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

Informational Bulletin No. 257

December 2019

Kentucky Legislative Research Commission

The Kentucky Legislative Research Commission is a 16-member committee that comprises the majority and minority leadership of the Kentucky Senate and House of Representatives. Under Chapter 7 of the Kentucky Revised Statutes, the Commission constitutes the administrative office for the Kentucky General Assembly. Its director serves as chief administrative officer of the legislature when it is not in session. The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the General Assembly. The Commission provides professional, clerical, and other employees required by legislators when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual members in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, furnishing information about the legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting a presession orientation conference for legislators, and publishing a daily index of legislative activity during sessions of the General Assembly.

The Commission also is responsible for statute revision; publication and distribution of the *Acts* and *Journals* following sessions of the General Assembly; and maintenance of furnishings, equipment, and supplies for the legislature.

The Commission functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of The Council of State Governments as it relates to Kentucky.

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

2019

Presented to the
Legislative Research Commission
and the
2020 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 statutory and special committees, meet to discuss and receive testimony on a number of important issues that may confront the General Assembly.

During the 2019 Interim, all 14 interim joint committees, 10 statutory committees, and 7 special committees held meetings.

LRC provides this informational booklet as a summary of the activity of the interim joint, statutory, and special committees since adjournment of the 2019 General Assembly. The reports were prepared separately by the committee staff.

Jay D. Hartz
Director

Legislative Research Commission
Frankfort, Kentucky
December 2019

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Report Of The 2019
Interim Joint Committee on Agriculture

Sen. Paul Hornback, Co-Chair
Rep. Richard Heath, Co-Chair

Sen. Jared Carpenter
Sen. Julian M. Carroll
Sen. Matt Castlen
Sen. David P. Givens
Sen. Stan Humphries
Sen. Robby Mills
Sen. Dennis Parrett
Sen. Damon Thayer
Sen. Robin L. Webb
Sen. Stephen West
Sen. Whitney Westerfield
Rep. Myron Dossett
Rep. Larry Elkins
Rep. Kelly Flood
Rep. Joe Graviss
Rep. Chris Harris
Rep. Mark Hart
Rep. Angie Hatton
Rep. Kim King
Rep. Matthew Koch
Rep. Phillip Pratt
Rep. Rick Rand
Rep. Brandon Reed
Rep. Rob Rothenburger
Rep. Steven Rudy
Rep. Dean Schamore
Rep. John Sims Jr.
Rep. Wilson Stone
Rep. Nancy Tate
Rep. Walker Thomas
Rep. James Tipton
Rep. Susan Westrom
Rep. Les Yates

LRC Staff: Stefan Kasacavage, Kelly Ludwig, Silas Montgomery, Nathaniel Smith, Rachel Hartley, and Susan Spoonamore

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

2019 Interim Subcommittee Organization And Membership

Subcommittee On Equine Issues

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

Sen. Julian M. Carroll	Rep. Phillip Pratt
Sen. Dennis Parrett	Rep. Rob Rothenburger
Sen. Damon Thayer	Rep. Wilson Stone
Sen. Robin L. Webb	Rep. James Tipton
Rep. Kelly Flood	Rep. Susan Westrom
Rep. Joe Graviss	Rep. Les Yates
Rep. Matthew Koch	

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. Angie Hatton
Sen. Matt Castlen	Rep. Kim King
Sen. David P. Givens	Rep. Rick Rand
Sen. Robby Mills	Rep. Steven Rudy
Sen. Whitney Westerfield	Rep. Dean Schamore
Rep. Larry Elkins	Rep. John Sims Jr.
Rep. Chris Harris	Rep. Nancy Tate
Rep. Mark Hart	

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

LRC Staff: Kelly Ludwig 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; county fairs.

Committee Activity

The Interim Joint Committee on Agriculture held five meetings during the 2019 Interim. The committee reauthorized the Subcommittee on Equine Issues and the Subcommittee on Rural Issues. Each subcommittee held one meeting during the Interim. A variety of topics were discussed, and several agencies and organizations updated committee members on projects and proposed legislative suggestions for the 2020 Regular Session.

United States Department Of Agriculture's Farm Service Agency

The committee received testimony from United States Department of Agriculture's Farm Service Agency relating to the Beginning Farmer Program. The regional coordinator of the Beginning Farmer Program discussed the Disaster Program, cost share programs, various loan programs, crop insurance, and other available programs. The executive director discussed the 2018 Farm Bill and its implementation, the Dairy Margin Coverage Program, and the Market Facilitation Program.

Feeding Kentucky

Members received testimony from the executive director of Feeding Kentucky and the chief executive officer of God's Pantry Food Bank. The panel discussed various partnerships in the fight against hunger and Kentucky's food insecurity rates. Members received testimony relating to the Farms to Food Banks Program and its impact on farmers and number 2 grade produce purchases.

Kentucky State Fair Board

At the Kentucky State Fair, in Louisville, the chairman and the president/chief executive officer of the Kentucky State Fair Board updated committee members on fair activities and potential projects relating to the Kentucky Exposition Center. The secretary of the Finance and Administration Cabinet welcomed committee members to the Kentucky Exposition Center.

Dairy Industry

The executive director of the Kentucky Dairy Development Council discussed issues facing Kentucky's dairy industry. Members received testimony relating to improved efficiency and production, the decrease in consumption of fluid milk, and the economic impact of the dairy industry.

Corn Industry

The committee received testimony from the Kentucky Corn Growers' Association's executive director, who discussed renewable fuel standards and renewable volume obligations. Members received testimony detailing the impact of the proposed rule for 2020 volumes to Kentucky's corn producers and recommendations to the Environmental Protection Agency in response to the proposed rule.

Department Of Agriculture

Members received testimony from the commissioner of the Kentucky Department of Agriculture relating to weather conditions and the impact of the drought on the 2019 growing season, industrial hemp, and the Food Safety Modernization Act. The commissioner gave an overview of the current status of Department of Agriculture's staffing and program challenges as well as the potential impact of the 2020 budget.

Administrative Regulations

During the 2019 Interim, the Kentucky Department of Agriculture referred 18 administrative regulations to the committee. The regulations related to amusement rides or attractions, training for animal control officers, grain dealers, the Kentucky Grain Insurance Fund, packaging and labeling requirements for commodities, price verification procedures, and commercial weighing and measuring devices.

Legislative Proposals/Policy Positions Received

The committee received legislative proposals and comments for the 2020 Regular Session from representatives of the Governor's Office of Agricultural Policy, the Kentucky Farm Bureau, and the Kentucky Cattlemen's Association.

Governor's Office Of Agricultural Policy

- Support and continue 50 percent allocation of Master Settlement Agreement fund to Agricultural Development Board.
- Support and continue allocation of Master Settlement Agreement funds to the Kentucky Agricultural Finance Corporation.
- Exempt universities from the red tape of construction projects.
- Support efforts for increased agricultural exports to international markets.
- Explore and support value-added alternatives and projects for farmers.

