43. Non-US citizens who are not permanent residents are eligible to apply for a new standard license or ID and pay the cost of the credential plus a $30 application fee. They are not eligible for a voluntary travel ID. Four-year credentials are half the cost of an 8-year credential. More pricing information, including pricing for typical CDL endorsements, is available at drive.ky.gov/confidentky.

A chart showed the pricing differences between the standard credentials and the voluntary travel ID for a driver's permit, motorcycle permit, personal ID, driver's license, motorcycle license, and driver/motorcycle license combination. The next steps are the unveiling of the new design and security features, and then the release of an implementation schedule.

Presentation From the District 8 Highway Office on Projects in the Region

The District 8 chief district engineer gave project updates for the region, and a list was provided of enacted 6-year plan projects in Clinton, Russell, Lincoln, Pulaski, and Rockcastle Counties.

Major maintenance and budget categories were also discussed. A maintenance budget breakdown detailed amounts for drainage issues, bridge maintenance, signs, signals, lighting, guardrail repair and installation, sweeping, carcass and litter removal, snow and ice removal, tree and bush trimming, weed control, mowing, pavement and pothole patching, rockfall and landslip, road striping, and rest areas. A chart broke down snow and ice expenditures from 2007 to 2017.

Update on Riverport Authorities

The president and chief executive officer of Owensboro Riverport Authority updated the committee on Kentucky's riverports as well as the Owensboro Riverport. The Owensboro Riverport was chartered in 1966 by the City of Owensboro and was operational in 1976. The mission of the Owensboro Riverport Authority is to establish the Owensboro Riverport as the premier inland port in the Ohio River Valley by providing a dynamic, efficient, customer-oriented, market-focused intermodal facility that contributes to commerce and economic growth for Owensboro and the region.

A chart displayed all active and developing public riverports in Kentucky. The impact of the riverports extends beyond the seven counties with operating riverports. Counties within 100 miles of the riverports benefit. The president compared cargo capacity, units, and length equivalencies of barges and semis. One barge is the equivalent of 58 large semis, and one 15-barge tow is the equivalent of 870 large semis. Barges are fuel efficient. One gallon of fuel can move 1 ton of cargo 59 miles by semi, 202 miles by train, and 514 miles by barge.

The Owensboro Riverport is a 340-acre working terminal that includes a 100-acre rail loop with 90 railcars and 2.5 miles of port-owned rail. The riverport has 500,000 square feet of warehousing, a new cargo dock, a 110-ton friction crane, a spud barge, a 40-ton crane, and a lift truck fleet. It is a designated delivery site for the London Metal Exchange and the Chicago Metal Exchange. The Owensboro Riverport is a US Department of Homeland Security port and part of the US Foreign Trade Zones Board.

Approximately 1.2 million tons of goods were transloaded at the Owensboro Riverport in FY 2018. Aluminum, fertilizer, grain, and sodium bicarbonate are all transloaded products that have seen substantial growth since 2013. A comparison of tonnages over the last 6 years shows that 51.73 percent of loads have gone by barge, 19.91 percent by rail, and 28.35 percent by truck. According to market share diversification, 21 percent of the market share is warehousing and distribution, 13 percent is bulk and grain, 22 percent is metals, 19 percent is leases, and 25 percent is tolling.

The Owensboro Riverport Authority's revenue has grown by 128 percent since 2013. The riverport finished FY 2018 at approximately $14.9 million in revenue generated from the services provided from transloading goods.

Since its inception in 1966, the capital investment at the Owensboro Riverport Authority has exceeded $100 million. Approximately 10 percent of that amount was startup contributions from the Economic Development Authority and the city, 2 percent came from the Kentucky Riverport Improvement Grant and the Department of Homeland Security, 28 percent came from private sector contributions, and 60 percent came from riverport contributions.

The economic impact of the Owensboro Riverport Authority has been substantial. In FY 2018 the estimated economic impact was $16.1 million of total output, $8.6 million of labor income, and support for 197 jobs annually throughout the region. The average economic impact between 2013 and 2018 has been $13.8 million of total output, $7.0 million of labor income, and support for 161 jobs annually throughout the region.

The Owensboro Riverport Authority, with support from grant contributions and private sector funding, invested more than $46.1 million in construction projects at the riverport between 2013 and 2018. These initial injections into the local economy are estimated to have contributed $67.7 million in total economic impact, including total employment of 590 people and $20.3 million in total wages during construction. In 2016, the industry impact included an estimated $10.7 billion in output, 57,898 jobs, and $2.6 billion in labor income within Daviess County. In addition, of an estimated $23.3 billion in output, 114,589 jobs, and $5.3 billion in labor income within the Green River Area Development District, commodity-driven industries supported $3.5 billion in output, 8,020 jobs, and $385.7 million in income.

Given the projected growth over the next 25 years, the US Department of Transportation has estimated that 10 billion additional tons will move domestically throughout the United States. Centered in the Midwest, Kentucky’s multimodal transportation network is critical to the long-term balance of road, rail, river, and air transportation. The Owensboro Riverport Authority Master Plan, defined in 2016, calls for over $40 million in capital and infrastructure improvements through 2026 to support this long-term balance. The Kentucky Association of Riverports, along with the Kentucky Infrastructure Coalition, supports increased sources of funding to meet long-term multimodal transportation demands in Kentucky.

The chairman of the board, Owensboro Riverport Authority, discussed capital investments and leverage of investments. Each investment is important, including private sector contributions. The riverport touches an eight-county area, and approximately 7 percent of jobs in those counties are due to the riverport. It is a challenge to get a barge in the river; in places, 10 to 15 barge units are tied up. There are problems with older dams and their service ability, as well as a problem moving river traffic. In 25 years, 29 billion tons will move on the rivers in the United States. Supporting such numbers will require improvements to a few dams, made with the use of state and federal funding.

Right-of-Way Process

The deputy secretary and the assistant state highway engineer for project development, KYTC, discussed the right-of-way process. The deputy secretary said that the most critical guide the KYTC uses to manage work at the cabinet is the 6-Year Highway Plan. This plan, passed by the General Assembly every 2 years, gives the direction and the funding needed for road projects across the commonwealth. The process used by the KYTC for right-of-way acquisition was developed to fit within the Constitution of Kentucky, Kentucky statutes, and federal law, allowing KYTC to use a consistent process on all projects regardless of funding type. He said the underlying promise and overwhelming objective is to protect property owners’ rights at all times throughout the process.

The first step is for KYTC to determine the type and size of the land needed. The owner(s) of the parcel is then determined. Finally, the value of the land needed and damages to the remaining land must be determined. The steps of the overall right-of-way process include determining the right-of-way needs for a project and issuing the official order and notice to proceed. A notice of acquisition letter is sent via certified mail; then a public meeting for affected property owners is held, and the property owners receive an initial contact to review existing conditions. An appraisal or minor acquisition review is prepared, and then a just compensation offer is made in writing. The next step is to allow time for the property owner to consider. If the owner agrees, documents are prepared for closing. If the owner rejects the offer, the process of condemnation (eminent domain) begins.

The deputy secretary described the appraisal process. The appraiser computes fair market value, and the owner or representative can accompany the appraiser. All appraisals are reviewed and approved; appraisal waivers are allowed if the value is less than $10,000. Appraisals follow industry standards, and they are performed with both in-house and outside staff. All external appraisers are certified by the commonwealth.

To show good faith and allow ample time for consideration, the cabinet typically allows a minimum of 45 days for an owner to consider the initial offer. The overwhelming majority of parcels for cabinet projects are acquired by informal negation, and approximately 85 percent of all parcels are acquired by negotiations. The deputy secretary said approximately 15 percent of parcels are condemned.

Eminent domain is a course of last resort to resolve disagreement about value or to clear title of property. Most eminent domain parcels are “quick take” for achieving right of entry. The cabinet can proceed with projects by posting the commissioner’s award value; then the case continues to trial. Eminent domain is used when defendants cannot be located. For right-of-way clearance, all parcels are to be signed or right-of-way obtained as required by KRS 176.070.

The right-of-way staff has been reduced by 30 percent in the last 10 years. With regard to staff turnover, there have been 27 separations in the last 4 years and 15 separations since January 2017, most of which were supervisory. The deputy secretary added that 25 percent of management staff are eligible for retirement and 31 percent of overall staff can retire in the next 5 years.

With regard to outsourcing right-of-way activities, consultants performed approximately 50 percent of parcel acquisitions between 2015 and 2017. In 2018, KYTC staff delivered 65 percent of the projects. The cabinet has been managing staff statewide to more efficiently deliver projects in-house.

Utility Relocations

The assistant state highway engineer for project development, KYTC, discussed the utility relocation process. He said the law covers how compensation is given for the relocation of utilities. He cited KRS 177.035, 179.265, and 416.140 and said that the Federal Highway Administration requires that agreements be in place before advertisements are placed. He added that KYTC fully reimburses the cost of relocating the utilities, except for private utilities that have been permitted on public land, which relocate at their own expense.

The general principles of the utility relocation process include identifying all utilities and the impacts and coordinating with the utility operators to avoid and minimize any impacts. Then an agreement to relocate is reached, the relocation is monitored, and reimbursements are given if appropriate.

When KYTC is identifying utilities, project managers will use 811 or a "before you dig" service, as well as contacting the utilities not participating in 811. They will touch base with each utility that they are aware of to determine who has facilities in the area of the improvement. During the identification process, service maps are used, and subsurface utility exploration may be used. Once utility locations are known and conflicts are identified, the utility coordinator in the district will review those conflicts with the utility operator and will continue to do so until the relocation agreement is executed. Once the operator has an idea of where to go outside of the conflict area, the operator will propose a relocation plan with a contact that will include timelines and compensation. In a situation where a utility company relocates its own lines, KYTC will monitor that relocation to make sure that there are no other conflicts and that the schedule is followed. Invoices are then reviewed, and repayments are initiated.

There are several causes of delays, such as trust issues as KYTC faces revolving priorities and short commitment horizons, resource limitations, seasonal limitations, regional emergencies, and unbudgeted relocations. The impacts of those delays include delayed construction and balancing the risk of construction inflation and contract delay claims.

Utility delay improvement efforts include having a balanced highway plan, coordinating early between all parties, acquiring easements for utilities, using a utility coordination system, having a quarterly utility council, and having statewide guidance on priority moves.

Update on Tolling System for Louisville Bridges

The innovative finance manager, KYTC, gave an update on the tolling system for Louisville bridges. She said that to date $168 million in tolls has been collected, greatly exceeding the margins expected. The amount of traffic crossing the bridges is also exceeding projections. The expectation had been approximately 25 million annual trips across the bridges, but there have been 33 million trips. Customer service has also improved. There are 85 people performing customer service functions. Call wait times are under 1 minute, response time to emails is approximately 1 day, and response times to letters is approximately 3 days.

Beginning in January 2018, registration holds were placed on vehicles for nonpayment of tolls. Some new developments include a toll rate increase of 2.5 percent and website updates to allow for a more user-friendly interface.

Prefiled Bills

The committee took no action on prefiled bills referred during the Interim.

Report of the 2018
Interim Joint Committee on Veterans, Military Affairs, and Public Protection

Sen. Albert Robinson, Co-Chair
Rep. Tim Moore, Co-Chair

Sen. Julian M. Carroll
Sen. Perry Clark
Sen. C.B. Embry Jr.
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Jimmy Higdon
Sen. Stan Humphries
Sen. Dennis Parrett
Sen. Wil Schroder
Sen. Dan "Malano" Seum
Sen. Whitney Westerfield
Sen. Mike Wilson
Sen. Max Wise
Rep. Linda Belcher
Rep. Robert Benvenuti III
Rep. John Blanton
Rep. Tom Burch
Rep. Will Coursey
Rep. Jeffery Donohue
Rep. Myron Dossett
Rep. Jim DuPlessis
Rep. Chris Fugate
Rep. Jeff Greer
Rep. Chris Harris
Rep. Mark Hart
Rep. Regina Huff
Rep. DJ Johnson
Rep. Donna Mayfield
Rep. Ruth Ann Palumbo
Rep. Rob Rothenburger
Rep. Dean Schamore
Rep. Walker Thomas

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

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Veterans, Military Affairs, and Public Protection

Jurisdiction: Matters pertaining to military affairs and civil defense; the National Guard; veterans; retention of military bases; veterans' rights, benefits, and education; veterans' nursing homes; military memorials and cemeteries; safety of citizens and security of public buildings and property; fire prevention and protection; foods, drugs, and poisons; pure foods and drugs; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; and garbage and refuse disposal.

Committee Activity

Distinguished Veterans

During the Interim, the committee honored the following as Distinguished Veterans: Commander Lew Anderson, Navy SEAL; Arthur Anderson, Vietnam veteran; Susan Ryan-Bisig, Air Force pilot; and Richard A. Cooper, retired Army Command chaplain.

Committee Commendations

The committee approved a resolution honoring veteran service organizations and encouraging legislation that would provide tax relief for veterans; a resolution celebrating the 100th anniversary of Armistice Day; and a citation recognizing the commissioner of the Kentucky Department of Veterans Affairs and thanking him for his years of military service.

Referred Administrative Regulation

The committee considered administrative regulation 902 KAR 10:040, relating to safety at Kentucky youth camps. The committee approved the regulation by voice vote.

The committee took no action on administrative regulation 830 KAR 1:010, which relates to application, certification of registration, and fees for secondary metals recyclers.

Executive Reorganization Order

The committee took no action on executive reorganization order 2018-718, relating to the Kentucky Military History Museum committee.

Boys and Girls State Presentation

The executive director of Boys State and Boys State Alumni explained that Kentucky needs veteran policy reform, including changes to the state constitution and laws. Boys State wishes to provide veterans with better lives. He offered suggestions for veterans policy reform.

Suicide Prevention Program

A suicide prevention coordinator for the US Department of Veterans Affairs (VA) discussed efforts to prevent veteran suicide and offered a portion of training that has been given to service providers and agencies. The VA discouraged the use of several terms regarding suicide and instead offered more positive terminology. The suicide prevention coordinator listed resources for veterans at risk, including the veteran crisis hotline, crisis text, online chat, and local resources.

The deputy commissioner of the Kentucky Department of Veterans Affairs (KDVA) spoke about prevention of veteran suicide and how KDVA partners with state, federal, and nonprofit organizations. Numerous veterans are not enrolled in VA benefits, and KDVA tries hard to encourage them to enroll.

Secretary of State

The policy and constituent services liaison from the Office of the Secretary of State discussed the Boots to Business initiative. Boots to Business, which was created by HB 319, helps veterans transition from their time in the military to building a business and is also used to notice and distinguish veteran-owned businesses as a way to thank the veterans.

A representative from the Secretary of State's Office said that four state veterans' centers will be used as polling locations. The Secretary of State's Office partnered with the Kentucky Department of Veterans Affairs and many county clerks to bring these new locations to the state. A representative from the office also updated the committee on the Military Heroes Voting Initiative, which gives military and overseas citizens the opportunity to register to vote, update voting registrations, and request absentee ballots.

Joint Executive Council of Veterans Organizations

The chairman of the Joint Executive Council of Veterans Organizations (JECVO) discussed legislation the council has been working on for the upcoming session. Veterans service organizations (VSOs) return a large amount of their income back to the community through donations. The chairman said that, if part of the income is taken, the community will suffer. Next, the chairman spoke about the need for a green alert system for mentally and physically disabled veterans who go missing. The chairman spoke about the importance of having a robust KDVA operating budget so that veterans centers can be fully staffed and operate at full capacity. The chairman also said that the requirement to pay property taxes hurts VSOs in the way that income tax does, because of the amount of charitable donations that VSOs make to the community.

Kentucky Commission on Military Affairs

The executive directors of the Kentucky Commission on Military Affairs (KCMA) and the Kentucky Aerospace Industry Consortium (KAIC) said that their goal is to unify the Kentucky aerospace and defense industry with one voice and that they hope to build more relationships. It is important to KAIC to promote the industry not only within the state but outside state borders as well. The executive director of KAIC said that it is crucial that Kentucky aerospace companies have the same opportunities as other companies.

There was discussion of KCMA's strategic goals, including "to protect and grow Kentucky's military installations," which can be achieved by advocacy and spreading the word about "Fort Kentucky" to help achieve "most military-friendly state" status. The goals also include "develop and implement the model for transitioning service members, veterans, and spouses." Over the last 6 months, Kentucky has brought in almost $10 million for transitioning veterans and their spouses.

The project manager of KCMA said that the Department of Labor awarded it a $1.5 million grant, Veteran Accelerated Learning for License Occupations, which provided veterans with credit for what they have accomplished during military service.

KCMA completed a survey of military-associated individuals to provide suggestions for legislators to achieve the goal of becoming the most military-friendly state. The top answers KCMA received involved education benefits, the hiring of veterans and their spouses, and changes to income and property tax requirements.

ASVAB Career Exploration Program

The executive officer of the Nashville Recruiting Battalion spoke about the Armed Services Vocational Aptitude Battery (ASVAB) Career Exploration Program. The program is a postsecondary career planning resource, and its mission is to provide a career exploration program for students and to recognize people who are prequalified for military service. The executive officer said that regardless of the test's results, the program will provide students with a detailed goal-oriented outline of what they need to do to achieve their plan.

Kentucky Office of Homeland Security

The executive director of the Kentucky Office of Homeland Security (KOHS) testified on the most recent reporting cycle. KOHS provided 735 state employees with active shooter aggressor training and reported that 125 new KOHS intelligence liaison officers received training for both public-sector and private-sector partners. The executive director spoke of the importance of communication between agencies and KOHS, and of the importance of providing agencies with products that encourage homeland security.

The deputy executive director of KOHS and administrator of the Kentucky 911 Services Board said that a 6-month fiscal review was conducted in 2018; results showed misconduct of procedures and misappropriation of past funds. After the review, it was reported that a quarter of a million dollars was reimbursed to the grant fund and that new policies and procedures were implemented to ensure positive reviews in the future.

Report of the 2018
Administrative Regulation Review Subcommittee

Sen. Ernie Harris, Co-Chair
Rep. David Hale, Co-Chair

Sen. Perry Clark	Rep. Mary Lou Marzian
Sen. Alice Forgy Kerr	Rep. Jason Petrie
Sen. Julie Raque Adams	Rep. Tommy Turner

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

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Kentucky General Assembly

Administrative Regulation Review Subcommittee

Jurisdiction: Review and comment on regulations submitted to it by the Legislative Research Commission; make nonbinding determinations concerning the statutory authority to promulgate regulations filed with the Legislative Research Commission; review existing regulations; recommend the amendment, repeal, or enactment of statutes relating to regulations; conduct a continuous study of the regulations procedure and the needs of administrative bodies; study statutes relating to administrative hearings; and make legislative recommendations.

Subcommittee Activity

The Administrative Regulation Review Subcommittee (ARRS) is a statutory committee of the Legislative Research Commission and is required to meet monthly. This report covers subcommittee activity between December 2017 and November 2018.

Subcommittee Statistics

Within the last year, ARRS reviewed 543 regulations, which is an increase of 23 percent over the yearly average of 441. The subcommittee did not find any regulations deficient during this time.

Baseline 10-Year Averages of Regulations Reviewed by ARRS

	Additional Amendments Made at an ARRS Meeting	No Additional Amendments Made at an ARRS Meeting	Companion Emergencies to Ordinary Regulations	Withdrawn Prior to ARRS Review	Total Reviewed
Baseline averages	265	105	48	23	441

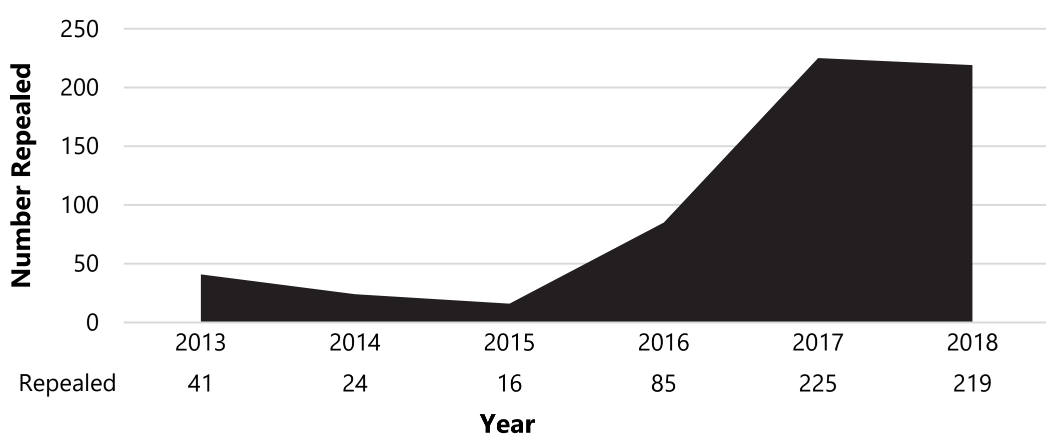
Regulations Reviewed by ARRS from 12/2017 to 11/2018

Month	Additional Amendments Made at an ARRS Meeting	No Additional Amendments Made at an ARRS meeting	Companion Emergencies to Ordinary Regulations	Withdrawn Prior to ARRS Review	Total Reviewed
December 2017	32	7	5	0	44
January 2018	22	8	0	1	31
February	27	8	5	2	42
March	15	8	0	3	26
April	16	5	2	0	23
May	19	5	4	2	30
June	18	10	7	4	39
July	25	16	0	3	44
August	26	11	1	3	41
September	41	28	10	0	79
October	21	14	3	2	40
November	68	25	8	3	104
2018 total	330	145	45	23	543

Red Tape Reduction

Red Tape Reduction is an initiative created by the Governor in 2016 for the executive branch to review every regulation currently in effect and repeal those regulations that are duplicative, overly complex, obsolete, or in conflict with current law. During 2018, the subcommittee reviewed 53 repealer regulations that repealed 219 regulations.

Number of Regulations Repealed by Year
2013 to 2018



Expiration Provisions

KRS 13A.3102 and 13A.3104 establish a review and expiration process for regulations. Without action by the promulgating agency, older regulations that last became effective prior to July 1, 2012, will expire on July 1, 2019. Regulations with a last effective date on or after July 1, 2012, will expire on a 7-year cycle. The statutes require an agency to review its regulations for compliance with KRS Chapter 13A and other law. The agency may then file a certification letter with the regulations compiler at LRC, stating that the agency wishes to keep the regulation in effect as is, or that the agency intends to amend the regulation. Without the certification letter, the regulation will expire.

Of 688 certification letters filed prior to November 19, 2018, agencies have indicated that 4 regulations will be amended and 684 will remain in effect without amendment. A total of 1,852 regulations—approximately 41 percent of all effective regulations—are set to expire on July 1, 2019, unless the applicable promulgating agencies take action before the deadline.

Review Topics

The following are some of the topics that ARRS reviewed during 2018.

Deer Hunting (301 KAR 2:172). The subcommittee reviewed a regulation pertaining to deer hunting seasons, zones, and requirements. The regulation was amended to establish the process for a special deer hunt for novice hunters, to modify antlerless deer harvest opportunities and county zone designations, to expand the number of hunting days, to modify the number of deer allowed to be taken in the harvest zone, and to provide hunters an additional number of deer they may harvest on their hunting permits.

A subcommittee amendment was adopted to reinstate provisions for additional deer permits in lieu of “deer management” permits, to maintain the current sportsmen fees, to delete the additional Zone 1 modern gun hunt days in September, and to ensure that oversight and sponsorship of special deer hunts will be carried out only by the department.

Members of the Fish and Wildlife Commission testified in opposition to the proposed changes, stating that the additional modern gun hunt days in September should be retained because Zone 1 had a significant overpopulation problem, and the subcommittee amendment would result in the loss of fees and create inconvenience for the purchase of additional licenses. Members of both the League of Kentucky Sportsmen and the fifth district of the Kentucky League of Sportsmen testified in support of the regulation but in opposition to the subcommittee amendment.

A representative of the Department of Fish and Wildlife Resources testified that Zone 1 had the most liberal deer hunting provisions due to overpopulation. Zones 4 and 5 were more restrictive due to underpopulation resulting from an outbreak of epizootic hemorrhagic disease in 2017. It was the consensus of the Tourism, Arts, and Heritage Cabinet and the department to agree to the subcommittee amendments.

Hunting and Fishing License Fees (301 KAR 3:022). The subcommittee reviewed a regulation pertaining to license, tag, and permit fees. The regulation was amended to increase various hunting and fishing license fees. Concern was expressed about an increase in the fee for senior or disabled resident hunting/fishing licenses from $5 to $18. The subcommittee adopted an amendment, with the agreement of the Department for Fish and Wildlife Resources, to reduce the fee from the agency-proposed $18 to $12.

Additionally, the department submitted a letter formally expressing several specific commitments to ARRS. First, the department would use revenue from the fee increases to allocate $200,000 per year to the department's conservation camps for children, $50,000 per year to operations of the Salato Wildlife Education Center, and $500,000 per year to law enforcement personnel. Second, the department would provide quarterly reports on revenues and expenditures to the Standing Senate Committee on Natural Resources and Energy and the Standing House Committee on Tourism and Outdoor Recreation. Third, the Fish and Wildlife Commission would direct the department to analyze and recommend a fee increase proposal for nonresident licenses and permits at its March 2018 quarterly meeting, for later submission to the General Assembly. ARRS reviewed the resulting proposed regulation relating to nonresident fees and referred it to the Interim Joint Committee on Natural Resources and Energy on November 7, 2018. If the regulation becomes effective, the fee increases for nonresidents will be instituted beginning March 1, 2019.

Alcohol Quotas (804 KAR 9:051). The subcommittee reviewed a regulation that repealed 804 KAR 9:010, 804 KAR 9:040, and 804 KAR 9:050, which pertained to the quota system for retail drink and package licenses.

A representative of the Department of Alcoholic Beverage Control testified that with the passage of SB 110 from the 2018 Regular Session, the package license quotas were now established by statute, and the regulations being repealed were no longer necessary. There was no longer a quota for drink licenses. Cities still had authority to establish related ordinances. A licensee could transfer or sell a license, but the licenses had very little value. The department did not expect an increase in sales of these licenses. There was no policy shift other than elimination of an arbitrary limit on the number of licenses.

Charitable Gaming (820 KAR Chapter 1). The subcommittee reviewed a package of regulations pertaining to charitable gaming. This package was amended to update and reorganize existing regulations in accordance with statute and the requirements of HB 164 from the 2018 Regular Session.

During the public comment period, representatives from a number of charitable organizations submitted comments in opposition to the amendment of these regulations. The organizations stated that the Department of Charitable Gaming lacked statutory authority to promulgate certain changes, that the changes would have a detrimental impact on charitable organizations and the charitable gaming industry, and that the changes would not provide adequate guidance for charitable organizations that wish to cancel gaming sessions because of inclement weather.

In response to public comments, the department met with concerned stakeholders over the course of several months. The result of these meetings was a consensus that was formalized in an agency amendment presented to and approved by ARRS.

Charter School Implementation (701 KAR Chapter 8). The subcommittee reviewed a package of regulations to implement HB 520 from the 2017 Regular Session, which authorized public charter schools as part of Kentucky's public education system. These regulations pertained to the charter school student application, lottery, and enrollment; valuation of charter school authorizers; charter school appeals process; and conversion charter school petition, conversion, and operation. This package of regulations received public comments, some of which prompted the Department of Education to make further amendments. A subcommittee member was recorded as voting "no" on this package of regulations.

Pregnant Inmates (501 KAR 6:020). The subcommittee reviewed a regulation pertaining to Department of Corrections policies and procedures. The regulation was amended to implement SB 133 from the 2018 Regular Session, the "Women's Dignity in the Justice System Act." Procedures were added to address pregnancy release for women needing substance abuse treatment and to address restraint of inmates who were pregnant or in labor.

Prison Rape Elimination Act (505 KAR 1:170). The subcommittee reviewed a regulation pertaining to Department of Juvenile Justice policies and procedures establishing standards required by the Prison Rape Elimination Act of 2003 (PREA). These standards included smaller staffing ratios for secure juvenile facilities during resident waking hours; departmental notice requirements for residents alleging PREA violations; third-party reporting mechanisms; and respectful treatment of all juveniles, regardless of sexual orientation or gender identity.

A representative of the department testified that implementation of this regulation would cost approximately $4 million and require approximately 80 new staff members. The primary penalty for PREA noncompliance was a 5 percent reduction in the amount of certain federal grant funds. Funds were still available for implementation if the department certified that, upon release of the funds, the money would be used exclusively to comply with federal PREA requirements.

DUI Ignition Interlock Devices (601 KAR 2:030 & E). This regulation pertains to the ignition interlock device, concerning the use of court-ordered devices that render a motor vehicle inoperable if the device measures the driver's breath alcohol level to be above 0.02 percent. This regulation has not yet been officially considered at an ARRS meeting because the Transportation Cabinet has been repeatedly deferring, withdrawing, and refiling the regulation since 2015, in anticipation of statutory amendments. SB 302 and HB 10 with SCS 1 from the 2016 Regular Session were partly clean-up bills intended to address technical issues in statute, but they were not enacted. This regulation has remained in effect through the KRS Chapter 13A process for emergency regulations.

Kentucky HEALTH Program (895 KAR Chapter 1). The subcommittee reviewed a package of regulations establishing the Kentucky Helping to Engage and Achieve Long Term Health (HEALTH) program for the expanded Medicaid population, including requirements for eligibility, premiums, community engagement, vision and dental benefits, deductible accounts, providers, designation as medically frail, and appeals. Emergency versions of these regulations were filed on June 29, 2018, and withdrawn on July 2, 2018.

The Department for Medicaid Services provided testimony that there had been litigation regarding these regulations and that the Division of Policy and Operations was currently involved in a waiver reauthorization process with the Centers for Medicare and Medicaid Services (CMS). The requirements in these regulations would become effective only if CMS approved Kentucky's waiver and a funding source was available. If CMS approved only a portion of the requirements, the division would file an emergency regulation.

A representative of the Advocacy Action Network testified in opposition to the requirement to report community engagement compliance through an internet-based system. 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. Benefits and services might be denied for failure to report due to lack of internet access. The organization supported a written format as an alternative to internet reporting.

The department responded that online reporting requirements for community engagement were not overly burdensome to the recipients because the most vulnerable were exempt, the department had existing procedures in place to provide assistance, and benefit termination was not immediate for noncompliance. The 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. Studies demonstrated that internet access was a key feature for improving health outcomes. A subcommittee member was recorded as voting "no" on this package of regulations.

Genetic Counselors (201 KAR 9:480). The subcommittee reviewed a regulation pertaining to genetic counselors, which established a schedule of fees for services rendered by the Board of Medical Licensure. The board provided testimony that SB 146 from the 2017 Regular Session established the new licensure category for genetic counselors under the board. Genetic counselors were not physicians, but they often worked with physicians in affiliation with university medical systems.

Nurse Licensure Compact (201 KAR 20:506). The subcommittee reviewed a regulation that incorporated by reference the rules and bylaws adopted on December 12, 2017, by the Interstate Commission of Nurse Licensure Compact Administrators.

The Board of Nursing provided testimony that Kentucky had been a party to the compact for over 8 years. Because of insufficient growth, a new compact with stronger qualification requirements was promulgated. The new compact was successful in bringing in new states, including West Virginia. Tennessee was a long-standing member. Indiana was considering joining the compact, but Ohio was not.

Licensed Diabetes Educators (201 KAR 45:001). The subcommittee reviewed a regulation pertaining to continuing education credit for an apprentice diabetes educator.

The Board of Licensed Diabetes Educators provided testimony that Kentucky led the nation in the number of diabetes cases, and that SB 198 from the 2012 Regular Session established licensing for diabetes educators. Licensees functioned in many venues, including hospitals, clinics, physician offices, and other health care facilities. The regulation would allow an apprentice to include up to 15 hours of approved continuing education per renewal period within the total hours of work experience required.

SNAP Program (921 KAR 3:025; 921 KAR 3:035). The subcommittee reviewed regulations pertaining to the Supplemental Nutrition Assistance Program (SNAP). These regulations were amended to add a penalty for noncustodial parents who are determined delinquent in the payment of court-ordered child support obligations, to modify certification periods for qualified SNAP households in accordance with federal law, to create a 4-month certification period for qualified SNAP households that include able-bodied adults without dependents, and to improve tracking of compliance with employment and training requirements.

A representative of the Kentucky Equal Justice Center, the American Civil Liberties Union of Kentucky, the Catholic Conference of Kentucky, the Kentucky Center for Economic Policy, the University of Louisville Kent School of Social Work, and the 4 Your Child Project testified in opposition to these proposed regulations. These organizations expressed concerns regarding the suspension of SNAP benefits for noncustodial parents who are in arrears on their child support obligations, especially those individuals reentering society following their release from incarceration. The changes would have a disproportionate impact on those who reside and work in areas with little earnings potential. The amendment lacked standard criteria for establishing delinquency, and the exemptions offered by the department through its agency amendment were insufficient.