Kentucky Farm Bureau

- Support and continue 50 percent allocation of Master Settlement Agreement fund to Agricultural Development Board.
- Support legislation relating to comprehensive tax reform.
- Support and maintain agricultural tax exemptions.
- Expand network and availability of rural broadband throughout Kentucky.
- Support increased funding to the Kentucky Department of Agriculture.

Kentucky Cattlemen's Association

- Support and continue 50 percent allocation of Master Settlement Agreement fund to Agricultural Development Board.
- Monitor legislation relating to fake meat, greenhouse gases, tariffs, labeling, and animal activists.
- Monitor regulations relating to the use of animal antibiotics.
- Support expansion of agriculture education and strengthen agriculture education programs at high schools and universities.

Reports Received

The committee received the following reports:

- Auditor of Public Accounts: Rural Development Fund—July 1, 2017 to June 30, 2018
- Kentucky Department of Agriculture: 2018 Cervid Wasting Surveillance Identification Program Annual Report
- 2019 Farms to Food Banks Annual Report
- Auditor of Public Accounts: 2019 Report of the Audit of the Kentucky Department of Agriculture Spay and Neuter Program
- Financial Statement and Report of the Kentucky Department of Agriculture Spay and Neuter Program for the Fiscal Year ended June 30, 2019

Subcommittee Activity

Subcommittee On Equine Issues

The Subcommittee on Equine Issues met once during the 2019 Interim to discuss the agriculture equine programs at the University of Kentucky and the University of Louisville and to receive an update on the Kentucky Breeders' Incentive Fund. The chief state veterinarian also discussed veterinarian team race day protocols for horse health and safety.

Subcommittee On Rural Issues

At the November meeting of the Subcommittee on Rural Issues, the commissioner of the Department for Business Development testified that the state has benefited from numerous economic development efforts in the last 4 years, as more than $22 billion in new projects have been announced that will bring tens of thousands of new jobs—many of them in rural areas. The commissioner said that the Cabinet for Economic Development helps develop rural areas through a variety of tax credits and incentives, as well as through advertising Kentucky's pro-business environment in neighboring states to attract investments

Report Of The 2019
Interim Joint Committee On Appropriations And Revenue

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

Sen. Tom Buford
Sen. Matt Castlen
Sen. Rick Girdler
Sen. David P. Givens
Sen. Stan Humphries
Sen. Alice Forgy Kerr
Sen. Morgan McGarvey
Sen. Stephen Meredith
Sen. Gerald A. Neal
Sen. Dennis Parrett
Sen. Dan "Malano" Seum
Sen. Robin L. Webb
Sen. Stephen West
Sen. Phillip Wheeler
Rep. Lynn Bechler
Rep. Danny Bentley
Rep. Myron Dossett
Rep. Joseph M. Fischer
Rep. Kelly Flood
Rep. Jim Glenn
Rep. David Hale
Rep. Mark Hart
Rep. Angie Hatton
Rep. Dennis Keene
Rep. Russ A. Meyer
Rep. Jason Nemes
Rep. Ruth Ann Palumbo
Rep. Phillip Pratt
Rep. Melinda Gibbons Prunty
Rep. Brandon Reed
Rep. Steve Riley
Rep. Rob Rothenburger
Rep. Sal Santoro
Rep. John Sims Jr.
Rep. Jim Stewart III
Rep. Wilson Stone
Rep. James Tipton
Rep. Susan Westrom

LRC Staff: Jennifer Hays, Kevin Branscum, Cynthia Brown, Katy Jenkins, Charlotte Quarles, and Chase O'Dell

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2020 Regular Session of the
Kentucky General Assembly

2019 Interim
Budget Review Subcommittee Organization And Membership

Budget Review Subcommittee On Economic Development, Tourism, And Environmental Protection

Sen. Rick Girdler, Co-Chair
Rep. Lynn Bechler, Co-Chair

Sen. Perry Clark
Sen. Alice Forgy Kerr
Sen. Morgan McGarvey
Sen. Max Wise
Rep. Terri Clark
Rep. David Hale
Rep. Savannah Maddox
Rep. Ruth Ann Palumbo
Rep. Bart Rowland
Rep. Dean Schamore
Rep. Les Yates
Rep. Russell Webber, ex officio

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

Budget Review Subcommittee On Education

Sen. Alice Forgy Kerr, Co-Chair
Rep. Steve Riley, Co-Chair
Rep. James Tipton, Co-Chair

Sen. C.B. Embry Jr.
Sen. Gerald Neal
Sen. Johnny Ray Turner
Sen. Mike Wilson
Rep. Tina Bojanowski
Rep. Randy Bridges
Rep. Joseph Fischer
Rep. Kelly Flood
Rep. Jim Glenn
Rep. David Hale
Rep. Cluster Howard
Rep. C. Ed Massey
Rep. Bobby McCool
Rep. Attica Scott
Rep. Regina Huff, ex officio

LRC Staff: Seth Dawson, Jennifer Krieger, Nick Peak, Chuck Truesdell, and Amie Elam

Budget Review Subcommittee On General Government, Finance, Personnel, And Public Retirement

Sen. Robby Mills, Co-Chair
Rep. Myron Dossett, Co-Chair
Rep. Jim Stewart, Co-Chair

Sen. Julie Raque Adams
Sen. Dennis Parrett
Sen. Reginald Thomas
Sen. Phillip Wheeler
Rep. Kevin Bratcher
Rep. Joe Graviss
Rep. Mark Hart
Rep. Adam Koenig
Rep. Michael Meredith
Rep. Russ Meyer
Rep. Suzanne Miles
Rep. Patti Minter
Rep. Phillip Pratt
Rep. Wilson Stone
Rep. Nancy Tate
Rep. Jim Gooch, ex officio
Rep. Jerry Miller, ex officio

LRC Staff: Liz Columbia, Seth Dawson, Zach Ireland, Emma Mills, Nick Peak, Justin Perry, Chuck Truesdell, and Spring Emerson

Budget Review Subcommittee On Human Resources

Sen. Matt Castlen, Co-Chair
Rep. Danny Bentley, Co-Chair

Sen. Julie Raque Adams
Sen. Julian Carroll
Sen. Morgan McGarvey
Sen. Stephen Meredith
Rep. Adam Bowling
Rep. Melinda Gibbons Prunty
Rep. Josie Raymond
Rep. Steve Riley
Rep. Russell Webber
Rep. Susan Westrom
Rep. Kimberly P. Moser, ex officio

LRC Staff: Miriam Fordham, Kevin Newton, and Benjamin Thompson

Budget Review Subcommittee On Justice And Judiciary

Sen. Stephen West, Co-Chair
Rep. Jason Nemes, Co-Chair

Sen. Denise Harper Angel
Sen. John Schickel
Sen. Robin Webb
Sen. Whitney Westerfield
Rep. Daniel Elliott
Rep. Angie Hatton
Rep. Nima Kulkarni
Rep. Stan Lee
Rep. Brandon Reed
Rep. Jason Petrie, ex officio

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

Budget Review Subcommittee On Transportation

Sen. Jimmy Higdon, Co-Chair
Rep. Sal Santoro, Co-Chair

Sen. Ernie Harris
Sen. Dennis Parrett
Sen. Robin Webb
Sen. Max Wise
Rep. Chris Fugate
Rep. Chris Harris
Rep. Thomas Huff
Rep. Phillip Pratt
Rep. Bart Rowland
Rep. John Sims
Rep. Ken Upchurch, ex officio

LRC Staff: Justin Perry and Spring Emerson

Ex Officio Members For All Budget Review 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; payment, collection, and refund of taxes.