A representative of the Department of Income Support with the Cabinet for Health and Family Services testified that the intent of the proposed changes was to gain cooperation from individuals in arrears on their child support obligations, not to suspend SNAP benefits without good cause. The representative further testified that the agency amendment established exemptions from the suspension of benefits, as well as reinstatement criteria.

Delinquent Property Tax Bills (103 KAR 5:230). The subcommittee reviewed a regulation pertaining to information to be provided by the sheriff when transferring delinquent property tax bills to the county clerk.

A representative of the Department of Revenue testified that there had been a conflict regarding tax bill processing between vendors that served sheriff’s offices and vendors that served county clerks. By establishing criteria for information to be provided by the sheriff, the regulation created consistency for tax bill processing as delinquent bills moved from sheriff’s offices to county clerks. Local government agencies already used software capable of collecting and transferring the required information, so the department did not expect additional costs or revenue.

Tentative ARRS Agenda for December 2018

Although December's meeting agenda has not been finalized, ARRS could review as many as 84 regulations. There are several reasons that a regulation might be removed, including the time needed to complete the public comment process or an agency request to defer the regulation to the next ARRS meeting. Potential topics include income tax; retirement systems; boards in several areas, including pharmacy, chiropractic examiners, social work, examiners of psychology, and occupational therapy; importation of cervid carcasses and parts; elk hunting seasons; hazardous waste; underground storage tanks; air quality; special law enforcement officers; motor vehicle dimension limits; education, including required academic standards, minimum requirements for high school graduation, nontraditional instruction programs, and education of migratory children; workers' compensation; alcohol; mine safety; insurance; home inspector licensing; certificates of need; local health departments; food code; home-based processors and farmers market home-based microprocessors; Medicaid services and coverage; and child adoption.

Report of the 2018
Capital Planning Advisory Board

Sen. Stan Humphries, Co-Chair
Rep. Daniel Elliott, Co-Chair

Sen. Whitney Westerfield
Rep. DJ Johnson
Scott Brinkman
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John Chilton
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Kaelin Reed
Katie Shepherd

LRC Staff: Shawn Bowen, Julia Wang, and Jennifer Luttrell

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Capital Planning Advisory Board

Jurisdiction: The 1990 General Assembly established the Capital Planning Advisory Board, comprising 16 members representing the executive, judicial, and legislative branches of government. Pursuant to KRS Chapter 7A.120, the board is charged with creating a 6-year comprehensive statewide capital improvements plan for submission to the heads of the three branches of government by November 1 of each odd-numbered year. This schedule enables the comprehensive capital plan to be used in the subsequent budget process and legislative session.

Capital planning requires that all state government entities submit information to the board about their capital construction, equipment, information technology, and space needs for a 6-year period. The primary requirement for a capital project is that it cost $1 million or more. (This is the threshold for projects to be individually authorized in the biennial budget.) Such projects include new construction, major renovations, major maintenance, demolitions, and acquisitions. Capital construction projects also include court facilities projects if the annual use allowance will be $200,000 or more, equipment items costing $200,000 or more, and information technology systems costing $1 million or more.

All three branches of government are covered by the capital planning requirement, but a majority of the plans are from cabinets and agencies of the executive branch, including the postsecondary education institutions. In general, any project that will later be submitted in an agency's capital budget request for authorization by the General Assembly is to be submitted in the agency's capital plan.

Board Activity

Since adjournment of the 2018 Regular Session, the board convened two meetings in August and September. The meetings convened in Frankfort, and the topics for discussion included a variety of planned and ongoing capital construction projects.

KentuckyWired Project

The executive director of the Kentucky Communications Network Authority (KCNA) updated board members on the progress of KentuckyWired (formerly the Next Generation Kentucky Information Highway project.) The $120 million project was authorized in House Bill 235, 2014–2016 Executive Budget, with a combination of federal, private, and bond funds. A request for a scope increase was presented to the Capital Projects and Bond Oversight Committee in September 2015. The committee canceled its meeting, and the secretary of the Finance and Administration Cabinet proceeded with the project pursuant to KRS 45.800(3). The revised project scope is $374.4 million.

KentuckyWired is an open-access broadband network that will, upon completion, consist of over 3,000 miles of fiber infrastructure referred to as the "middle mile." Construction started in 2015 in Eastern Kentucky, and work in this part of the state was to be complete by fall 2018; concurrent construction will begin in other parts of the state, with full completion of the network by 2020. Six third-party infrastructure partners will help build the network: Cincinnati Bell, Bluegrass Network, Eastern Kentucky Network, Brandenburg Telecom, Owensboro Municipal Utilities, and MuniNet. By using companies that have infrastructure in place, the state will save money and avoid overbuilding existing broadband infrastructure. Approximately 800 miles of fiber infrastructure has been laid, and $240 million has been spent.

The project was scheduled for completion in August 2018, but it is approximately 18 months behind schedule because of delays and difficulties in obtaining pole attachment agreements, permits, and easements. Supervening events (unforeseen delays) caused project complications and affected project schedules. A total of 228 supervening events have been claimed. In 2015, KCNA negotiated an $88 million settlement with construction firms to resolve 207 supervening events that occurred through January 1, 2018. The settlement provides the construction firms with the scheduled relief due, removes the risk of litigation and project collapse, and implements contract changes to minimize the risk of future supervening events.

Senate Bill 200, passed by the 2018 General Assembly, authorizes KCNA to incur debt up to $110 million. KCNA will borrow $88 million to fund the cost of 207 supervening events, and the remaining $22 million will serve as project contingency. The KentuckyWired Infrastructure Company, a nonprofit established by the state, will serve as the conduit issuer for the bonds.

The KentuckyWired project will eventually pay for itself. The money the state currently pays broadband service providers will be used to make the availability payments required to cover the cost of the bonds. Additionally, the state will have an extra 50 percent capacity to lease to the private sector. The availability payments represent the sum of a project's expense components, adjusted for annual escalation, and subject to upward or downward adjustments for changes. These payments cover all construction project costs, as well as service provider costs, power line repairs and outages, bond repayment costs, and financing costs. Over the 30-year period, the payments will cover over $1.1 billion of the project costs. Availability payments that support the KentuckyWired project are subject to annual appropriation by the General Assembly. The anticipated revenues from the system, estimated to be $28.5 million from all state agencies, will be applied toward the availability payments. The $28.5 million assumption anticipated that K-12 education would be part of the network, but K-12 is no longer envisioned to be part of the system, because of budget constraints. That change creates a challenge, in that the project was created with a reliance on system revenue that no longer exists.

Capital Plaza Redevelopment Project in Downtown Frankfort

At the board's September meeting, Finance and Administration Cabinet officials updated members on the progress of the Capital Plaza Redevelopment project. Senate Bill 238 of the 2017 Regular Session authorized the Finance and Administration Cabinet to enter into a public-private partnership, built-to-suit lease agreement for the renewal of the Capital Plaza Complex in Frankfort. The procurement process for built-to-suit projects is part of a public-private partnership whereby state-owned property is conveyed to a private business for development and leased back to the state for a specific period of years. At the fulfillment of the lease term, the property is returned to the commonwealth.

In December 2017, the Capital Projects and Bond Oversight Committee approved the built-to-suit award to CRM/D.W. Wilburn. The lease will have a maximum annual cost of $7,594,254, with biennial renewals through June 30, 2050. The lessor, CRM/D.W. Wilburn, will maintain and manage the building during the term of the lease agreement. The new facility will consolidate state agencies located in multiple buildings, and the selection of the building occupants was to be determined no later than December 2018.

The project includes demolition of the Capital Plaza Tower, which occurred in March 2018, and construction of a 385,500-square-foot office building for approximately 1,500 employees. Construction will also include a parking garage attached to the Transportation Cabinet Office Building parking garage. The facility was designed in a manner not to compete or interfere with downtown businesses, so the new building does not include a large number of meeting spaces or a food service area. The building is scheduled for completion in October 2019, approximately 6 months ahead of schedule. The same developer and construction team were used for The 300 Building, which has a design similar to that of the Capital Plaza Redevelopment project.

Long-Range Plan for State Leased Space

The Finance and Administration Cabinet, Department for Facilities and Support Services, has continued to reduce its dependency on leased space in Franklin County and to take advantage of consolidating agencies when possible. The intention of the long-range plan is not to reduce the amount of square feet under lease to 0, but to find an optimal ratio of leased space versus state-owned properties. Keeping leased properties allows the commonwealth to both grow and contract without having unoccupied state-owned buildings. The 300 Building and the Capital Plaza Redevelopment are a series of new buildings designed to further reduce the state's dependency on leased space. In Franklin County, the state leases approximately 1.1 million square feet of office space and owns approximately 5.3 million square feet. Built-to-suit space comprises an additional 371,000 square feet, which will eventually become state-owned.

CHR Building and Health Service Building Facility Study

The board heard testimony from Finance and Administration Cabinet staff relative to a feasibility study for the renovation of the CHR Building and the Health Services Building (HSB) in Frankfort. The study was conducted by Sherman Carter Barnhart Architects at a contract cost of $400,000. The buildings received facility assessment scores of 47 and 36, respectively. The results of the studies are used by the Division of Engineering to determine future construction needs.

The study provided four options, of which option four was determined to be the best choice for its cost effectiveness and advantages unavailable with the other options.

- Option one—$123,660,000
  - Renovate and update CHR Building and HSB to meet functional needs, building and energy codes, and Americans with Disabilities Act (ADA) requirements.
- Option two—$119,030,000

  - Renovate and update CHR Building and HSB to meet functional needs, building and energy codes, and ADA requirements.
  - Construct a new building for the Department of Health Services attached to the CHR Building.
- Option three—$4,450,000 (an additive option in conjunction with option one or two)
  - Construct an elevated parking deck with access from the upper-level roadway.
  - Add 185 parking spaces and ADA-compliant spaces with access to the main building lobby.
- Option four—$128,820,000
  - Renovate the CHR Building substantially.
  - Demolish the HSB.
  - Construct a new 150,000-square-foot stand-alone HSB.

Kentucky State Fair Board/Kentucky Exposition Center

The 2018–2020 Executive Budget authorized three capital projects for the Tourism, Arts, and Heritage Cabinet, Kentucky State Fair Board: Construct Gate One Hotel, Construct Hotel Development, and Construct Agri-Plex. The projects will be constructed on land at the Kentucky Exposition Center (KEC).

The Finance and Administration Cabinet issued a request for information relative to the development of hotels, restaurants, entertainment venues, and retail outlets at KEC on May 16, 2018. The due date for responses was June 19, but it was extended to July 12.

The project will include two parcels of land totaling 133 acres. Parcel 1 is 45 acres on the south end of the property bordered by I-65, I-265, Phillips Lane, and the main entrance to KEC. Parcel 2 is approximately 88 acres on the north end of the property bordered by I-65 and the northern entrance to KEC, with two vacant structures and two occupied buildings.

Old Cardinal Stadium will be demolished prior to the development. The Kentucky State Fair Board also expressed the desire to develop an approximately 8-acre portion of parcel 2 as a multipurpose exposition center. A third-party developer will construct the facility and lease it back to the board for a designated period of time. The projected revenue sources are the full-service lodging, food, and entertainment amenities, as well as potential revenues from the lease of the property and the sales side.

Report of the 2018
Capital Projects and Bond Oversight Committee

Sen. Stan Humphries, Co-Chair
Rep. Larry Brown, Co-Chair

Sen. Julian M. Carroll	Rep. Dennis Horlander
Sen. Rick Girdler	Rep. Steven Rudy
Sen. Christian McDaniel	Rep. Diane St. Onge

LRC Staff: Katherine Halloran, Julia Wang, and Jenny Wells Lathrem

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Capital Projects and Bond Oversight Committee

Jurisdiction: The committee is a permanent subcommittee of the Legislative Research Commission and is charged with overseeing the expenditure of funds for state capital projects; the allotment of funds from the emergency repair, maintenance, and replacement account and the capital construction and equipment purchase contingency account; the state's acquisition of capital assets, including the lease of real property; the issuance of bonds by the commonwealth and related statutory entities; and the issuance of bonds by local school districts.

Committee Activity

As a statutory committee, the Capital Projects and Bond Oversight Committee meets monthly, even when the General Assembly is in session. This report covers committee activity between December 1, 2017, and November 30, 2018. The committee met 10 times in Frankfort in the Capitol Annex and did not meet in January and May 2018. Pursuant to KRS 45.800(3) or KRS 45.810(3), entities either deferred proceeding with the January and May 2018 submitted transactions until committee approval the following month or proceeded with the transactions. The committee either approved or subsequently approved all submitted items requiring action.

General Oversight and Review

Appropriations for Projects Not Line-Itemized. Part II(4) of the biennial appropriations act allows allocations for capital projects from specific areas and requires reporting of those projects to the committee. The committee reviewed aggregate allocations of $15.05 million, $1.9 million from bond-funded maintenance pools; $5.8 million from the Workforce Development Construction Pool, $2.3 million from the Fees-in-Lieu-Of Stream Mitigation Projects Pool, and $5 million from the Agricultural Development Board.

Emergency Repair, Maintenance, or Replacement Projects. Pursuant to KRS 45.780, four emergency repair, maintenance, or replacement projects were reported, totaling $11.3 million. Only one of those four, the King Air Overhaul, required the use of funds (just under $300,000) from the Emergency Repair, Maintenance, and Replacement account. Primarily insurance proceeds were used for two project at the Kentucky Center for the Arts: Fire Damage Restoration ($9 million) and Barrel Vault Roof and Ceiling Repairs ($1,023,520). For the $800,000 High Voltage System Upgrade – Capital Campus, agency restricted funds were used. Sums of $100,000 and $102,945, respectively, from agency maintenance pools were used to augment funding for the Barrel Vault Roof and Ceiling Repairs and the King Air Overhaul.

Notices of Intent to Use Public-Private Partnership Project Delivery Method. Pursuant to KRS 45A.077(6), the University of Kentucky (UK) transmitted the first notification of plans to use the public-private partnership project delivery method received by the committee for the Improve Campus Parking and Transportation System project authorized in HB 200 (2018 Regular Session), on Winslow Street in Lexington. UK transmitted the associated request for proposal and is required to submit the final contract to the committee for approval under KRS 45.763 before work may commence on the project.

Notices of Intent to Use Alternative Construction Project Delivery Methods. Pursuant to KRS 45A.180(2), UK and Northern Kentucky University (NKU) transmitted notification of plans to use alternative construction project delivery methods, which encompass any project delivery method other than the conventional design-bid-build as defined by KRS 45A.030(12). UK reported the construction management (CM) at-risk project delivery method for the Improve Clinical/Ambulatory Services – Brachytherapy and the Facilities, Renewal, Modernization and Deferred Maintenance – Enoch Grehan Journalism Building capital projects authorized in HB 303 (2016 Regular Session). NKU reported its intent to use either the CM at-risk or construction manager-general contractor project delivery method for its Construct/Acquire New Residence Hall 2016–2018 project, and it transmitted the associated request for proposal.

Annual and Quarterly Capital Projects Status Reports. The Administrative Office of the Courts, the Finance and Administration Cabinet (with the Commonwealth Office of Technology reporting independently), and postsecondary institutions managing their own capital construction programs submitted annual reports, pursuant to KRS 45.760(9) and KRS 164A.580, and quarterly capital projects status reports, pursuant to KRS 26A.168(1), KRS 45.793, KRS 45.818, and KRS 164A.580.

Kentucky Infrastructure Authority (KIA) Fund C (Governmental Agencies Program) Federal Surplus Property Equipment Loans. In order for utilities to select federal surplus property equipment items for purchase, if and when available, the committee voted to allow retroactive reporting of KRS 224A.100 assistance agreements for federal surplus property 5-year equipment loans, $50,000 maximum per loan, at its February 20, 2018 meeting. KIA reported one $50,000 federal surplus property equipment loan to the City of Lebanon.

Equipment Purchases Over $200,000. The committee reviewed nine purchases of medical equipment from UK Healthcare totaling $10.5 million, as well as the Kentucky Community and Technical College System's (KCTCS) purchase of the $1.2 million Fire Commission Driver Simulator.

Louisville Arena Authority. Pursuant to KRS 65.4931(3), and section 8.22 of the Loan Agreement for the Series 2017 bond issue, the Louisville Arena Authority transmitted its report on its operations and financial condition as well as its compliance with KRS 65.4931(2), which requires the authority either to apply all excess revenues to redeem a portion of its outstanding bonds, or to present an alternative payment plan.

Unexpended Debt Service to Support Availability Payments. Part I, A, 32, (1) of House Bill 303, the 2016–2018 biennial appropriations act, requires the secretary of the Finance and Administration Cabinet to certify the amount of its General Fund debt service appropriations that was not needed to satisfy debt service obligations and to notify the committee before expenditure of those funds for the Kentucky Communications Network Authority's public-private partnership contractual availability payments. In fiscal year 2018, $22,753,800 of appropriated but unexpended funds for debt service was designated for the availability payments.

Annual Report of Debt Principal Outstanding. Pursuant to KRS 45.810(6), the Office of Financial Management transmitted the annual report of debt principal outstanding on behalf of state entities, including postsecondary institutions, authorized to issue debt.

Semi-Annual Reports of the Kentucky Asset/Liability Commission (ALCo). Pursuant to KRS 56.863(11), the Office of Financial Management transmitted ALCo's semi-annual reports.

Office of the Auditor of Public Accounts Certification Reports. Pursuant to KRS 45A.860(3), the Office of the Auditor of Public Accounts transmitted reports certifying procedural compliance with KRS 45A.840 to KRS 45A.879 in the procurement of underwriter and bond counsel services for the following four selection committees: Kentucky Higher Education Student Loan Corporation (KHESLC), managing underwriter and financial adviser for fiscal year 2018; Kentucky Infrastructure Authority, senior managing underwriter for fiscal years 2018 and 2019 and bond counsel for fiscal year 2018; State Property and Buildings Commission (SPBC), managing underwriter, financial adviser, and bond counsel for fiscal year 2018; and local co-managing underwriters for fiscal year 2018.

Notices of Advertisement for Leased Space. Pursuant to KRS 48.111(6)(a), the Finance and Administration Cabinet, Division for Facilities and Support Services, Division of Real Properties, transmitted two notices of advertisement for leased space.

Cabinet for Economic Development (CED) Annual Economic Development Bond (EDB) Report. Pursuant to KRS 154.12-100(7), CED transmitted its annual report showing EDBs (grants) during the previous fiscal year and the outstanding balance on loans (currently grants) from EDB proceeds during the previous 5 fiscal years. The EDB program provides grants to local governments to leverage against private investments for economic development in the commonwealth. In return for assistance, companies are required to make commitments regarding job creation and/or job maintenance. As entities often had to provide collateral up front, CED evolved from structuring grants as forgivable loans (all or a portion to be paid back only if out of compliance with certain areas of the grant agreement) to allocating funds as annual compliance benchmarks are met. CED's report also included the job creation and maintenance requirements for its approved projects. The EDB program is funded on an as-needed basis from State Property and Buildings Commission bond proceeds.

Local School District Bond Issues. Pursuant to KRS 45.812(1), school districts reported 27 local school district bond issues with 100 percent local debt service support either for new school or for improvements to existing schools, including Workforce Development Construction Pool projects, totaling $196 million.

The committee reviewed numerous agency requests concerning capital projects, KIA loans, bond issues and financing agreements, and state leases, as follows.

Unbudgeted Capital Projects

KRS 164A.575(15) allows new postsecondary capital projects not supported by the General Fund to be submitted to the committee. The first capital project submitted under that statute was KCTCS' $2 million Technical Campus Building B Roof Replacement.

The committee approved or reviewed seven unbudgeted capital projects totaling just over $7 million pursuant to KRS 45.760(7), which permits a capital construction project to be authorized even though it is not listed in an enacted budget, if at least 50 percent of the costs are from private or federal sources. Nearly $5 million of the funding was from federal funds, supplemented by investment income maintenance pool or restricted funds, and the majority of the projects were submitted by the Department of Military Affairs. Two of the projects were amendments of prior interim approvals.

Budgeted Capital Projects

Requests for Appropriation Increases. The committee approved four agency requests to increase the appropriation of authorized capital projects, including pool projects, using private, federal, or restricted (agency) funds totaling $6.4 million. Pursuant to KRS 45.760(6), to be eligible for interim approval, any increase in excess of 15 percent of a project's authorized appropriation must be funded by federal or private funds.

Kentucky Infrastructure Authority Projects

The committee reviewed and approved KIA loans and grants to local government entities for public infrastructure projects.

Fund A (Federally Assisted Wastewater/Clean Water State Revolving Loan Fund). The committee approved two planning and design loans totaling $844,800, four loan increases totaling $34.1 million (the majority a switch from cash funding), and 12 construction loans totaling $47.9 million. Some principal forgiveness was offered for about one-quarter of those loans based on median household income or project type.

Fund B (Infrastructure Revolving Fund). The committee approved one $250,000 planning and design loan, one $129,000 loan increase, and 12 construction loans totaling $10.6 million, including a $2.5 million loan to Hopkinsville Electric System for its Fiber to Home (Phase 2) broadband project.

Fund C (Governmental Agencies Program Loan Fund). The committee approved five refinancings of Fund F loans totaling $6.6 million, a $514,000 loan increase, and a $1.8 million loan to Hopkinsville Electric System for the remaining funds needed for the Fiber to Home (Phase 2) broadband project.

Fund F (Federally Assisted Drinking Water/Drinking Water State Revolving Loan Fund). The committee approved a $1.3 million planning and design loan, three loan increases totaling $269,900, and eight construction loans totaling $20.6 million. Some principal forgiveness was offered for over half of those loans based on median household income.

Review of Bond Issues and Financing Agreements

The committee approved or reviewed the following financing agreements and bond issues. The decline in transactions was due to the Tax Cuts and Jobs Act, disallowing the tax exemption for advance refundings.

State Property and Buildings Commission. The committee approved two SPBC issues. SPBC Agency Fund Revenue Bonds, Project No. 118 provided, along with $1.3 million in restricted funds, $28.334 million for the reconstruction of Dam 10 at Boonesboro, authorized in HB 303 (2016 Regular Session). The second issue was SPBC Revenue Bonds, Project No. 119 and Agency Fund Revenue Refunding Bonds, Project No. 120 (Bluegrass Station). SPBC Revenue Bonds Project No. 119 provided $115 million in permanent financing for General-Fund-supported projects except School Facilities Construction Commission debt issued by local school districts, authorized from 2006 through 2018. SPBC Agency Fund Revenue Refunding Bonds, Project No. 120 refinanced debt paid from Bluegrass Station revenues. The Department of Military Affairs will realize the $1.5 million (14.23 percent) in net present value savings. The Tax Cuts and Jobs Act, disallowing the tax exemption for advance refundings, applied only if the original debt was tax-exempt, but the original debt for the projects at Bluegrass Station was taxable; therefore, the refunding was allowed to count against the nonqualifying activities component of the Project No. 119 issue for the tax exemption.

Postsecondary Institutions (UK). The committee approved one agency bond issue to fund $150 million for the Renovate/Upgrade Healthcare Facilities project and $60 million for the first phase of the Facilities Renewal, Modernization, and Deferred Maintenance project authorized in HB 303 (2016 Regular Session). The agency bond issue also financed $21 million of the $30 million for the Expand/Renovate/Upgrade Law Building project authorized in HB 235 (2014 Regular Session).

The first phase of the Facilities Renewal, Modernization, and Deferred Maintenance project is the partial renovation of the Chemistry-Physics Building and complete renovation of the Enoch Grehan Journalism Building. For both of those projects, UK reported use of the CM at-risk project delivery method to the committee, one in the prior reporting period and one in this reporting period.

Kentucky Infrastructure Authority. The committee approved one agency bond issue not supported by appropriation, to finance $41.3 million in Fund A and $29.2 million in Fund F state revolving fund program loans, much of which were already committed. The bond proceeds supplemented federal grants and state matches (allocated from SPBC General Fund bond proceeds) for the Fund A and Fund F programs, with the debt service payments funded from loan repayments made by local borrowers as well as program investment earnings.

There is $188.7 million for Fund A and $50.8 million for Fund F remaining of the agency bond authorizations. Although demand for state revolving fund loans exceeds funds available, issuance of KIA agency bonds is generally deferred because many sewer and water projects are not yet shovel ready; because smaller entities often time loan requests to the use of receipts from additional funding sources such as Community Development Block Grants or US Department of Agriculture Rural Development grants or loans; and because interest paid by borrowers, ranging from 0.50 percent to 3 percent effective July 1, 2018, is less than the cost of funds.

Kentucky Asset/Liability Commission. The committee reviewed ALCo's $27,775,000 Agency Fund 2018 Direct Loan/Project Note, which financed the remaining KCTCS BuildSmart Initiative/Investment for Kentucky Competitiveness projects.

Certificates of Participation (COPs), Series 2018A and Taxable Series 2018B (Commonwealth of Kentucky State Office Building Project) Evidencing a Proportionate Interest in Base Rent to be Paid by the Commonwealth of Kentucky. The Office of Financial Management reported the $110.675 million issue, the financing component of the built-to-suit lease for the Capital Plaza Redevelopment authorized by Senate Bill 238 (2017 Regular Session), to the committee. The reporting was optional rather than required, as COPs are executed by the trustee rather than issued by a state agency. The $3.415 million taxable component is for a portion of debt service during the construction period, and the lease agreement securing the debt is fundamentally the same as for other lease-appropriation-supported debt of the commonwealth.

Kentucky Economic Development Finance Authority Conduit Debt Issuance and Economic Development Bond Project. With Kentucky Economic Development Finance Authority conduit debt issues, the commonwealth is a conduit issuer for an entity designated under KRS 154.10-035(1)(a) and has no legal or moral obligation for the repayment of the debt. There have been debt issues in which the debt is supported by appropriated contractual payments from the commonwealth and/or the borrower is an entity to which the governor appoints a majority of the members of its governing body. Only two such debt issues are outstanding, and there have not been any such debt issues in this reporting period.

In this reporting period, Baptist Healthcare System was the only conduit borrower. The committee approved an interim $65.245 million partial refinancing of its Series 2009A bonds, which was then retired by a subsequently approved $128.980 million bond issue. The $128.980 million was a restructuring of the Series 2009A bonds, extending the term for cashflow savings.

The committee approved one $1 million EDB grant during the reporting period to the City of Franklin for the benefit of Fritz Winter North America.

Kentucky Housing Corporation. With Kentucky Housing Corporation conduit issues, the commonwealth is a conduit issuer for the developer and has no legal or moral obligation for the repayment of the debt. The committee approved six conduit bond issues for projects in Jefferson County, totaling $118 million.

Kentucky Higher Education Student Loan Corporation. The committee approved two student-loan-backed note issues and reviewed a student loan revenue bond issue. The $171,068,000 KHESLC Student Loan Backed Notes, Series 2017-1, refinanced the $122,745,000

Series 2008-A Variable Rate Demand Notes, which funded KHESLC's portfolio of Federal Family Education Loan Program (FFELP) loans, with the remaining proceeds used for FFELP loans (including rehabilitated loans). The up to $325,000,000 KHESLC Student Loan Backed Notes will be issued on various dates through June 30, 2019, for FFELP loans (including rehabilitated loans). The $85,000,000 KHESLC Student Loan Revenue Bonds, Series 2018-1 (Taxable Fixed Rate) funded Advantage Loans.

School Facilities Construction Commission (SFCC). During the reporting period, the committee approved or reviewed 50 school bond issues with SFCC debt service participation either for new schools or for improvements to existing schools, including Workforce Development Construction Pool projects, totaling $361.4 million. In addition, SFCC submitted one current refunding of existing debt. SFCC debt service participation totaled $73.6 million.

Review of State Leases

Built-To-Suit Lease Award – Capital Plaza Redevelopment. The committee approved the built-to-suit lease award for the Capital Plaza Redevelopment. The commonwealth will make base rental payments, debt service for the $110.675 million 30-year COPs reported to the committee for construction of the facility, and additional rental payments for operations and maintenance, which will total up to $7.6 million per year. Final payment will be in FY 2050, unless the commonwealth decides to purchase the property earlier.

The 300 Building – Tenant Improvement Fund Requests. Pursuant to KRS 56.823(12)(d), the Department of Education, the Education and Workforce Development Cabinet, and the Energy and Environment Cabinet submitted two tenant improvement funds requests totaling $15,140.

Emergency Lease. Pursuant to KRS 56.825(5), the Division of Real Properties notified the committee of an emergency lease awarded pursuant to KRS 56.805(3) in Jefferson County for the Department of Military Affairs.

Report of the 2018
Child Welfare Oversight and Advisory Committee

Sen. Julie Raque Adams, Co-Chair
Rep. David Meade, Co-Chair

Sen. Tom Buford	Rep. Lynn Bechler
Sen. Denise Harper Angel	Rep. Angie Hatton
Sen. Reginald Thomas	Rep. Joni Jenkins
Sen. Whitney Westerfield	Rep. Suzanne Miles

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

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Child Welfare Oversight and Advisory Committee

Jurisdiction: The Child Welfare Oversight and Advisory Committee was created to review, analyze, and provide oversight on child welfare, including but not limited to foster care; adoption; and child abuse, neglect, and dependency.

Committee Activity

The Child Welfare Oversight and Advisory Committee met four times during 2018. The committee heard testimony on a wide range of topics related to child welfare in the commonwealth.

2018 House Bill 1 Implementation

Representatives of the Cabinet for Health and Family Services, Department for Community Based Services (DCBS), discussed how the executive branch has been preparing to implement the provisions of 2018 House Bill 1. The DCBS commissioner gave a status report that informed the committee that the number of youth in out-of-home care (OOHC) increased 22.5 percent between June 2014 and July 2018. As of July 2018, there were 9,528 youth in OOHC; 2,600 had a goal of adoption. Social worker caseloads were discussed, and the DCBS representatives said that previously only the statewide level of caseloads was reported, but because of House Bill 1, starting in October 2018, the department was to start reporting at the statewide, regional, and county levels. The commissioner said that the current levels of social worker caseloads are unacceptable. The goal is to reduce the number of children in OOHC, increase timeliness to permanency, and reduce caseloads.

DCBS representatives discussed the October 2017 federal court ruling in the *D.O. v. Glisson* lawsuit related to foster payments to relatives and fictive kin. The lawsuit addressed whether related caregivers and fictive kin raising children would receive the same rate of payment that a foster care caregiver would receive. The committee was given updated information that, as of August 10, 2018, 1,012 relatives/fictive kin have been notified of eligibility. The cabinet has paid $2,619,165 in foster care payments to relative caregivers and fictive kin raising kin children. DCBS projects that it will cost approximately $9 million to fund the ruling for this state fiscal year.

Representatives of DCBS discussed the 2018–2020 budget bill’s provisions that affected child welfare. The budget bill appropriated $2.5 million in tobacco funds for adoption and foster care, $14 million for more staff and workforce supports, $11 million for salary increases, $1.8 million for Kinship Care, $11.3 million for relative placement supports, $7.8 million for adoption savings, $3.9 million for provider rates, and $375,000 for the Fostering Success Program. Salary increases for 230 new positions were put into effect on July 1, 2018. Social service workers received a 7 percent salary increase, and family services office supervisors received a 10 percent increase. On October 16, 2018, a reorganization plan to support enhanced service provision, new staff recruitment, and career ladder for staff was to be put into place. Mobile technology and related solutions are being deployed to workers in the field.

Representatives of the Administrative Office of the Courts (AOC) testified on how the judicial branch is implementing the provisions of 2018 House Bill 1. The AOC was able to provide webinars to the Court of Justice to give an overview of HB 1, and it looked into being able to provide the webinar as a resource for public access. In June, a family law conference was held that included judges, community partners, and court partners for a discussion of the changes included in HB 1. In September and October, HB 1 was discussed at judicial colleges for district court judges who still have some nonfamily jurisdictions and for family court judges. A session on HB 1 was included in the Kentucky Law Updates to discuss the changes occurring from August to December of 2018. HB 1 changes were integrated in the legal training for dependency, neglect, and abuse advocates such as court-appointed special advocates, the Foster Care Review Board, and social workers. Information on HB 1 was included as one of the topics for the Circuit Court Clerk Conference, and the clerks received information on updating their manuals and forms. The Citizen Foster Care Review Board (CFCRB) Executive Committee was briefed about changes enacted in HB 1. Regional trainings will be centered on the changes to legal proceedings and cabinet procedures. Additionally, the AOC reviewed and updated forms related to HB 1 in collaboration with the Cabinet for Health and Family Services to make sure the forms reflect federal requirements.

AOC representatives discussed an HB 1 requirement that CFCRB must conduct regional community forums to discuss concern regarding the foster care system, including barriers to getting children into permanent homes in a timely manner and ensuring their well-being and safety while in foster care and other OOHC. AOC representatives testified that the findings from these forums will be included in the CFCRB's annual recommendations to the Supreme Court, the Governor, and the General Assembly.