Committee Activity

During the 2019 Interim, the Interim Joint Committee on Appropriations and Revenue held six meetings. The committee received testimony regarding a wide range of topics related to revenues and appropriations.

Advance Kentucky

Advance Kentucky's mission is to expand student access to, and success in, rigorous coursework, particularly among populations traditionally underrepresented in these courses, thereby enabling students to pursue advanced college and career opportunities. Advance Kentucky began in 2008 with the College Readiness program. To date, Advance Kentucky has worked with over 130 public high schools. Advance Kentucky is working with or within 100 schools this year, with a student enrollment of over 13,000. The current funding for Advance Kentucky stands at $1.7 million. Advance Kentucky is requesting $2.5 million in FY 2021 and FY 2022.

"An Enduring Relationship Between Kentucky And Auburn For Veterinary Medical Education"

The relationship between Auburn University and the commonwealth of Kentucky is a long-standing one in which Auburn trains veterinarians who serve animal health needs across Kentucky. Through the Southern Regional Education Board's Regional Contract Program, Kentucky residents can attend Auburn's College of Veterinary Medicine and pay in-state tuition, with Kentucky making up the difference between in-state and out-of-state tuition. The relationship between Auburn's veterinary program and Kentucky has existed since 1951. Since then, 1,800 residents of Kentucky have graduated from the College of Veterinary Medicine as veterinarians. Many of those graduates have returned to Kentucky to serve critical roles in animal health. The College of Veterinary Medicine had 117 applicants from Kentucky for the class of 2023, of whom 38 were accepted.

In the 2019-2020 academic year, Kentucky will pay $4,712,000 for Kentucky residents to attend the College of Veterinary Medicine. That dollar amount will reserve 152 seats for the academic year, at a rate of $31,000 per seat. Kentucky's investment in the Veterinary Contract Spaces Program keeps student debt lower, which gives the students more opportunity to go into rural areas and serve.

Cigarette Tax And Compensation To Wholesalers

Kentucky wholesalers distribute a wide array of products and are required to place tax stamps on each individual pack of cigarettes sold at the wholesale level. This has been a function of wholesalers since 1955 to comply with the cigarette tax statutes. The wholesaler must prepay for the tax stamps.

Wholesalers are requesting two changes to the cigarette tax statutes in the 2020 session:

- The first change is to allow a 10-day credit term to pay the Department of Revenue for tax stamps.
- The second request is for a reimbursement rate of 1.5 cents per pack of cigarettes to compensate the wholesaler for placing the cigarette tax stamp on each pack. The stamp is the evidence that tax has been paid. Wholesalers are currently reimbursed 0.3 cents per pack. The rate has not changed since 1955.

Closeout Of FY 2019

The general fund experienced actual receipts of $11,392,698,460 in FY 2019. The actual receipts were $194,498,460 higher than the official Consensus Forecasting Group estimate. The general fund revenues grew by $554.5 million in FY 2019—the most since FY 2015. General fund revenues grew 5.1 percent. The individual income tax and the sales and use tax make up 75 percent of general fund revenues.

FY 2019 ended with a general fund surplus of $130.1 million. There were $33.2 million in necessary government expenses in FY 2019. According to 2018 RS HB 200, the FY 2019 general fund surplus was appropriated for FY 2020. A total of $70 million of the surplus went to the Teachers’ Retirement System medical insurance fund, and $60.1 million went to the Kentucky Retirement Systems’ nonhazardous unfunded pension liability fund. FY 2019 began with $93.8 million in the budget reserve trust fund; it had a balance of $129.1 million at the end of FY 2019. It is estimated that the balance will be $306.1 million at the end of FY 2020. The trust fund balance is estimated to be 2.7 percent of the general fund in FY 2020.

Road fund revenues for FY 2019 totaled $1.556 million. The year-over-year growth for the road fund totaled 3.6 percent. Motor fuels revenues were $14 million higher than expected in FY 2019. Motor vehicle usage revenues brought in a record $514.5 million, exceeding the estimate by $20 million. The year-end balance for the road fund was $472.7 million. The total budgeted carryforward into FY 2020 totaled $397.5 million. As a result, the road fund surplus amounted to $75.2 million.

Coal And Mineral Severance Tax Programs

Coal and mineral severance tax funds are distributed on a quarterly basis through two funds related to specific programs. The programmatic funds are the local government economic assistance fund (LGEAF) and the local government economic development fund (LGEDF). LGEDF funds are being expended in a variety of ways, including in public infrastructure, water, sewer, road improvements, and more.

Fifty percent of gross mineral severance tax revenue goes to the state's general fund, and the other 50 percent goes to the LGEAF. Eligible counties are producers of noncoal minerals such as limestone, clay, oil, and natural gas. Funds are distributed based on the taxes collected and reported for each county. Ten percent of each county's allocation goes to the cities within that county. The distribution to cities is based on population. In FY 2019, the LGEAF mineral program allocated over $17 million to participating counties and cities. The amount projected for FY 2020 is a little over $16 million.

By statute, coal severance tax revenues are to be split evenly, with 50 percent going to the general fund and 50 percent going to the LGEDF. However, the executive branch budget bill has historically altered the statutory process by making appropriations off the top of total receipts prior to the distribution to specific funds. The projected coal severance tax revenue for FY 2019 totaled $77.9 million. Actual revenues for the year were over $92.9 million, creating an excess of $15,006,946.91. Gross coal severance tax revenue is estimated to reach a little over $65 million in FY 2020.

Education Funding

In 1985, 66 poor property districts joined to challenge the overall educational system in Kentucky. As a result, the system was declared unconstitutional pursuant to Section 183 of the Constitution of Kentucky. The decision resulted in the enactment of the Kentucky Education Reform Act in 1990, which included the Support Education Excellence in Kentucky (SEEK) funding mechanism. The SEEK funding formula has not changed much in 30 years. KRS 157.350 sets forth SEEK eligibility requirements. SEEK is an allocation formula used to disburse funds to school districts. Once a district receives the funds, it can them to make itself as efficient and effective as possible.