Foster Care and Adoption Services

Representatives of DCBS presented information on child-caring facilities and child-placing agencies and how DCBS contracts with these private providers. A DCBS deputy commissioner testified that DCBS promulgates the administrative regulations for child-caring facilities and child-placing agencies and that they are enforced by cabinet's Office of Inspector General. Some agencies, such as private adoption agencies, are licensed but do not provide services to the state. To take a child in the cabinet's custody, a provider must submit an application to the state that is reviewed by a multifaceted team, and the provider must pass an onsite inspection. Once the application is completed and the inspections are approved, the agreement is executed. Currently, the cabinet has agreements with 47 providers, 25 facilities and 22 child placement agencies. A facility or agency is paid on a per child per diem basis, and the per diem is a bundled rate that is inclusive of room and board, watchful oversight, facility or agency operations, and behavioral health care. Officials said that 74 percent of children in foster care are in private child placing and DCBS foster homes. The other 26 percent are in private child caring (PCC) residential facilities with a relative or fictive kin placement, or they are placed in detention centers, in psychiatric hospitals, or in an independent living or education setting.

Representatives of private child-caring facility and child-placing agency providers, the Children's Alliance, and KVC Health Systems testified that more children are in PCC foster homes than in DCBS foster homes. In 2018, private providers cared for over 50 percent of the children in OOHC. Representatives said that partnering and contracting for OOHC services by private providers helps improve outcomes for children. The provider representatives testified that there is a strong network of providers in Kentucky that can help alleviate the stress on the child welfare system and the capacity issues the cabinet is experiencing. Private providers are working with the cabinet to look at performance-based contracting and increased accountability for private providers. Public-private partnerships are the key to a successful child welfare transformation.

Experts from the National Conference of State Legislatures (NCSL) testified that the Child Abuse Prevention and Treatment Act (CAPTA) requires states to have policies and procedures for hospitals to notify child protective services 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. The act also requires that child protective services agencies develop a plan of safe care for every infant referred to them and that they address the health and substance use disorder treatment needs of the infant. CAPTA was amended by the Comprehensive Addiction and Recovery Act of 2016. That act removed the word *illegal*, so CAPTA applies to all substance abuse, requires the plan of safe care to also address the treatment needs of affected family or caregivers, requires states to report in the National Child Abuse and Neglect Data System, requires states to develop a monitoring system to determine whether and how local entities are providing referrals to and delivery of appropriate services for the infant and affected family or caregiver, and requires all children younger than 3 years old who are substantiated victims of child maltreatment to be referred to early intervention agencies that provide developmental disability services.

Representatives of NCSL said that the 2018 federal opioid package set aside $60 million in 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 will be 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.

The Home of the Innocents provided a report noting that it 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 OOHC. 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,
- the application of placement best practices,
- limits on further trauma, and
- increased efficacy of caregiver training for the special needs children and youth being placed in care.

Federal Family First Prevention Services Act

The director of state relations for Casey Family Programs testified about the federal Family First Prevention Services Act (FFPSA), which was signed into law on February 9, 2018, as part of a federal bipartisan budget act. FFPSA will allow states and tribes to claim Title IV-E funds for prevention activities as early as October 1, 2019. New funding and reauthorization of existing funds for child welfare programs include prevention funding, court funding, and specific substance abuse prevention grant funds. In the past, federal child welfare dollars for foster care focused only on the child. The FFPSA funds allow prevention services for the child, the parent, and the kinship caregiver. New Title IV-E funds allow federal payments for foster care and prevention and permanency.

FFPSA allows states to receive open-ended entitlement (Title IV-E) funding for evidence-based prevention services for children at imminent risk of placement in foster care, for pregnant and parenting youth in foster care, and for parents or kinship caregivers. There is no income test for eligibility. Services are funded for mental health prevention and treatment services provided by a qualified clinician for up to 12 months; for substance abuse prevention and treatment services provided by a qualified clinician for up to 12 months; and for in-home parent skill-based programs that include parenting skills training, parent education, and individual and family counseling for up to 12 months. There is no limit on how many times a child and family can receive prevention services within the 12 months. New funding for prevention activities requires prevention services and programs to be promising, supported, or well supported, in order to qualify for reimbursement. States must submit a prevention and services program plan as part of the state's Title IV-E plan. Reimbursement rates for prevention activities begin October 1, 2019, through September 30, 2026, at 50 percent of the federal financial participation. New federal funds for prevention services are intended to augment, not supplant, state funding for prevention services.

The federal fiscal year (FFY) 2019 appropriations bill includes $20 million in grants for states and tribes to continue to develop, improve, and evaluate Kinship Navigator Programs in order to meet the evidence-based standard in FFPSA. These grants were also included in the FFY 2018 appropriations bill, and the 2018 funds have already been distributed to the 48 states and eight tribes that have applied. The FFY 2019 appropriations bill includes $23.2 billion for Administration for Children and Families that funds Head Start, the Child Care and Development Block Grant, the Social Services Block Grant, Regional Partnership Grants, and Adoption and Guardianship Incentives. On July 9, 2018, the US Department of Health and Human Services released a program instruction outlining how states must implement the new Title IV-E provisions. The department has since clarified that this certification of intent to delay is nonbinding.

A representative of Kentucky Youth Advocates (KYA) testified that, to keep children safe, Kentucky needs a child welfare system that can thoroughly investigate suspected abuse. If a child has experienced abuse or neglect, family is truly the best medicine to help the child thrive. Sometimes what a child needs most is for the parents to get help. Family preservation services are short-term responses, and they help parents overcome challenges such as substance abuse while keeping children safe and healthy within the home. When a child cannot safely remain with parents, then relatives or close family friends can provide a vital, loving safety net. Placing children with adults who already know and care for them can help lessen the trauma of being removed from home. When kinship care is not available, well-trained foster parents can provide safe and nurturing family settings. Some foster families adopt, while others care for children until they return to their parents or until other adoptive parents are found. Kentucky's rate of substantiations of child abuse and neglect is double the rate of the United States.

The KYA representative discussed the Kentucky Sobriety Treatment and Recovery Team, which includes addiction services, family preservation, community partnerships, and best practices in child welfare and substance abuse treatment, as well as the Kentucky Strengthening Ties and Empowering Parents, a voluntary in-home services program that is an expansion of in-home services offered in the state. The KYA representative said that any delayed implementation of FFPSA will cause Kentucky to miss out on some flexible funding.

Neonatal Abstinence Syndrome

A medical doctor from Maine who is an expert in pediatric and young adult neurology testified on neonatal abstinence syndrome (NAS). 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 affected infants have not been well characterized. 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. In addition to opioids, the use of antidepressants and benzodiazepines can also lead to NAS. The baby's gastrointestinal system and brain are predominantly affected, because they are no longer being stimulated by an opioid transmitted through the placenta.

NAS babies are admitted to the neonatal intensive care unit, requiring prolonged hospitalization. Reports show that, nationwide, the rate of NAS admissions to neonatal intensive care units went from 7 cases per 1,000 in 2004 to 27 cases per 1,000 admissions in 2013; the median length of stay increased from 13 days to 19 days. There is a disproportionate effect of the opioid epidemic in rural areas. The mean cost to treat a NAS baby in the United States ranged from $39,400 in 2000 to $53,400 in 2009; the mean cost of treating a non-NAS baby was $6,600 in 2000 and $9,500 in 2009. The doctor testified that mothers who used medication-assisted therapy 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 their patients about NAS. It does not take much for people with substance abuse disorders to feel guilty about their medical problem and feel they are being judged.

Child health policy experts from NCSL testified that, in various subsets of the 50 states, 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 that period, the rate went from 0.4 cases per 1,000 births to 15 cases per 1,000 births. West Virginia has the highest incidence: 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 fivefold increase since 2000. The NCSL experts testified that every 25 minutes, a baby is born who will suffer from opioid withdrawal. Among births to women who have a substance use disorder, approximately 86 percent are unintended.

The NCSL experts said that prevention and intervention trends show increases in access to health care during pregnancy or postpartum, in access to family planning service, in access to medication-assisted therapy for pregnant women, and in efforts by the Special Supplemental

Nutrition Program for Women, Infants, and Children and executive branch agencies. Kentucky has created or funded drug treatment programs targeted to pregnant women, to provide priority access to state-funded drug treatment programs and to prohibit publicly funded drug treatment programs from discriminating against pregnant women.

Report of the 2018 Education Assessment and Accountability Review Subcommittee

Sen. Max Wise, Co-Chair
Rep. Daniel Elliott, Co-Chair

Sen. Alice Forgy Kerr	Rep. Derrick Graham
Sen. Gerald Neal	Rep. Regina Huff
Sen. Mike Wilson	Rep. Steve Riley

LRC Staff: Joshua A.J. Collins, Chris White, and Maurya Allen

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Education Assessment and Accountability Review Subcommittee

Jurisdiction: To review administrative regulations and advise the Kentucky Board of Education concerning the implementation of the state system of assessment and accountability and to provide oversight and direction to the Office of Education Accountability (OEA).

Subcommittee Activity

The Education Assessment and Accountability Review Subcommittee met four times during the Interim.

As part of its duties to provide oversight and direction to the OEA, the subcommittee received and accepted the OEA's *2017 Annual Report* required by KRS 7.410(2)(c)8. The report is a summary of the status and results of the current year annual research agenda and a summary of completed investigative activity conducted during 2017.

In 2017, the OEA received 457 written complaints. From these complaints, 34 cases were opened: 28 investigative cases and 6 school-based decision-making council cases. OEA closed 48 cases in 2017; 44 cases remain pending.

The subcommittee received and accepted four OEA study reports. The first, *Kentucky District Data Profiles School Year 2017,* is an annual compilation of data collected on all school districts, with an individual profile for the entire state. It includes student demographics and performance data, staffing data and related information, and district expenditure and revenue data.

Homeschooling In Kentucky examines the practice of homeschooling students in the commonwealth. The study looks at trends for homeschooling within Kentucky, set within the context of national trends, proceeding to a summary of tracked outcomes. It also looks specifically at the laws that allow for homeschooling, and it compares Kentucky's legal framework for homeschooling with the frameworks in other states.

Textbooks And Instructional Materials provides an overview of the current landscape for instructional materials in the commonwealth, and of the governance structure pertaining to instructional materials at the state and district levels. The report then provides a longitudinal analysis centered on the purchases of traditional print materials relative to technology hardware and related digital instructional materials. Lastly, it details the use of educational technology in the commonwealth, including district efforts to provide at least one device per student.

The fourth report, *State And Local Funds Distributed To Higher-Poverty Schools*, examines how state and local funds are distributed to schools in Kentucky. The study examines whether higher-poverty schools spent more state and local funds than lower-poverty schools. Additionally, the study reviews district staffing policies, how districts allocate state and local funds to schools, other states' measures of poverty, and outcomes of students who live in persistent poverty.

The subcommittee approved the proposed 2019 OEA Study Agenda.

Report of the 2018
Government Contract Review Committee

Sen. Stephen Meredith, Co-Chair
Rep. Stan Lee, Co-Chair

Sen. Julie Raque Adams
Sen. Julian M. Carroll
Sen. Paul Hornback
Rep. Chris Fugate
Rep. Alan Gentry
Rep. Mark Hart

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Government Contract Review Committee

Jurisdiction: Review of all nonexempt memoranda of agreement by and between state agencies, and review of all nonexempt personal service contracts by state agencies and by off-budget agencies, that include, but are not limited to, the Kentucky Lottery Corporation, the Kentucky Housing Corporation, state universities within the commonwealth, the Kentucky Employers' Mutual Insurance Corporation, the Kentucky Higher Education Assistance Authority, the Kentucky Student Loan Corporation, and the Kentucky Retirement Systems to examine the stated need for the service, whether the service could or should be performed by state personnel, the amount and duration of the contract or agreement, and the appropriateness of any exchange of resources or responsibilities; and review of all qualifying motion picture or entertainment production tax incentives.

Memoranda of agreement review exemptions include agreements between the Transportation Cabinet and political subdivisions of the commonwealth for road and road-related projects; agreements between the auditor of public accounts and other government agencies for auditing services; agreements of a state agency as required by federal or state law; agreements between state agencies and state universities or colleges, and agreements between state universities and colleges and employers of students in the Commonwealth Work Study Program; agreements involving child support collections and enforcement; agreements with public utilities, providers of certain direct Medicaid health care to individuals, and transit authorities; nonfinancial agreements; any obligation or payment for reimbursement of the cost of corrective action made pursuant to the Petroleum Storage Tank Environmental Assurance Fund; exchanges of confidential personal information between agencies; agreements between state agencies and rural concentrated employment programs; and any other agreement that the committee deems inappropriate for consideration.

Personal service contract review exemptions include agreements between the Department of Parks and a performing artist or artists for less than $5,000 per fiscal year, per artist or artists; agreements with public utilities, foster care parents, providers of certain direct Medicaid health care to individuals, individuals performing homemaker services, and transit authorities; agreements between state universities or colleges and employers of students in the Commonwealth Work Study Program; agreements between state agencies and rural concentrated employment programs; agreements between the State Fair Board and judges, officials, or entertainers contracted for events promoted by the State Fair Board; and any other contract that the committee deems inappropriate for consideration.

Committee Activity

The Government Contract Review Committee is a statutory committee of the Legislative Research Commission and is required to meet monthly. During fiscal year 2018 beginning July 1, 2017, and ending June 30, 2018, the committee reviewed 888 personal service contracts and 746 amendments to personal service contracts. The committee also reviewed 271 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

During FY 2018, the committee reviewed 837 memoranda of agreement and 516 memoranda of agreement amendments. The committee also reviewed 831 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only.

During FY 2018, the committee reviewed 1,905 personal service contract items, 2,184 memoranda of agreement items, 115 film tax incentive agreements, and 6 film tax incentive amendments for a total of 4,210 items.

Since the start of FY 2019 through November 13, 2018, the committee has reviewed 878 personal service contracts and 214 amendments to personal service contracts. The committee has also reviewed 173 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

Since the start of FY 2019 through November 13, 2018, the committee has reviewed 1,118 memoranda of agreement and 117 memoranda of agreement amendments. The committee also reviewed 640 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only. In addition, the committee reviewed 34 film tax incentive agreements and 2 film tax incentive amendments.

Note: The totals reflect all personal service contracts, memoranda of agreements, and film tax incentive agreements entered into the eMars procurement system, by Government Contract Review Committee staff or other agencies, and captured by the LRC Contract Reporting Database.

Report of the 2018
Medicaid Oversight and Advisory Committee

Sen. Ralph Alvarado, Co-Chair
Rep. Kimberly Poore Moser, Co-Chair

Sen. Julie Raque Adams	Rep. Robert Benvenuti III
Sen. Danny Carroll	Rep. Jim Gooch
Sen. Morgan McGarvey	Rep. Joni L. Jenkins
Sen. Stephen Meredith	Rep. Melinda Gibbons Prunty

LRC Staff: DeeAnn Wenk, Dana Simmons, and Becky Lancaster

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Medicaid Oversight and Advisory Committee

Jurisdiction: The Medicaid Oversight and Advisory Committee is required to meet annually and provide oversight on the implementation of Medicaid within the commonwealth, including access to services, utilization of services, quality of services, and cost containment.

Committee Activity

The Medicaid Oversight and Advisory Committee met five times during the 2018 Interim.

Benefind

The executive director, Office of Administrative and Technology Services, Cabinet for Health and Family Services, said that Benefind, or Integrated Eligibility and Enrollment System, provides Medicaid benefits to over 1.4 million persons and delivers over $1 billion in Supplemental Nutrition Assistance Program and Kentucky Temporary Assistance Program benefits every year. The Benefind programs are operated by 1,800 workers in the 120 county offices. The Department for Medicaid Services (DMS) has estimated that Benefind has created over $20 million in savings per year.

Budget Issues

The DMS chief financial officer, Cabinet for Health and Family Services, said that DMS is projecting budget shortfalls of approximately $154 million in state fiscal year (SFY) 2019 and $140 million in SFY 2020. The DMS acting commissioner said that DMS is finalizing the managed care organization (MCO) contracts to be effective July 1, 2018, through June 30, 2019. DMS has added the 1115 Kentucky Helping to Engage and Achieve Long Term Health (HEALTH) waiver expectations into the contracts. DMS expects to develop a request for proposal (RFP) for new MCO contracts by early 2019.