The first input into the SEEK formula is the aggregate average daily attendance (AADA), which each district reports to the Kentucky Department of Education (KDE). The statewide AADA is approximately 593,000. Other inputs into the formula include funding for free lunch for at-risk children, funding for children with disabilities, the home and hospital program for students unable to physically attend school, and funding for students with limited English proficiency. In each of the last several budgets, $214 million has been appropriated for pupil transportation through SEEK. The most recent calculation for districts' transportation costs totaled approximately $376 million.

Districts that have increased local revenue to a level known as "tier one" may receive additional funding through the budget. Approximately $160 million to $170 million each year is given to tier one districts. Local revenue and effort are a big part of SEEK. Districts are required to levy a minimum equivalent tax rate of 30 cents per $100 of assessed property. All of the school districts combined generate approximately $2.5 billion in tax revenues.

Kentucky's Approach To Postsecondary Education Performance Funding

Kentucky's performance funding model for postsecondary education has demonstrated specific improvements across the commonwealth. The performance funding model was developed in response to 2016 RS HB 303. The model was developed to increase retention and progression of students; increase the number of degrees and credentials conferred; produce more degrees and credentials in science, technology, engineering, math, health (STEM+H), and other high-demand fields; and close achievement gaps by graduating underrepresented minority, low-income, and underprepared students. By 2030, the attainment goal is for 60 percent of Kentucky citizens to have a postsecondary credential that matters.

The performance funding model was implemented to address the shortcomings of the previous method for distributing funds to the universities and community colleges. The old approach was a base plus or base minus approach to funding. This approach failed to recognize changes in enrollment, program mix, or student outcomes that develop over time. The previous funding method contained no financial incentives for achieving desired state goals for postsecondary education.

There are five major components of the performance funding model. The two largest components are student success and course completion, each with allocation percentages of 35 percent and each with a funding pool of $181.9 million. The other three funding model components are maintenance and operations, institutional support, and academic support; each of these components constitutes 10 percent of the total allocation, totaling $52 million each. The dollars allocated to public universities in Kentucky through the performance funding model totaled approximately $520 million in FY 2019.

KDE: Anticipated Pupil Growth And Expected Average Daily Attendance For The Upcoming Budget Biennium

The average aggregate daily attendance is a huge driver of funding, responsible for $2.3 billion in funding in FY 2020. The AADA in Kentucky peaked in 2015 at almost 600,000; since then it has slowly declined. The AADA is projected to continue to decline in the next few years. In 2002, 247,000 students were on free lunch. The number of students on free lunch has steadily increased over 18 years. KDE is predicting that the number will increase slightly over the next couple of years. Over 100,000 students have been added to free lunch since 2002. Free lunch generates $600 per student for the school districts. In 2022, 64 percent of the AADA will be composed of students receiving free lunch. In addition, 14.7 percent of the formula goes toward exceptional children, with 7.3 percent going toward at-risk students.

Kentucky Facilities Inventory And Classification System Project

The statutory authority to do an inventory of school buildings on their condition and quality is found in KRS 157.420. The Kentucky Facilities Inventory and Classification System Project (KFICS) is the new iteration of the Parsons report that was completed in 2011. The Parsons report focused on the worst, to the best, school buildings in Kentucky. Funding was not continued for the report. In 2016, the General Assembly appropriated additional funds to implement KFICS. Part of the goal is to build a sustainable assessment process of the physical condition of school buildings using industry standard methodology.

A total of 169 school districts participated in the condition assessment of one school building per district during phase one of KFICS. Six school districts did not participate, of which five were independent districts. KDE has reviewed all improvements made by the school districts based on information from KFICS.

There are now four components that are a part of the conditions report. KDE has communicated to school districts regarding KFICS. In FY 2019, 115 school districts initiated 331 projects, with an estimated cost of over $622 million. The projects included 14 new buildings, 51 major renovations, and more. The impact of the new initiatives in 2019 SB 1 is also a challenge to the District Facilities Branch. Another challenge is the continued implementation of KFICS.

Kentucky Retirement Systems

The purpose of the Kentucky Retirement Systems actuary is to produce the appropriate estimate of contribution required from the state, cities, and counties to fund retirement liabilities. The systems went many years relying on outdated assumptions. When the adjusted interest assumptions were made in 2017, that action drove the contribution rate from 49 percent to 83 percent. The change was implemented because the assumptions had been underestimated and the system had been underfunded for a long time.

KRS added 2 years to the assumed life expectancy of members. Turnover varies among systems, with Kentucky Employees Retirement System (KERS) nonhazardous having higher turnover and County Employees Retirement System (CERS) nonhazardous having lower turnover. Kentucky Retirement Systems also made investment earning assumptions 1.25 percent to 1.50 percent lower than previously assumed, depending on the system. Because of the new assumptions, employer contribution rates and requirements are recommended to rise in the upcoming biennium.

The recommended contribution rate for KERS nonhazardous will rise 4 percent, with the result that $59 million more will be needed to fund that system. The contribution requirement for KERS hazardous will increase by $4 million. The rate will increase by 3.5 percent for CERS nonhazardous, requiring $86 million more. The CERS hazardous contribution rate is recommended to increase from 46.5 percent to 57.6 percent. The contribution rate for the State Police Retirement System is recommended to increase 13 percent. The new recommendations modestly lower the funded status of each retirement system.

Kentucky Wired Progress And Expected Budget Requests

Rings 1A and 1B of the statewide project are now lit. Ring 2 is done with construction, and the Kentucky Communications Network Authority (KCNA) is working on lighting it. Ring 3 was expected to be completed by December 2019. Ring 4 is expected to be completed by fall of 2020. The Commonwealth Data Center and the Alternate Data Center are both up and running on KentuckyWired. The KCNA budget request for FY 2022 will contain an increase from FY 2020. The major new expenses fall under contractual obligations. Contractual obligations will cost $13 million annually during the biennium. Debt service is over one-third of KCNA's total expenses.

Medicaid Funding

Actual managed care expenditures for FY 2019 added up to a little over $7.4 billion, totaling 71.5 percent of total Medicaid spending for Kentucky. The other 28.5 percent of expenditures are for the 10 percent of the Medicaid population known as the fee-for-service population. This population is the more vulnerable and expensive population.

The federal matching rate changes every October for the traditional Medicaid population. The federal funding rate for traditional Medicaid is usually approximately 70 percent. The Affordable Care Act expansion population is currently 93 percent funded by federal dollars. The Children's Health Insurance Program population is normally 80 percent federally funded. Kentucky's Children's Health Insurance Program is referred to as KCHIP.

Overview Of The University of Louisville's General Research Initiatives And Budgetary Requests For The 2020 Session

The charter of the University of Louisville (UofL) is to be a premier, nationally recognized metropolitan research university. The metropolitan setting provides the university with certain opportunities and challenges. UofL's number 1 goal is to make the university a great place to learn for students through research and teaching. This goal can be achieved by having the university be a great place for faculty and staff to work. For the university to retain "incredible" people, it must be a great place to invest.

UofL is recognized as a Research 1 university. UofL and the University of Kentucky (UK) are two of only 69 universities nationwide that are classified as having both high research activity and high community engagement. The university has significantly increased total research expenditures since 1997, and they will continue to increase in the coming year. UofL is requesting support to educate engineering students and increase the number of nurses. UofL is requesting an increase in state performance funding, and the president expressed the belief that Kentucky has a good performance funding model. STEM+H degrees continue to be areas of strength and emphasis for UofL. The university is focused on expanding the Speed School of Engineering and the School of Nursing.

Revenue Generation By Kentucky Coal And Mineral Counties

Kentucky has been able to attract some businesses because the state has coal as a low-cost means of electricity. Coal counties need LGEDF dollars for infrastructure, to gain economic development, and to survive. Coal severance is a state-assessed tax and is shared by the state with coal counties and cities. Cities also rely upon coal severance dollars.

In FY 2012, coal companies paid the state a high of $298 million. The projection for FY 2020 is roughly $65 million. In many coal-producing counties, the largest employer is the coal industry, followed by the school system. Counties were created by the state and have state-mandated services to carry out, as well as expected but not mandated services. Counties have three primary tools for generating revenue to fund essential services: property tax, insurance premium tax, and occupational tax.

There is a crisis in many coal counties in regard to funding essential services. Revenue options are limited for funding required services in rural Kentucky. Funds provided to coal counties from severance are more vital than ever. Coal counties request that a higher percentage of coal and mineral severance be returned to local jurisdictions.

Special Olympics

Special Olympics programs have been changing the lives of individuals with intellectual disabilities for more than 50 years. Special Olympics of Kentucky began as a 1-day event and has grown into a program of year-round sports that now offers 15 sports options and serves more than 10,000 athletes across the state. Sports options help the athletes build confidence, self-esteem, and life skills. Special Olympics athletes are 52 percent more likely to hold a job than their peers who do not participate.

Special Olympics of Kentucky operates on a yearly budget of slightly more than $2 million. Income comes primarily through fundraising events and direct donations. Forty percent of revenue comes from individuals, 47 percent comes from corporate support, and the remainder comes from civic organizations. Special Olympics of Kentucky does not receive direct state funding. There are 26 states that provide funding for their Special Olympics programs. Special Olympics of Kentucky is requesting $50,000 in state funding for each year of the 2020-2021 biennium.

Teach For America

Teach for America (TFA) was founded in 1990 as a national 501(c)(3). TFA recruits the top leaders in the nation to serve at least 2 years in an underperforming school district and then commit the rest of their lives to fight against educational inequity. The organization has been in Appalachia since 2011. TFA has a more hands-on approach to teacher placement than other placement programs. Over 150 teachers have been brought in through the selective recruitment model. Over half of TFA's Appalachia corps come from Kentucky or other central Appalachian states. Each year more than half of the organization's teachers remain past their 2-year commitment.

UK's Research Projects On Dementia And Opioids And Budgetary Requests For The 2020 Session

The president of UK discussed the assumptions made in UK's 5-year budget plan. There are expected to be fixed cost increases. Additionally, UK recognizes that there are a declining number of high school graduates across Kentucky. There are also disruptive innovations in how people teach and learn. UK is also experiencing growing costs for health care and other benefits. The university expects continued strained state financial support. Nearly $400 million in awards to UK have led to nearly $700 million of economic impact, over 4,000 jobs created, and intellectual property and discovery in the form of patents.

Since UK received its National Cancer Institute Center designation, nearly 60 percent of all new cancer diagnoses in Kentucky have come through the Markey Cancer Center and its affiliates. In

1985, the Sanders-Brown Center on Aging was named one of the first 10 centers in the country designated as an Alzheimer's Disease Center. UK has identified substance abuse, neuroscience, cancer, diabetes, obesity, cardiovascular disease, and energy as areas of priority for research. These areas align with the challenges faced in Kentucky, the capabilities within the university, and the partnerships that have developed leverage.

UK was recently awarded an $87 million grant for the HEALing Communities Study. UK was one of four universities in the country that were granted the funds. Within 3 years, the university hopes to reduce opioid deaths by 40 percent for the counties where the university intervenes.

Tobacco Settlement Funds

Kentucky signed the Master Settlement Agreement (MSA) in 1998. Under the terms of the contract, Kentucky receives a payment each April from cigarette manufacturers that have signed the MSA. On average, over the past 20 years, Kentucky has received about $111 million each year under the MSA. Dollars from the MSA do not lapse to the general fund at the end of the fiscal year; rather, they can carry forward and are tracked separately from other general fund dollars.

From 2000 to 2014, MSA appropriations closely followed the statutory distribution formula. Starting in FY 2015, the approach was changed. For tobacco appropriations, the debt service is first taken off the top, with distributions then being made to the three funds. The current budget predicts $118.1 million in MSA receipts for FY 2020.

UofL Takeover Of Jewish Hospital And Other Healthcare Networks

On November 1, UofL acquired the Louisville-area assets of KentuckyOne Health, including facilities in Shelbyville and Bullitt County. This brought the total assets acquired to five hospitals, four outpatient centers, and a couple of garages, with a significant medical staff.

The university's decision was whether to let Jewish Hospital close, or to step up and be a part of the solution. The university believes that acquiring the assets is in the best interest of the university, the city, and the entire commonwealth. Closure of Jewish Hospital would have been catastrophic. Allowing Jewish Hospital to close would have resulted in a negative $51 million fiscal impact annually to the university and its health system and health sciences center. If Jewish Hospital closed, it would jeopardize the university's R1 Research University status. Acquisition of Jewish Hospital assets will give UofL an integrated health system, forge a path to expansion of the teaching and research mission, and allow the university to grow and have a stable financial future.

Members of the committee heard comments in opposition of state assistance for the purchase: Once funds are appropriated for a loan to UofL, those funds cannot be used elsewhere. A private sector solution to the university's financial need would more appropriate, and there is no reason for state government to intervene, subsidize a low-interest loan, and take on the risk for the takeover deal. The deal has several troubling characteristics that are similar to the KentuckyWired deal.

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 2020-2022 biennium.

Budget Review Subcommittee On Economic Development, Tourism, And Environmental Protection

The Budget Review Subcommittee on Economic Development, Tourism, and Environmental Protection held five meetings during the 2019 Interim.

The secretary of the Tourism, Arts, and Heritage Cabinet provided a cabinet-level budget overview. Staff from the Department of Parks, Horse Park, and Venues presented about the responsibilities and budgets of their respective areas. The commissioner of the Department of Tourism testified on film tax credits and incentives. Presenters also addressed inquiries regarding revenue-producing events and tourism expansion.