The DMS commissioner and the DMS chief financial officer, Cabinet for Health and Family Services, discussed the upcoming contract bidding process for MCOs. Changes are being considered as to the number of MCOs that may be contracted with and conditions of the contracts.

The secretary of the Cabinet for Health and Family Services discussed oral arguments regarding the 1115 Kentucky HEALTH waiver that were heard on June 15, 2018, in Washington, DC. The waiver was reapproved by the Centers for Medicare and Medicaid Services and scheduled for implementation April 1, 2019.

Changes to the Home and Community-Based Services Waiver Recipient Liability

The DMS commissioner, Cabinet for Health and Family Services, said that beginning August 1, 2018, all Home and Community-Based Services waiver program participants were scheduled to pay their full patient liability in order to maintain waiver services in compliance with applicable federal regulations. She stated that failing to pay full patient liability would have put a participant’s eligibility for Medicaid or waiver services at risk.

Copayments

The DMS commissioner, Cabinet for Health and Family Services, said that copayments have been a part of the department's Managed Medicaid Program for several years. Prior to July 2, 2018, the Medicaid-contracted MCOs were given discretion to determine their policy on copayment administration, resulting in some copayments being waived. Because Kentucky HEALTH has been remanded to the US Department for Health and Human Services, there was some confusion on copayment implementation by the MCOs.

Health Care Providers and Managed Care Organizations

The chair of the Medicaid Hospital Technical Advisory Committee, Owensboro Health; the vice president, financial services, Owensboro Health; the chief executive officer, Ridge Behavioral Health System; and the utilization review director, University of Kentucky Healthcare, discussed hospitals' difficulties with reimbursement from MCOs for services provided, the prior authorization process for services, and the appeals process.

The committee heard testimony on the difficulties experienced by durable medical equipment companies in receiving adequate reimbursement from MCOs, the prior authorization process for services, and the appeals process.

The committee heard testimony on the difficulties with prior authorization for medication-assisted treatment for addiction.

The committee heard testimony on difficulties for providers of behavioral health services for children in receiving reimbursement from MCOs.

Overview of Long-Term Care Programs

The president, Kentucky Association of Health Care Facilities; the executive director, Kentucky Center for Assisted Living; and the chief financial officer, Health Systems of Kentucky, discussed general and professional liability costs due to predatory trial attorney practices, difficulties obtaining a qualified workforce, and the increasing loss rate. The DMS commissioner, Cabinet for Health and Family Services, discussed long-term care costs and alternatives.

Pharmacy Benefit Manager Data Analysis

The executive director, Office of Legislative and Regulatory Affairs; the executive adviser, Office of Health Data and Analytics; and the DMS chief of staff, Cabinet for Health and Family Services, discussed the submission and resubmission of the data required to be submitted to the cabinet by 2018 SB 5. A more complete report will be presented early in 2019.

Provider Credentialing: Update on 2018 House Bill 69

The DMS chief of staff, Cabinet for Health and Family Services, said that the Uniform Credentialing Verification Organization (CVO) has unified the process that was fractured among

MCOs. DMS has started the initial drafting stages of the requirements for RFPs. Medicaid departments in Indiana, Texas, and Georgia have provided input on the CVO process. DMS is working on technology coordination and has created a Partner Portal that will eliminate paper applications for enrollment and speed up the process of credentialing a provider. DMS has spent approximately $7 million on the project. DMS has prepared the Advance Planning Document for Federal Financial Participation that would allow for advance funding streams for technology implementation.

An update on this project was provided in December.

Report of the 2018
Program Review and Investigations Committee

Sen. Danny Carroll, Co-Chai
Rep. Lynn Bechler, Co-Chair

Sen. Tom Buford	Rep. Chris Fugate
Sen. Perry B. Clark	Rep. Adam Koenig
Sen. Wil Schroder	Rep. Ruth Ann Palumbo
Sen. Dan "Malano" Seum	Rep. Steve Riley
Sen. Reginald Thomas	Rep. Rob Rothenburger
Sen. Steve West	Rep. Arnold Simpson
Sen. Whitney Westerfield	Rep. Walker Thomas

LRC Staff: Greg Hager, Christopher T. Hall, Van Knowles, Jean Ann Myatt, Sarah Ortkiese, Jeremy Skinner, William Spears, Shane Stevens, Susannah Stitzer, Joel Thomas, and Kate Talley

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Program Review and Investigations

Jurisdiction: The Program Review and Investigations Committee is a 16-member bipartisan committee authorized under KRS Chapter 6. The committee is empowered to review the operations of state agencies and programs, determine whether funds are being spent for the purposes for which they were appropriated, evaluate the efficiency of program operations, and evaluate the impact of state government reorganizations. State agencies are obligated to correct operational problems identified by the committee and must implement the committee's recommendations or propose suitable alternatives.

Any official in the executive, judicial, or legislative branch of government may request a study. A majority vote of the committee is required to initiate research studies and to approve final reports. Reports are based on staff research but represent the official opinion of the committee once approved. The committee issues a final report for a study after public deliberations that include the responses of officials of relevant agencies.

Committee Activity

The committee held six meetings in 2018. It elected Senate and House co-chairs and selected study topics. The committee adopted two of the three reports presented by staff. The committee was briefed on two issues related to an adopted report. Staff provided a status report on an ongoing study. Office of Education Accountability staff presented a report. The committee heard testimony on the KentuckyWired project, one of the topics selected for study this year. The committee heard testimony on one topic unrelated to staff reports or ongoing studies.

The committee adopted the report *Kentucky's Foster Care System*, which was presented to the committee in 2017. The report has 10 recommendations related to out-of-home care court proceedings, the accuracy and reporting of child welfare workers' caseloads, and the hiring and retention of child welfare caseworkers. The acting commissioner of the Department for Community Based Services responded to the report.

Staff briefed the committee on two issues relevant to the foster care report: changes made to foster care and adoption by HB 1 from the 2018 Regular Session, and the *D.O. v. Glisson* court case. This 2017 US circuit court ruling requires the Cabinet for Health and Family Services to pay relatives and fictive kin who are caregivers of a foster child in the same manner as caregivers who are not relatives. Two grandparents who were denied payment by the cabinet testified.

The committee adopted the report *2017 Update On The Child Fatality And Near Fatality External Review Panel*. Statute requires that the committee annually monitor the operations, procedures, and recommendations of the panel. The panel, attached administratively to the Justice and Public Safety Cabinet, conducts comprehensive reviews of child fatalities and near fatalities resulting from abuse or neglect. KRS 620.055 establishes requirements for filling membership vacancies, meeting at least quarterly, monitoring attendance of members, posting updates, issuing summary reports of meetings, publishing an annual report each December 1, and following records retention and destruction policies. The panel has timely complied with statutory requirements, with two exceptions. Its 2017 annual report was published on December 8. A membership vacancy went unfilled after numerous attempts to contact the responsible, but possibly inactive, association. In an attempt to help resolve this problem, this report has one recommendation directed to the General Assembly regarding appointments. Three of the nine recommendations in the panel's 2016 annual report resulted in actions by the General Assembly, the Kentucky Hospital Association, or the Administrative Office of the Courts during 2017. The chair of the panel responded to the report.

Staff presented the report *Tuition, Fees, And Other Costs At Kentucky Public Universities*. The Council on Postsecondary Education (CPE) is authorized by statute to set tuition and mandatory fees at Kentucky's eight public universities. For the 9-year period after CPE implemented a tuition ceiling policy, the average annual tuition increase was 4.6 percent, less than half the average in the period preceding the policy change. Students must differentiate between a university's total cost of attendance, which does not take financial assistance into account, and its net price, which does. In academic year 2015, the total cost of attendance for an in-state student living on a Kentucky campus ranged from less than $19,000 to more than $25,000, depending on the university. Net prices ranged from more than $8,000 to more than $16,000. Since 2007, net price, adjusted for inflation, increased by at least 17 percent at five universities but decreased at three universities The average net price for Kentucky universities in 2015 was lower than the average of universities in four of seven surrounding states and in 9 of 15 other Southern states. Net price as a percentage of Kentucky median household income ranged from 18 percent to more than 35 percent in 2015, with the percentage increasing at seven of eight universities since 2007. Approximately 93 percent of students at all Kentucky universities received some type of financial aid in academic year 2015, including 68 percent receiving state grant aid. The average institutional grant and loan were each more than $6,500. Average state grant aid was less than $2,300. Kentucky's university graduates had a median debt of nearly $24,000 in FY 2015; the average student's 3-year default rate was 11 percent. CPE's president and vice president for finance and administration responded to the report.

Staff provided an update on the committee's study of Supports for Community Living reimbursement rates. The acting commissioner of the Department for Medicaid Services testified on a recent increase in the rates and potential Medicaid waivers that could affect the rates.

Office of Education Accountability staff presented the report *Preschool Program Review And Full-Day Kindergarten.*

The committee heard testimony at three meetings on the KentuckyWired project. The executive director, chief operating officer, general counsel, and chief financial officer of the Kentucky Communications Network Authority provided an overview of the project. The secretary of the Finance and Administration Cabinet testified on the contracting policies and procedures for public/private partnerships and capital projects similar to KentuckyWired. The auditor of public accounts and his office's general counsel and audit manager presented the report *Examination Of Certain Contracts, Operations, And Activities Of The Kentucky Communications Network Authority*.

The general manager of the Logan Telephone Cooperative, the executive director of the Kentucky Telecom Association, and the assistant vice president for external affairs of AT&T provided testimony on telemarketing, robocalling, and misidentification of callers.

Report of the 2018 Public Pension Oversight Board

Sen. Joe Bowen, Co-Chair
Rep. Jerry Miller, Co-Chair

Sen. Jimmy Higdon
Sen. Christian McDaniel
Sen. Gerald A. Neal
Sen. Dennis Parrett
Sen. Wil Schroder
Rep. Ken Fleming
Rep. DJ Johnson
Rep. James Kay
Rep. Arnold Simpson
Rep. Russell Webber
J. Michael Brown
John Chilton
Timothy Fyffe
Mike Harmon
James M. "Mac" Jefferson
Sharon Mattingly

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes

Presented to the
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Subcommittee Organization and Membership

Kentucky Retirement Systems Administrative Subcommittee

Sen. Wil Schroder, Co-Chair
Rep. Russell Webber, Co-Chair

Sen. Jimmy Higdon	Rep. Arnold Simpson
Sen. Dennis Parrett	John Chilton
Rep. DJ Johnson	James M. “Mac” Jefferson

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes

Public Pension Oversight Board

Jurisdiction: Assists the General Assembly with its review, analysis, and oversight of the administration, benefits, investments, funding, laws and administrative regulations, and legislation pertaining to the state-administered retirement systems.

Committee Activity

The board held eight meetings from January through November 2018 and heard testimony on a wide range of topics relating to the public pension systems.

Quarterly/Annual Investment Updates

The Public Pension Oversight Board (PPOB) conducted meetings in January, June, and August that discussed and reviewed quarterly and annual investment performance, cash flows, and budgetary needs of each of the retirement systems.

Other Research Topics or System Updates

The PPOB conducted meetings throughout the Interim that discussed agency cessation of participation, asset allocations, actuarial assumptions, SB 2 compliance, trustee elections, and actuarial/financial updates from the retirement systems.

Interest Groups

The PPOB invited several consulting firms to give testimony on investment return assumption trends, fiduciary responsibility, and actuarial and financial reporting. Groups that presented included GRS Consulting, Ice Miller LLP, and Cavanaugh Macdonald Consulting.

See the PPOB annual report at www.lrc.ky.gov/lrcpubs/lrc_research_memoranda.htm for more detail regarding research topics, discussions, and recommendations from the 2018 PPOB meetings.

Kentucky Retirement Systems Administrative Subcommittee

Jurisdiction: Established by the Public Pension Oversight Board under KRS 7A.260. Studies the benefits and drawbacks of separating the County Employees Retirement System from the Kentucky Retirement Systems or restructuring the administration of the systems administered by the Kentucky Retirement Systems. The subcommittee shall submit recommendations to the Public Pension Oversight Board no later than December 1, 2019.

Subcommittee Activity

The board held three meetings from August to November 2018 and heard testimony relating to the separation of the County Employees Retirement System (CERS) from the Kentucky

Retirement Systems or restructuring the administration of the systems administered by the Kentucky Retirement Systems.

Historical Background and Review of Industry Relative to Local Government Plans

The Kentucky Retirement Systems Administrative Subcommittee studied the history of the city and county retirement plans in Kentucky and reviewed local government plans within the industry. Legislative Research Commission staff provided research and testimony.

Interest Groups

The subcommittee invited interest groups to give testimony, observations, and recommendations regarding CERS separation and the restructuring of the systems administered by the Kentucky Retirement Systems. There was testimony from representatives of the Kentucky Public Retirees, Kentucky Government Retirees, Kentucky League of Cities, Kentucky Association of Counties, Kentucky School Boards Association, Kentucky Association of School Superintendents, and Kentucky Professional Firefighters.

Review of Administrative Issues and Fiscal Impact of Restructuring

In October, staff from the Kentucky Retirement Systems testified about administrative issues, concerns, and hurdles of CERS separation or restructuring, while also projecting any financial impact that changes could have on the Kentucky Retirement Systems.

Report of the 2018
Tobacco Settlement Agreement Fund Oversight Committee

Sen. C.B. Embry Jr., Co-Chair
Rep. Myron Dossett, Co-Chair

Sen. Paul Hornback	Rep. Kim King
Sen. Stephen Meredith	Rep. Phillip Pratt
Sen. Dennis Parrett	Rep. Rick Rand
Sen. Robin Webb	Rep. Brandon Reed
Sen. Whitney Westerfield	Rep. Dean Schamore

LRC Staff: Stefan Kasacavage, Nathan Smith, and Rachel Hartley

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Tobacco Settlement Agreement Fund Oversight Committee

Jurisdiction: Matters pertaining to the Agricultural Development Board, including requests to the board for grants and loans; planning by the board to establish short-term and long-term goals, to devise strategies, and to make investments that will assist farmers, and the administrative, financial, and programmatic activities of the board; expenditures under the Early Childhood Development Fund and the Kentucky Health Care Improvement Fund; efforts of agencies and educational institutions to assist in the revitalization and diversification of tobacco farms; efforts of institutions of public postsecondary research in conducting alternative crop development research; review of county agricultural development council plans; and review of the use of Tobacco Master Settlement Agreement (MSA) money.

Committee Activity

The Tobacco Settlement Agreement Fund Oversight Committee met seven times during the 2018 calendar year. An eighth meeting is scheduled for December.

In accordance with statutory requirements, each month the committee members received regular updates from the Governor's Office of Agricultural Policy (GOAP) regarding Kentucky Agricultural Development Board (KADB) funding decisions on project applications. Also, the committee received reports and testimony from executive branch agencies receiving tobacco settlement appropriations and from organizations that benefited from the availability of tobacco settlement funds.

During the 2018 calendar year, the committee examined several issues within its jurisdiction, including taking an in-depth look at agricultural diversification projects paid out of MSA funds. Of particular interest to the committee was the money spent on substance abuse and addiction disorders. The money spent on these issues has increased as a result of the growth of the opioid crisis in Kentucky. Committee members asked questions about and commented on the spending decisions made by the KADB during its monthly meetings where projects are reviewed. Committee members also questioned and discussed loans made to farmers by the Kentucky Agricultural Finance Corporation.

During several meetings, officials from the state agencies who administer tobacco cessation and drug control programs, personnel in early child development, and representatives of medical research institutions involved in lung cancer research provided testimony on how MSA funds were spent and the value of those dollars to their program objectives. Committee members also received testimony from organizations such as Farms to Food Banks and the Community Farm Alliance to elaborate on how funds were spent to alleviate hunger across the commonwealth, particularly among children.

Review of Agricultural Development Fund Projects

During each monthly committee meeting, members received a report from GOAP officials on the projects that the KADB had considered in its previous meeting. The committee thus performed its responsibility of reviewing the allocation of tobacco settlement funds for rural development, and monitoring the pattern of MSA fund usage in accordance with the relevant statutes. During the September meeting, GOAP staff reported that the KADB approved funding for the University of Kentucky Research Foundation's Viticulture and Enology Extension Program, as researchers face the task of finding grape cultivars and methods of production that can be successful in Kentucky.

Staff from the GOAP reviewed projects for single counties, regions, and the commonwealth as a whole. Monthly lists of funding decisions made within three types of county-level programs—the County Agricultural Improvement Program, the Deceased Farm Animal Disposal Assistance Program, and the Shared-Use Equipment Program—were also provided at the committee meetings. Allocations made to newer programs, such as the On-Farm Energy Efficiency and Production Program, were also discussed.