The secretary of the Public Protection Cabinet provided a cabinet-level budget overview, and the commissioner and general counsel of the Department of Alcoholic Beverage Control (ABC) answered questions pertaining to alcohol licensing processes. ABC also provided testimony on the implementation and fiscal impact of proposed medical marijuana legislation.

The commissioner and general counsel of the Department of Housing, Buildings, and Construction gave an overview of the budgetary requirements of the department and addressed inquiries about building inspectors, licenses, and permits.

The secretary and deputy secretary of the Labor Cabinet presented a budget update with projected cost savings and anticipated budget request figures.

Budget Review Subcommittee On Education

The Budget Review Subcommittee on Education held five meetings during the 2019 Interim.

Representatives from the Education and Workforce Development Cabinet, the Department of Education, the Council on Postsecondary Education, and the Kentucky Community and Technical College System spoke about career and technical education, including their agencies' current operations and future plans to increase Kentucky citizens' workforce skills and opportunities.

Representatives from the University of Kentucky, the University of Louisville, Western Kentucky University, Morehead State University, and the Kentucky Community and Technical College System spoke about the role of the governing boards at their institutions.

Representatives from the Prichard Committee for Academic Excellence, the Early Childhood Advisory Council, and the Kentucky Department of Education spoke about the importance of investments in early childhood education and the state's current efforts in that area.

Representatives from the Council on Postsecondary Education and the Kentucky Higher Education Assistance Authority spoke about various statewide financial aid programs funded through state appropriations.

Representatives from the Kentucky Dataseam Initiative, the University of Louisville, and Harlan Independent Schools spoke about the Dataseam program and the benefits it provides to both Kentucky primary and secondary students as well as cancer researchers at the university.

Representatives from the College Board spoke about the state's $1 million annual appropriation to cover Advanced Placement testing costs for low-income students and the educational benefits that result.

Representatives from the Kentucky School Boards Association, the Kentucky Association of School Administrators, and the Kentucky Association of School Superintendents spoke about 2019 Senate Bill 1, the School Safety and Resiliency Act, and the estimated funding needed for its implementation.

Budget Review Subcommittee On General Government, Finance, Personnel, And Public Retirement

The Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement held four meetings during the 2019 Interim.

The chief information officer of the Commonwealth Office of Technology within the Finance and Administration Cabinet provided a budget overview for the office, which addressed the office's budget trends, goals and initiatives, recent improvements, and short-term and long-term investments. The chief information officer responded to inquiries regarding personnel and staffing, security applications and improvements, application transitions, precinct data, and the voiceover IP telephone systems.

The adjutant general of the Department of Military Affairs provided an overview of the department's anticipated budgetary needs for the upcoming budget session. Preferred budgetary items include building upgrades, facilities maintenance, and capital construction projects. Presenters from the department also addressed questions about employment capacity and recruitment.

The commissioner and the deputy commissioner of the Department of Veterans Affairs and the executive director of the Veterans Centers provided a budget overview and addressed some of the challenges facing the department, such as staffing. The commissioner answered questions regarding female veterans, the status of construction of the new Veterans Center being built near Bowling Green, and other capital project requests.

Representatives of the Kentucky Transportation Employees Association and the Kentucky Association of Transportation Engineers testified in support of a proposal to index Kentucky state employees' salary increments to the Consumer Price Index. The presenters addressed topics of state employment benefits and employee attrition.

The deputy executive secretary and general counsel of the Kentucky Teachers Retirement System presented information related to insurance for retired teachers and its funding sources.

The property valuation administrators for Boone and Henderson Counties provided a budget overview and outlook for the property valuation administrators' appropriation unit.

Budget Review Subcommittee On Human Resources

The Budget Review Subcommittee on Human Resources held five meetings during the 2019 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 director of the Division of Administration and Financial Management of DCBS provided an overview of funding for child welfare services.

The director of the Family Resource and Youth Services Centers (FRYSC) of CHFS and the assistant director of FRYSC provided an overview of funding for the youth services centers.

The deputy commissioner of the Department for Medicaid Services (DMS) of CHFS, the senior behavioral health policy adviser for DMS, provided an overview of the funding for substance use disorder treatment and prevention services provided through DMS. The medical director of the Department for Behavioral Health, Developmental and Intellectual Disabilities (BHDID), the deputy commissioner of BHDID, and the project director of the Kentucky Opioid Response Effort (KORE) program of BHDID provided an overview of the funding for substance use disorder treatment and prevention services provided through BHDID.

The commissioner of DMS and the chief financial officer of DMS provided an update on FY 2019 year-end Medicaid expenditures, as well as the FY 2020 projection for Medicaid expenditures.

The commissioner of DMS and the pharmacy director of DMS provided an update on the status of the Medicaid pharmacy benefits data as required under RS 2018 SB 5.

The division director of DMS provided an overview and update on Medicaid waiver slots.

The commissioner of the Department for Aging and Independent Living (DAIL), the director of the Division of Operations and Support of DAIL, and the director of the Division of Guardianship of DAIL provided an update on the status of the funding for the guardianship program and caseloads.

The vice president of the Kentucky Pediatric Cancer Research Trust Fund, the director of the Kentucky Cancer Registry, the chief of Pediatric Hematology and Oncology of University of Kentucky Health Care, and the chief of Pediatric Hematology and Oncology of the University of Louisville Novak Center for Children's Health provided an update on funding for pediatric cancer research.

A policy associate from the National Conference of State Legislatures (NCSL), a medical epidemiologist with the US Public Health Service of the Centers for Disease Control and Prevention (CDC), the associate director of policy of the National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention of the CDC provided national and regional data on infectious diseases associated with opioid abuse.

The commissioner of the Department for Public Health (DPH) of CHFS, the deputy commissioner for clinical affairs of DPH, the acting state epidemiologist of DPH, the medical director of the Harm Reduction Initiative of the Kentucky AIDS Drug Assistance Program Income Reinvestment Program (KIRP), the program director of KIRP, and the project director of KIRP provided Kentucky-specific data on infectious diseases associated with opioid abuse.

A policy associate from NCSL provided an overview of state legislation regarding infectious diseases associated with opioid abuse.

The director of Senior Pharmacy Solutions provided an overview of medication management for seniors aimed at the prevention of falls.

Budget Review Subcommittee On Justice And Judiciary

The Budget Review Subcommittee on Justice and Judiciary held five meetings during the 2019 Interim.

The secretary of the Justice and Public Safety Cabinet provided testimony regarding the state of the justice system, including high turnover rates in the Department of Juvenile Justice due to low pay; systemic deferred maintenance and human capital; outstanding sick leave purchase credit bills in the Department of Kentucky State Police; attorney vacancies in the Department of Public Advocacy; the status of probation and parole officer salary increases; correctional officer turnover rates; and the implementation of 2017 RS SB 120, including its impact on the Department of Corrections as it relates to the state inmate population.