At each meeting, committee members asked for additional information on projects, sought clarification on funding decisions made, and probed the rationale for reaching those decisions. Committee members posed questions about the board's grant procedures; how funding applications were reviewed and prepared by GOAP staff for the board's consideration; the reasons why some project applicants received particular amounts of funding or were denied funding; and project monitoring, compliance, and reporting.

The committee also received testimony from the Kentucky Cattlemen's Association and the Kentucky Beef Network. Their goal is to increase the value of Kentucky beef in markets nationwide and to work with grocers to place Kentucky beef on store shelves. In Kroger stores across the state, sales of beef raised, processed, and packaged in Kentucky have been hugely successful as the beef is competitively priced and of the highest quality.

One subject of concern at multiple committee meetings was the dire state of dairy operations across the state. A combination of increased producer efficiency, decreased consumer demand, and changes in supply chain agreements has resulted in a drastic oversupply of fluid milk. At the October meeting, GOAP staff said that new projects are in the works to help dairy farmers shift from selling fluid milk to more profitable value-added products such as cheese, butter, and yogurt.

Agency Reports Received

Among the health-related agencies reporting, the committee heard from officials with the Office of Early Childhood Development, the Kentucky Agency for Substance Abuse Policy, the Markey Cancer Center, and the Brown Cancer Research Center.

Report of the 2018 Diabetes Medical Emergency Response Task Force

Sen. Ralph Alvarado, Co-Chair
Rep. Danny Bentley, Co-Chair

Sen. Reginald Thomas	Brooke Hudspeth
Rep. Mary Lou Marzian	Tony Lucas
Chris Bartley	Charles O'Neal
Gregg Bayer	Pat Thompson
Chad Burkhart	Troy Walker
Robert H. Couch	Francis Wheatley

Rep. Addia Wuchner, ex officio

LRC Staff: Chris Joffrion and Becky Lancaster

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Diabetes Medical Emergency Response Task Force

Jurisdiction: The Kentucky General Assembly established the Diabetes Medical Emergency Response Task Force through the adoption of House Concurrent Resolution 226 during the 2018 Regular Session. The task force was established to study and make recommendations to address the emergent medical needs of individuals diagnosed with Type I and Type II diabetes.

Task Force Activity

The task force met three times during the 2018 Interim.

Statistics and Trends

The lead lobbyist of Babbage Cofounder discussed statistics, trends, recent advancements, and future opportunities in the fight against diabetes. He explained that approximately 449,000 people in Kentucky—or 13 of every 100 Kentuckians—have diabetes, and an additional 26,000 people are diagnosed with the disease each year. Kentucky ranks 7th in the nation for incidences of diabetes. A representative of the Department for Public Health (DPH) said that approximately 1.1 million Kentuckians have prediabetes and that in 2016 Kentucky had the 4th highest diabetes mortality rate in the nation.

First Responders

The president of the Kentucky Ambulance Providers Association (KAPA), the president of the Kentucky Association of Fire Chiefs (KAFC), and the medical director for Lexington Fire and Emergency Services discussed training requirements for emergency medical services (EMS) personnel and the role of first responders in diabetic medical emergencies. The KAFC president stated that an entry-level emergency medical technician (EMT) will complete 160 hours of course instruction. EMTs are authorized to ride in an ambulance and provide basic life support. An advanced EMT is required to complete 250 total hours of course instruction and can administer intravenous fluids and certain cardiac medications. A paramedic must complete 1,200 hours of total course instruction. Paramedics can administer drugs such as diuretics, narcotics, and benzodiazepine. Every 2 years, all EMS personnel must complete 1 hour of continuing education training that is specific to diabetes-related medical emergencies.

The KAPA president said that diabetic medical emergencies account for approximately 2 percent of all EMS calls, annually. Diabetic medical emergencies can be divided into two categories: hypoglycemic and hyperglycemic.

Hypoglycemia occurs when an individual’s blood glucose level falls below 60 mg/dL. In cases of hypoglycemia, the treatment goal is to restore circulating blood glucose to the normal range. When responding to a hypoglycemic patient, first responders typically administer an oral dose of glucose or an intravenous dose of dextrose. Approximately 90 percent of diabetic medical emergencies involve hypoglycemia; testimony indicated that in approximately 90 percent of those cases, patients quickly regain consciousness and typically refuse transportation to a hospital, against medical advice.

A patient experiencing hyperglycemia may develop diabetic ketoacidosis or hyperglycemic hyperosmolar nonketotic syndrome, both of which may be fatal without prompt treatment. For first responders, the treatment goal for both of these conditions is to replace lost fluids to prevent or reverse dehydration while the patient is transported to a nearby hospital.

Emergency medical service providers do not stock their vehicles with insulin and do not administer insulin in the field for a number of reasons, including that it is not proven to be a safe or effective treatment in the field, it must be refrigerated and most ambulances are not equipped with refrigeration, and rapid correction of hyperglycemia with insulin is not recommended as it may lead to cerebral edema. For these reasons, first responders are trained to administer intravenous fluids to correct or prevent dehydration while the patient is being transported to a hospital emergency room.

Community Paramedicine

The president of the Kentucky Association of Fire Chiefs discussed community paramedicine pilot programs. After a record number of emergency runs in 2017, Lexington Fire and Emergency Services and several communities across the commonwealth have accessed and used a combination of federal grant funds and local dollars to implement the programs.

Through these programs, emergency medical services personnel identify, in a prehospital setting, groups of people who are at risk for medical emergencies. Frequent users—sometimes called superusers by emergency medical professionals—are identified. Community paramedicine staff will proactively seek out such individuals, ask questions, assist them with medical supplies and doctors' visits, or advocate on their behalf. First responders make preemptive house calls to see whether frequent users are adhering to their medication regimen and have transportation to scheduled medical appointments. The first responders also assist in connecting individuals with needed social supports and services. Since implementing the community paramedicine pilot program in February 2018, Lexington Fire and Emergency Services has seen a 2 percent reduction in the number of calls.

Data from several community paramedicine pilot programs in Kentucky suggest that these programs have the potential to decrease emergency calls, emergency room visits, hospital readmissions, costs to patients, and costs to insurance providers.

Insulin Access and Drug Pricing

Testimony on issues related to insulin prices and price transparency was provided by the treasurer of the National Diabetes Volunteer Leadership Council (NDVLC), who is also the treasurer of Children with Diabetes and the past national chair of the American Diabetes Association; the chief executive officer of the Diabetes Patient Advocacy Coalition (DPAC); and the founder of KOI#insulin4all.

The NDVLC treasurer said that the typical type I insulin pump list price is approximately $835 per month and that a type I insulin pump user with a $35 copay and 30 percent coinsurance will see an out-of-pocket expense of approximately $116 per month.

He further explained that research conducted by the Centers for Disease Control and Prevention (CDC) shows that if an insulin-dependent patient spends more than $75 per month, the patient will start to ration diabetes medication or not fully comply with the dosing that the doctor has prescribed. Expert witnesses explained that medication nonadherence is most often the result of such rationing, skipping doses, or being without proper medication for a certain period of time. Any of those situations can typically be a result of high prescription drug prices, a lack of insurance, or an inability to meet copay or insurance deductible requirements. There is an inverse relationship between medication adherence and overall health care costs. As medication adherence rates decrease, overall medical costs increase. The NDVLC treasurer said that a 10 percent increase in medication adherence rates can produce up to a 29 percent decrease in overall health care costs. According to testimony from first responders, the overwhelming majority of diabetic medical emergency calls are the result of medication nonadherence.

The CEO of DPAC said that pharmacy benefit managers (PBMs) have contributed to the rising cost of prescription drugs through the use of higher rebates, discount programs, nonmedical prescription switching, and exclusive formularies. The average price of brand-name drugs more than doubled from 2008 to 2016. Between 2007 and 2016, the list price of insulin grew by more than 250 percent, and from 2014 to 2018 more than one-fifth of all formulary exclusions announced by Express Scripts and CVS were for diabetes-related medications. According to the CEO, pharmaceutical manufacturers often increase the list price of a drug in order to pay larger rebates to PBMs.

The CEO discussed patient advocacy organizations. These organizations have asked policy makers to consider legislation that would require insulin to be treated as a preventative drug exempt from deductibles, require PBMs to pass rebates and discounts on to patients, address nonmedical prescription switching and gag clauses, and increase prescription price transparency.

The founder of KOI#insulin4all, a type I diabetic, said that since 2017 all long-lasting insulin products, except for one, have been excluded from her insurance plan's formulary. In the last 18 years, the price of a vial of Humalog, a brand of insulin, has increased from approximately $30 to more than $250. The founder shared the results of a British Medical Journal Global Health study that found that the cost to produce a vial of insulin is approximately $6, but that the list price of insulin is set by three pharmaceutical companies that control 96 percent of the world's insulin market. The founder presented a petition requesting action on insulin prices, signed by 173 Kentuckians.

Diabetes Programs, Kentucky Employees' Health Plan

The commissioner of the Department of Employee Insurance discussed the Diabetes Value Benefit plan and Diabetes Prevention Program of the Kentucky Employees' Health Plan (KEHP). KEHP reported that through this plan and this program, it has not only improved the health and well-being of thousands of KEHP members but also has saved the state more than $13 million over the past 6 years.

Since its initial implementation in 2016, the Diabetes Value Benefit plan has led to a 14 percent increase in prescription drug costs but a 7 percent decrease in the overall medical expenses of participants. The commissioner explained that KEHP estimates that this plan has produced over $10.5 million in savings since 2016. The plan provides members with free or low-cost prescription drugs and testing supplies. Through the plan, KEHP has improved diabetes medication adherence rates, and it has reduced the number of nondiabetes prescriptions per patient, the number of emergency room visits among diabetic plan members, the number of hospital admissions, and the length of hospital stays.

The Diabetes Prevention Program is an educational classroom and online program that assists individuals in meeting health goals such as weight loss, increased activity, and lower A1C levels. Participants have, on average, exceeded CDC recommendations for those three goals.

Diabetes Prevention and Control Program, Cabinet for Health and Family Services

A representative of the Department for Public Health spoke about the Kentucky Diabetes Prevention and Control Program (KDPCP). KDPCP is a network of state and local partners working to reduce the number of new cases of type II diabetes as well as to reduce the sickness, disability, and death associated with diabetes. There are 87 in-person Diabetes Prevention Program (DPP) sites in Kentucky, and Kentucky ranks 8th in the nation for the number of DPP organizations and 11th in the number of DPP participants.

The DPH representative also spoke about the Kentucky Diabetes Report. The Department for Public Health, the Department for Medicaid Services, the Office of Health Data and Analytics, and the Personnel Cabinet are required to produce the report and submit it to the legislature in each odd-numbered year. The next report will be released in January 2019, and it will include statistics on diabetes in Kentucky, what each agency is doing individually, how the agencies are collaborating, and recommendations concerning diabetes in Kentucky.

Emergency Prescription Refills

The president of the Kentucky Board of Pharmacy testified on issues related to emergency prescription refills. Current law effectively prohibits pharmacists in Kentucky from dispensing emergency refills of insulin without authorization from the prescribing physician. Pharmacists may dispense a 72-hour emergency supply of noncontrolled medications for chronic conditions when interruption of therapy might be harmful to the patient (KRS 217.215(3) and 201 KAR 2:175). Insulin, however, is commonly packaged as a 30-day supply that cannot be divided into smaller units. The Board of Pharmacy supports legislation to allow pharmacists to dispense the smallest unit package for noncontrolled medications such as insulin.

Recommendations

The task force recommends that the Kentucky General Assembly take the following actions during the 2019 Regular Session.

Emergency Medical Services

Request that the Legislative Research Commission direct a full review of EMS reimbursement concerns related to nontransport patients and of the community paramedicine pilot programs in Kentucky to fully assess the success of such programs compared to their costs.

Prescription Drug Price Transparency

Enact legislation aimed at increasing prescription drug price transparency. Such legislation should, at minimum

- encourage increased transparency by pharmaceutical companies regarding the price of all drugs sold and distributed in the commonwealth;
- require pharmaceutical companies that have raised the list price of a prescription drug to disclose to state officials information related to the costs of manufacturing and marketing the drug along with information on rebates;
- require pharmaceutical sales representatives to register with the state and to disclose to state officials information related to their efforts to promote prescription drugs to licensed physicians and pharmacists;
- require pharmacy benefit managers to disclose to state officials information on prescription drug rebates negotiated with pharmaceutical companies and what rebates are kept by the pharmacy benefit manager; and
- address nondisclosure agreements, or gag clauses, that would prevent a pharmacist from discussing lower-cost options with a patient.

Department for Medicaid Services

Through the adoption of a joint resolution, instruct the Department for Medicaid Service to study the potential impacts of implementing programs similar to the national Diabetes Prevention Program and KEHP's Diabetes Value Benefits plan and to provide its results to the Interim Joint Committee on Health and Welfare and Family Services during the 2019 Interim.

Private Health Insurance Providers

Through the adoption of a resolution, urge all private health insurance providers doing business in the commonwealth to study the potential impacts of implementing programs similar to the national Diabetes Prevention Program and KEHP's Diabetes Value Benefits plan and urge such companies to implement similar programs if the results of their studies indicate a likelihood of cost savings or improvement of customer health.

Emergency Prescription Refills

Enact legislation to permit licensed pharmacists to dispense a prescription refill for a noncontrolled substance maintenance drug in an amount equal to the standard unit of dispensing without authorization by the prescribing physician in emergency situations in which such authorization may not be readily or easily obtained, when failing to do so might jeopardize the health or well-being of the individual seeking the emergency refill.

Report of the 2018 School Safety Working Group

Sen. Max Wise, Co-Chair
Rep. John Carney, Co-Chair

Sen. Danny Carroll
Sen. Ray S. Jones II
Sen. Alice Forgy Kerr
Sen. Johnny Ray Turner
Rep. John Blanton
Rep. George Brown Jr.
Rep. Will Coursey
Rep. Brandon Reed

Jon Akers
Joe Bargione
Keith Griesser
Jerry Humble
Nasim Mohammadzadeh
Alex Payne
Andy Smith
Henry Webb

LRC Staff: Jo Carole Ellis, Yvette Perry, and Chris White

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

School Safety Working Group

Jurisdiction: Leadership of the Senate and House created the School Safety Working Group to review policies, procedures, and processes for developing and implementing school safety plans, along with any and all measures that may be considered regarding safety in schools.

Working Group Activity

The School Safety Working Group met eight times during the Interim. Four of the meetings were at the Capitol Annex in Frankfort, and four meetings were held off-site at Trigg County High School in Cadiz, Barren County Area Technology Center in Glasgow, Northern Kentucky University in Highland Heights, and the Mountain Arts Center in Prestonsburg. The committee heard testimony on school safety from many perspectives, including family members of students killed as a result of school violence, school district leadership, school counselors, teachers, students, private groups, and postsecondary institutions.

Families

Jasen and Secret Holt and Brian and Teresa Cope shared their experiences about the tragedy that occurred at Marshall County High School on January 23, 2018. On that day, two students—Bailey Holt and Preston Cope—were fatally wounded when a 15-year-old classmate opened fire in a common area before the start of the school day.

School District Leadership

Superintendents of Fayette, Jefferson, Shelby, and Hart County School Districts testified on the school safety needs in their respective districts and the steps taken in each district to physically secure the schools and make students feel safer each day. The presentations underscored the fact that the needs of almost all districts are the same, but resources vary greatly, according to the size of a district.

School Counselors

School counselors from Boone County, Butler County, and Corbin Independent School Districts testified, along with an assistant principal from Whitley County School District. School counselors would like for the social and emotional needs of students to be the first priority of counselors. School counselors understand that other requirements currently exist, such as scheduling, test administration, ARC meetings, and other assigned tasks, but the most important thing a counselor can do is to spend time with individual students in schools.

Teachers

Teachers from Bardstown Independent, Corbin Independent, and Whitley County School Districts testified that social development instruction increases academic achievement and decreases behavior events. Teacher presence, supervision, and passive interrogation help to decrease discipline events, and communication is an important component when specific indicators are noticed in students.

Students

Students from Corbin Independent, Fayette County, Jefferson County, Pendleton County, Russell Independent, and Whitley County School Districts testified on what these districts are doing to make schools safer. The students' schools range in size from a few hundred to more than 1,000 students. Security measures implemented in the schools include the use of clear backpacks, the use of metal detectors, and the provision of additional police officers in the school buildings. The Prichard Committee Student Voice Team made a presentation on its position regarding school safety and what measures could be implemented to increase security.