The secretary of the Justice and Public Safety Cabinet, the commissioner of the Department of Juvenile Justice, and the deputy mayor of Louisville testified regarding the planned December 31, 2019, closure of the Louisville Metro Youth Detention Center and its impact on juveniles, the city of Louisville, and the state.

The director of the In Our Backyards Campaign of the Vera Institute of Justice testified on Kentucky's overuse of county jails, particularly for pretrial incarceration, as well as overcrowding issues exacerbated by the practice of housing state inmates in these facilities.

The commissioner of the Department of Criminal Justice Training detailed cost savings estimates resulting from previous retirement legislation, as well as the planned use of these savings, and testified on the implementation efforts of school safety legislation.

The director of the Administrative Office of the Courts provided an update on courthouse facility projects and discussed the need for resources to cover maintenance costs.

The executive secretary of the Judicial Conduct Commission provided an overview of the commission's budget and budgeting process, general functions, and staffing.

The laboratory director of the Kentucky State Police provided an update on the backlog of sexual assault evidence collection kits and the proposed tracking system that is required by previous legislation to be implemented by July 1, 2020.

Budget Review Subcommittee On Transportation

The Budget Review Subcommittee on Transportation held five meetings during the 2019 Interim.

The deputy secretary of the Transportation Cabinet provided an overview of the status of the cabinet's applications for Better Utilizing Investments to Leverage Development projects and Infrastructure for Rebuilding America projects from the federal government. The state highway engineer and a cabinet project manager explained the Bridging Kentucky Initiative, including the number and locations of bridges fixed and the amount of funds spent.

The commissioner for the Department of Vehicle Regulation gave an update on the state of the REAL ID rollout, including problems, possible solutions, and a new timeline on when the voluntary enhanced ID will be available. The commissioner and the deputy commissioner of the Department of Aviation presented on the efforts of the department to spend the appropriated general funds and bond funds to repair and enhance general-purpose airports throughout Kentucky.

The executive director of the Office of Budget and Fiscal Management went over the fiscal year closeout for the road fund, comparing how much the road fund actually brought in versus the amount estimated. The deputy secretary of the Transportation Cabinet provided an overview of the letting process as well as a brief discussion on the statistics surrounding single-bid construction projects.

The deputy secretary of the Energy and Environment Cabinet, the commissioner for the Department for Environmental Protection, and the director of the Division of Waste Management gave a presentation on the underground storage fund (USF)—specifically, how much money the fund generates, how much it expends, and how much is transferred from the USF to the general fund. A manager of innovative finance from the Transportation Cabinet gave an update on the Louisville Bridges project, specifically on the firm operating tolling.

The director of the Office of Information Technology gave an update on the Kentucky Automated Vehicle Information System. The assistant state highway engineer gave an overview on the maintenance program in highways, detailing spending levels and highlighting activities such as mowing, striping, and tree maintenance.

The state budget director and the deputy state budget director went over historical road fund appropriations, emphasizing that road fund appropriations to other cabinets have been increasing since 2008.

Report Of The 2019
Interim Joint Committee On Banking And Insurance

Sen. Jared Carpenter, Co-Chair
Rep. Bart Rowland, Co-Chair

Sen. Julie Raque Adams
Sen. Tom Buford
Sen. Rick Girdler
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. Dennis Parrett
Sen. Albert Robinson
Sen. John Schickel
Sen. Brandon Smith
Sen. Reginald Thomas
Rep. Terri Branham Clark
Rep. Joseph M. Fischer
Rep. Deanna Frazier
Rep. Jim Gooch Jr.
Rep. Kathy Hinkle
Rep. Dennis Keene
Rep. Adam Koenig
Rep. Stan Lee
Rep. Derek Lewis
Rep. Michael Meredith
Rep. Sal Santoro
Rep. Dean Schamore
Rep. Wilson Stone
Rep. Ken Upchurch
Rep. Rob Wiederstein

LRC Staff: Jessica Sharpe, Breanna Miller, and Dawn Johnson

Presented to the
Legislative Research Commission
and the
2020 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; principal and income.

Committee Activity

The Interim Joint Committee on Banking and Insurance met four times during the 2019 Interim. After the publication of this report, the committee anticipates meeting for a fifth time in December 2019, to receive testimony on legislation to be filed for the 2020 legislative session.

Insulin Access And Affordability In Kentucky

The director of state government affairs and advocacy for the American Diabetes Association (ADA) spoke on insulin affordability and access. The director discussed the ADA's advocacy for increased transparency across the insulin supply chain, including the passage of a resolution requesting congressional hearings on the cost of insulin, assessment of the problem by the ADA's Insulin Access and Affordability Working Group, and the creation of www.insulinhelp.org and makeinsulinaffordable.org. The director shared the ADA's recommendations to address insulin affordability and access.

Representatives of Kentucky #insulin4all spoke about their experiences living with diabetes and the difficulties of affording insulin. The chapter leader asked that the General Assembly address insulin price transparency across the entire supply chain and pass proposed legislation addressing insulin affordability.

Representatives of the National Diabetes Volunteer Leadership Council also spoke on insulin affordability and the insulin supply chain. They made recommendations for both consumers and the state concerning access to and affordability of insulin.

Hospital And Ambulatory Facility Price Transparency Initiative

The healthcare data administrator for the Office of Health Data and Analytics, Cabinet for Health and Family Services (CHFS), discussed the agency's establishment and operation. With regard to the state's health data collection law, the administrator said that the agency no longer has access to previously used resources for reporting health care cost and quality. The administrator discussed available CHFS resources relating to health care cost and quality.

The president of the Kentucky Hospital Association (KHA) discussed the KHA's partnership with CHFS. The president noted that the KHA provides comparative charge information for inpatient services on its website and that work is ongoing to make the website more consumer friendly and to provide more information on outpatient services.

The KHA director of data collection and training gave an overview of the KHA's Consumer Price Transparency website. The KHA vice president of finance discussed the push for hospitals and insurers to publish agreed-upon rates.

Access To Financial Products And Banking Services For Lawful Hemp Farmers And Producers

The commissioner of the Kentucky Department of Financial Institutions (KDFI) discussed the state's hemp industry and its access to financial services. He said there are no expectations from KDFI that hemp customers will be treated as high risk simply because they are in the hemp business. He discussed federal hemp legislation passed by Congress, upcoming US Department of Agriculture guidelines, a letter from Kentucky's senior US senator to federal regulators, guidance issued from the National Credit Union Association, and KDFI guidance relating to hemp issued in 2016 and 2019.

The president and chief executive officer of the Kentucky Bankers Association (KBA) discussed the hemp industry in the state and stated that most community banks are working with hemp businesses. He explained that the KBA provides guidelines to assist banks with this process and that constituents may call the KBA regarding hemp financing. He also noted that certain credit card companies will not accept any hemp-related transactions, because of variations among state laws. He discussed proposed federal legislation that would legalize, regulate, and tax marijuana.