Postsecondary Institutions

The former president of the Kentucky Council on Postsecondary Education, Western Kentucky University's public information officer, the Kentucky Community and Technical College System's director of safety and emergency services, and the University of Louisville's director of campus safety and chief of police provided testimony on what postsecondary institutions are doing to provide a safe environment for students on an open campus. Each presenter agreed that emergency notification systems have been put in place on campuses, that communication has increased between the universities and local police forces, and that the number of campus police officers has increased.

Other Organizations

Moms Demand Action for Gun Sense in America is a group created after the Sandy Hook school shooting. Its primary focus is the safety of children at home, at school, and at play. A representative of the group testified that arming teachers is dangerous and irresponsible, and that it ignores research indicating that the presence of guns in schools increases risks. Liberty Mutual Insurance made a presentation on the upward trend of school violence across the nation and the safety and security strategies that Liberty recommends to the school districts it insures. The Kentucky Office of Homeland Security provided an update on available grants for school safety, along with a summary of safety trends the office is seeing across the state. The interim director of the Kentucky Center for Instructional Discipline presented information regarding the number of schools that have adopted Positive Behavioral Interventions and Supports and the outcomes those schools have experienced. Kentucky Youth Advocates (KYA) provided testimony regarding how an increased number of appropriately trained law enforcement officers can dramatically reduce the number of discipline issues and school safety concerns in schools. KYA also provided a presentation on funding strategies that would allow school districts to get the most benefit for students. The State Interagency Council provided an update on the work of the Social and Emotional Health Task Force that was created in 2018 to provide policy, process, and practice recommendations to the council, aimed at improving the social and emotional health of children, youth, and young adults.

Report of the 2018
Task Force on Tax Expenditures

Sen. Christian McDaniel, Co-Chair
Rep. Ken Fleming, Co-Chair

Sen. David P. Givens
Sen. Morgan McGarvey
Sen. Dennis Parrett
Sen. Wil Schroder
Rep. Jason Petrie
Rep. Diane St. Onge
Rep. James Tipton
Rep. Jim Wayne
Rep. Susan Westrom

Rep. Steven Rudy, ex officio

LRC Staff: Jennifer Hays, Cynthia Brown, Katy Jenkins, Amit Shanker, Kevin Branscum, Charlotte Quarles, and Chase O'Dell

Presented to the
Legislative Research Commission
and the
2019 Regular Session of the
Kentucky General Assembly

Task Force on Tax Expenditures

Jurisdiction: Review, examine, and analyze the state's tax expenditures.

Task Force Activity

During the 2018 Interim, the Task Force on Tax Expenditures held five meetings. The committee received testimony regarding a wide range of topics.

Incentives for the Manufacturing Industry

The executive director and the director of advocacy of the Kentucky Association of Manufacturers (KAM) reviewed and discussed incentives for the manufacturing industry.

There are 2,500 manufacturing facilities in Kentucky that employ almost 256,000 people. KAM supports a tax code that is competitive and consistent with those of surrounding competitor states. KAM also supports moving Kentucky toward a more consumption-based system and away from an income-based system. The executive director provided a list of the tax expenditures, credits, and incentives that KAM would like to retain.

Interaction Between the Department of Revenue and Tax Expenditures

The commissioner of the Department of Revenue (DOR) discussed the department's dealings with tax expenditures.

DOR is required to keep taxpayer information confidential. There are very narrow exceptions that have been enacted over time. The department shares information and data with the IRS. DOR is able to provide statistical information, unless it involves fewer than three taxpayers. Taxpayer information is granted only on a need-to-know basis. DOR uses an Exchange of Information (EOI) agreement to provide information to other agencies. DOR has data on what is taxed and collected, but not everything is required to be reported. There are limitations to data collected on the sales tax.

Overview of the Cabinet for Economic Development Programs

On behalf of the Cabinet for Economic Development (KCED), the commissioner of the Department for Business Development, the general counsel and executive director of the Office of Legal Services, and the director of the Incentive Administration Division gave an overview of incentive programs administered by KCED.

The commissioner discussed KCED's mission, programs, and processes. Incentives are negotiable from KCED's standpoint. It is always KCED's intent to locate a deal or create an expansion with no incentives. The tool most often used by KCED to close deals is tax incentives, which it prefers to cash programs.

The director of the Incentive Administration Division gave an overview of the incentives and programs administered by KCED. The Kentucky Economic Development Finance Authority is responsible for awarding most of the financial incentives offered by the cabinet. The cabinet's primary charge is to lower the cost of doing business in Kentucky, and to encourage economic development through tax incentives, cash programs, and workforce programs. All tax incentive programs have an approval process, are performance based, and require ongoing monitoring and compliance.

The Kentucky Business Investment (KBI) program is the most successful tax incentive program. It was introduced in 2009. To be eligible for the program, a company must be engaged in manufacturing, agribusiness, regional or national headquarters, nonretail service, technology business, alternative fuel, gasification, or renewable energy production. Companies can recover their investments through corporate income tax credits or limited liability entity tax credits on their tax returns, and employee wage assessments.

Requirements under KBI include:

- Create 10 full-time jobs for Kentucky residents
- Make a minimum investment of $100,000 in eligible costs
- Maintain minimum hourly wage and total hourly compensation
- Maintain negotiated job and wage targets

The KBI program has a two-step approval process. From July 2009 to May 2018, there have been 1,106 preliminary approvals and 501 final approvals. Through the 501 approvals, over $7.3 billion in investments have been made and almost 45,000 full-time jobs have been created. Approved incentives are estimated at $844 million, with claimed incentives at $59.8 million.

Overview of the Tax Expenditure Analysis 2018–2020

From the Office of the State Budget Director, the deputy executive director of the Governor's Office for Economic Analysis and the deputy executive director of the Governor's Office for Policy Research gave an overview of the Tax Expenditure Analysis for 2018–2020.

Tax expenditures differ from normal budget expenditures that are explicitly appropriated in a biennial budget process. Once a tax law is changed, it is codified until it is modified by future sessions of the General Assembly.

In FY 2017, 42 percent of General Fund receipts came from the individual income tax; 33 percent came from the sales and use tax. Income tax expenditures account for more than half of all tax expenditures. Sales tax expenditures account for 33.1 percent of all tax expenditures. Property tax expenditures account for 10 percent of all tax expenditures.

The deputy executive director discussed sources of data for the tax expenditure analysis. DOR is the preferred source of data for making expenditure estimates. In an ideal world, all of the data would come from tax returns or DOR data. In reality, only a fraction of data can come from DOR. In general, tax credits and economic incentives are tracked very closely.

Overview of Tourism, Arts, and Heritage Cabinet Programs

The deputy secretary of the Tourism, Arts, and Heritage Cabinet, the executive director of the Kentucky Office of Film and Development, and the executive director of the Kentucky Heritage Council (who is also the state historic preservation officer) gave an overview of Tourism, Arts, and Heritage Cabinet programs.

The executive director of the Kentucky Heritage Council discussed the historic preservation tax credit. It was enacted by the legislature in 2005 and capped at $3 million a year. In 2010, there was $40.5 million worth of investment in historic properties in Kentucky. In 2010, the $3 million cap was raised to $5 million. That year, investment jumped from $40.5 million to $73.9 million. In 2014, the legislature approved a stand-alone credit that was complementary to the existing state tax credit. From that credit alone, an additional $237.8 million was invested in historic properties.

Since 2005, roughly $76 million in tax credits have leveraged $1.38 billion worth of investment. Sixty percent of expenditures are going toward labor, with 40 percent going toward materials. A total of 17,000 jobs have been created through the tax credit.

The executive director of the Kentucky Office of Film and Development discussed the film industry incentive program.

The completion percentage for films made in Kentucky is 10 percent. The program has paid out $14.6 million in incentives since 2009. The acceptance of new applications was suspended in February 2018. New applications are on hold until January 2019. The film industry has spent $53.1 million in capital investments in the state since 2009, resulting in $4.2 million in state and local tax receipts.

From 2009 to 2015, 197 full-time equivalent jobs were created. From 2016 to 2017, 441 full-time equivalent jobs were created. Any application that is approved has up to 2 years to begin production and 4 years to complete production. Film industry spending in the state from 2009 to 2015 totaled $16.4 million in direct investments. Spending from 2016 to 2017 totaled $36.7 million in direct investments.

The tourism development incentive program has created 6,816 jobs since its creation in 1997. Approximately $1.1 billion has been invested through the program since 1997. The program has approved $253 million in incentives.

Sales and Use Tax Exemptions for the Agricultural Industry

The president, the first vice president, and the director of the public affairs division of the Kentucky Farm Bureau Federation reviewed and discussed sales and use tax exemptions for the agricultural industry.

The tax exemptions for sales tax on production agriculture are important because every state bordering Kentucky has some form of program with a sales tax exemption for agriculture.

Removing the sales and use tax exemption would cause a disruption for the supply industry for agriculture in Kentucky, and farm communities would take the biggest hit from the elimination.

Sales and Use Tax Exemptions for the Medical Industry

A representative of the Kentucky Retail Federation and a pharmacist reviewed and discussed sales and use tax exemptions for the medical industry.

Illinois is the only state that applies sales tax to prescription drugs. The administrative burden and cost of collecting and remitting a sales tax on prescription drugs would have significant negative effects on all pharmacies.

Increased prescription costs would be harmful to the health and economic well-being of those patients who already struggle to pay for basic needs. The federal government would not pay sales tax on prescription drugs for any patients participating in programs where they pay all or part of the costs. In 2017, 55 percent of all prescriptions dispensed were paid for with federal funds.

Kentucky currently exempts all prescription drugs from the sales tax, and 22 states exempt medical equipment and supplies from the sales tax. Of the states contiguous to Kentucky, Illinois is the only one that taxes medical equipment and supplies.

Tax Expenditures

The executive director and a senior fellow from the Kentucky Center for Economic Policy discussed tax expenditures.

The effects of state and local taxes on the behavior of businesses and individuals are small. All business taxes account for 1.8 percent of total costs for businesses on average. Other factors are more important when a business determines where to locate or expand. More than 80 percent of yearly job creation in any state comes from businesses already in-state. Taxes at the state and local level have only a small or negligible impact on an individual’s decision to migrate.

Public investments in education and infrastructure increase workforce productivity and the strength of the economy. Taxes are not a strong contributor to growth that comes from outside the state. The income tax in Kentucky is slightly progressive, and the sales tax is very regressive.

Unless a tax expenditure has a sunset date, it will exist in perpetuity and will never be revisited or evaluated. The goal should be to limit tax expenditures as much as possible, but the exemption of the sales tax on groceries is an expenditure that should be kept because a sales tax on groceries is regressive. Tax exemptions should be kept on utilities and prescription drugs.

The earned income tax credit is a tax expenditure that has a strong base of evidence to show cost effectiveness.

The senior fellow reviewed and discussed several tax expenditures, and recommended actions to be taken. She recommended the following:

- Eliminating the retirement income exclusion
- Capping itemized deductions for individuals
- Performing more analysis on the film industry tax credits, the angel investor tax credit, and the Tax Increment Financing program
- Freezing the state property tax rate
- Applying the hospital provider tax to current revenues rather than to 2006 revenues
- Taxing advanced deposit wagering and instant racing at the same rate as live bets

The executive director of the Pegasus Institute discussed tax expenditures and Kentucky's economic picture.

The tax code is one of the primary issues with Kentucky's economic growth problem. Since 1977, Kentucky's economic growth has been 30 percent below the national average, ranking 44th in the United States. Between 2006 and 2016, Kentucky's per capita GDP growth was approximately 0.3 percent. Kentucky's average household income is 18 percent below the national average; Kentucky is ranked 45th nationally in that category. Labor force participation in the state is below 60 percent, which ranks Kentucky 44th in the nation.

Earlier in the year, the unemployment rate in Kentucky was the lowest in the history of the Bureau of Labor Statistics data for the state. More Kentuckians are employed than at any point in the state's history. However, since the recession ended, paychecks in Kentucky have grown 12 percent more slowly than the national average, and per capita income in Kentucky ranks 47th in the United States.

Production has been overburdened in Kentucky, and businesses need the burden of taxation shifted so that they can grow. Taxation is naturally economically burdensome. The role of any government entity should be to stay out of the way of individuals and businesses to the greatest extent possible. Committee members were implored to consider elimination of tax expenditures with the intention of lowering the rate, broadening the base, and creating a system that is more competitive with those of Kentucky's neighbors.

Top 10 Tax Expenditures and Bottom 5 Percent Tax Expenditures

The state budget director, the DOR commissioner, the deputy executive director of the Office of State Budget Director, and the committee staff administrator of the Appropriations and Revenue Committee reviewed the top 10 tax expenditures and bottom 5 percent tax expenditures.

Of the top 10 tax expenditures by amount, 6 are sales and use tax exemptions. Two of the top 10 are related to individual income tax. One is related to real property tax, and another is related to corporation income tax.

The state budget director discussed specific tax exemptions and market distortions. Eliminating prescription drug, food, residential utility, and standard deduction tax expenditures would be regressive. Expanding the standard deduction might be preferable as an offset to some of the other eliminations that might prove regressive in nature.

It was recommended that policy makers consider the impacts of taxation on market distortions. Market distortions within Kentucky are sensitive to border effects. More than half of Kentuckians live in counties that border other states. None of the bordering states have a tax on pharmaceuticals with prescriptions.

The committee staff administrator discussed medical exemptions and the streamlined sales and use tax agreement. Prescription drugs, prosthetic devices, and physical aids are tax-exempt. All of the tax-exempt medical items are defined in statute. Kentucky's definitions are the same as in the streamlined sales and use tax agreement. A decision to change a defined term would be a violation of that agreement and would jeopardize Kentucky's participation going forward.

Food and food ingredients are tax-exempt. Alcoholic beverages, prepared food, tobacco, candy, dietary supplements, and soft drinks are exceptions to the tax exemption.

Charitable, religious, and educational organizations are exempt under KRS 139.495. The exemption applies only to entities that have received tax-exempt status from the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code. Only sales to a 501(c)(3) entity are exempt—and only when that purchase is used within the educational, charitable, or religious function of the organization. Sales made by these entities are not exempt. However, per KRS 139.496, all nonprofit organizations are exempt from sales tax on the first $1,000 of sales per year. The elimination of tax exemptions for charitable organizations would discourage the formation of exempt organizations and raise the cost of education and other charitable services.

Residential utilities are exempt from sales tax in Kentucky. Thirty-two other states have either a sales tax or a utilities gross receipts tax on residential utilities.

Sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state are tax-exempt. Sales to counties, cities, or special districts are also tax-exempt. This tax exemption applies only to purchases for use solely in the government function. Taxing sales to government entities would have a budgetary impact that would be adverse to the entities.

Various livestock, feed, seeds, and fertilizers are exempt from sales and use tax. Elimination of this tax expenditure would adversely affect farming communities.

An individual may elect to itemize deductions or take a standard deduction. House Bill 487 eliminated most itemized deductions. Raising the standard deduction would help low-income individuals.

Social Security benefits taxed at the federal level are exempt from Kentucky income tax. More states tax retirement benefits than tax Social Security benefits. Only 13 states tax Social Security benefits.

The state tax rate on real property is reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than 4 percent. The state real property tax yearly revenue ceiling had a tax expenditure of $506,100,000 in FY 2018. The tax expenditure is so high because eliminating it would increase the current rate of 12.2 cents to 31.5 cents.

Dividend income received by a corporation has been exempt since December 31, 1969. The corporate dividend income tax expenditure was put in place to avoid double taxation of corporate dividends.

Of the bottom 5 percent of tax expenditures, 160 had a cost of less than $1 million each. Another 64 tax expenditures from the bottom 5 percent ranged in annual cost from $1 million to $11.9 million each.

A total of 42 tax expenditures, ranging in cost from $12.2 million to $120.8 million annually, make up the gap between the top 10 and the bottom 5 percent of tax expenditures.

The limited liability entity tax has minimum and reduced rates for small businesses. A business making less than $3 million in gross receipts pays a minimum rate, and a business making between $3 million and $6 million pays a graduated rate.

It would be difficult for the Department of Revenue to administer the sales tax on an occasional sale because it would be required to enforce the tax on every individual who makes a single sale in a year.

Recommendations From the Co-Chairs

During the final meeting of the Task Force on Tax Expenditures, members considered recommended General Assembly action, which was included in the "Report of the Task Force on Tax Expenditures" and delivered to the President of the Senate, the Speaker of the House, and the Interim Joint Committee on Appropriations and Revenue on December 30, 2018.