Kentucky Department Of Financial Institutions Update

The commissioner of the KDFI provided an overview of state financial institutions, including the depository division, the nondepository division, and the securities division. He noted how state-chartered banking conditions compared to those in contiguous states and in the nation, and he discussed merger activity in Kentucky involving out-of-state acquisitions. He also discussed a case study competition for universities to introduce college students to the banking industry.

Public Deposit Banking In Kentucky

The vice president and general counsel of the KBA discussed the state's public deposit laws and the issues banks experience in trying to comply with the collateralization requirements of those laws. She said the KBA is looking for a solution to these problems, noting that local governments are now allowed to invest a portion of their funds in securities, which are riskier than bank deposits, and that some states use a sliding scale of collateralization for banks.

Long-Term Care Insurance

Representatives of the American Council of Life Insurers (ACLI) discussed the increasing demand for long-term care (LTC) services across the country. The ACLI representatives discussed what LTC insurance is, how benefits are designed and paid out, and the circumstances that lead to rate increases. They also discussed the next generation of LTC insurance options for consumers.

The deputy commissioner of policy for the Kentucky Department of Insurance (KDOI) said the KDOI receives a number of complaints about LTC insurance rate increases. He explained the review process for rate increase requests by insurers, shared data about rate filings reviewed by the KDOI, and said that the KDOI tries to balance financial solvency concerns of insurers with consumer interests. As of 2018, rate filings are available online.

A senior vice president and principal of Lewis & Ellis Inc., a health actuary engaged by the KDOI, discussed aspects of LTC insurance, including the reasons for insufficient premiums amounts, market developments, and regulatory approaches to rate increases.

A husband and wife, both consumers of LTC insurance, spoke about their experiences with rate increases and reaching out to the KDOI for assistance. They urged the legislature to pass measures to achieve a corrective balance.

Anthem Reimbursement Reduction For Providers of Services To Children with Autism

The executive director of ABA Advocates spoke about an announced Anthem change in coding used by providers of services to children with autism.

A doctor who is the owner and executive director of Bloom Behavior Therapy, a doctorate-level board-certified applied behavior analysis (ABA) therapist, spoke about ABA therapy, access to treatment for children with autism, a shortage of providers in the state, loopholes in the insurance mandate, and a 25 percent reimbursement reduction by Anthem. He asked the committee to help prevent insurance companies from further restricting access to treatment for children with autism.

An advocate and parent of a child with autism spoke about her time spent advocating for autism insurance reform, the impact of ABA therapy, and the consequences of the announced rate cut to providers and families of children with autism.

KDOI 2019 Year-End Review

The deputy commissioner of policy for the KDOI presented a year-end review of the agency's operations. He discussed recent insurance legislation, ongoing initiatives, and other notable KDOI resources, and he provided an overview of the following KDOI divisions: Agent Licensing; Consumer Protection; Market Conduct; Financial Standards; Insurance Product Regulation; and Insurance Fraud Investigation.

Insurance Institute Of Kentucky 2020 Legislative Agenda

Representatives of the Insurance Institute of Kentucky discussed legislative initiatives that the organization plans to support during the 2020 legislative session. These initiatives include incorporating the Model Towing Act of the National Council of Insurance Legislators (NCOIL) into state law; supporting another NCOIL model law, sponsored by Representative Fischer, that addresses when the American Law Institute's Restatement of the Law of Liability Insurance may constitute the law or public policy of this state; addressing when insurers are allowed to use depreciation of labor when calculating actual cash value in insurance policy claims; and banning use of handheld cell phones and other devices while operating a motor vehicle.

Blockchain Technology In The Banking And Insurance Industries

Members of Frost Brown Todd LLC and the cofounder of CryptoProperties LLC discussed blockchain technology. The discussion included information about what blockchain is and how the banking and insurance industries can use the technology. The presenters recommended the formation of a group or task force to study the issue. They also discussed legislation in other states that may be considered in this state to attract more blockchain industry participants to do business in Kentucky. The presenters discussed the focus areas of blockchain technology and other jurisdictions that are positioning themselves to attract technology participants. They said Kentucky is well positioned to create a brand for technology services.

Report Of The 2019 Interim Joint Committee On Economic Development And Workforce Investment

Sen. Danny Carroll, Co-Chair
Rep. Russell Webber, Co-Chair

Sen. Perry B. Clark
Sen. Rick Girdler
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Jimmy Higdon
Sen. Alice Forgy Kerr
Sen. Wil Schroder
Sen. Reginald Thomas
Sen. Mike Wilson
Sen. Max Wise
Rep. Lynn Bechler
Rep. John Blanton
Rep. Charles Booker
Rep. Adam Bowling
Rep. Travis Brenda
Rep. McKenzie Cantrell
Rep. Daniel Elliott
Rep. Chris Freeland
Rep. Al Gentry
Rep. Kathy Hinkle
Rep. Thomas Huff
Rep. Nima Kulkarni
Rep. Savannah Maddox
Rep. Jason Petrie
Rep. Bart Rowland
Rep. Ashley Tackett Laferty
Rep. Buddy Wheatley

LRC Staff: Andrew Manno, Chip Smith, Candice Messer, Janie Boyd, and Sasche Allen

Presented to the
Legislative Research Commission
and the
2020 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; industrial weights and measures.

Committee Activity

The Interim Joint Committee on Economic Development and Workforce Investment held seven meetings during the 2019 Interim. One meeting was held jointly with the Interim Joint Committee on Tourism, Small Business, and Information Technology.

Cabinet Updates

Cabinet For Economic Development. The secretary of the Cabinet for Economic Development gave an overview of the economic successes of the cabinet and the state. Over the last 3 years, more than 52,000 jobs have been created in the commonwealth through more than 1,100 projects that have been announced, with planned investments nearing $20 billion. The cabinet assists in creating and cultivating these economic achievements. The cabinet updated six areas: Business Development, Business Services, KY Innovation, Legal, Financial Services, and Marketing and Public Relations. The Business Development Department has a new commissioner and staff and has recently been focusing on a product development initiative, which is a community marketing partnership with the Kentucky Association for Economic Development. With 40 percent of the growth in new business coming from foreign direct investment, the department has also been concentrating on international affairs. The Business Services Department also has a new team within the cabinet and focuses on a full portfolio of comprehensive services for existing businesses including workforce needs, permitting needs, and access to new and existing suppliers and customers. The KY Innovation Office has a revamped strategy to assist businesses through the creation of Regional Innovation for Startups and Entrepreneurs Offices, created a Commonwealth Commercialization Center to commercialize intellectual property and technology coming from universities, and offered incentives to high-tech startups to locate in Kentucky. The cabinet's Office of Legal Services has worked with members of the General Assembly on legislation and has notably established the Opportunity Zone initiative. The secretary said that the Department of Financial Services has exemplary audit results and has assisted numerous companies with incentives while also cutting red tape. The Office of Marketing and Public Relations has promoted Kentucky globally with various forms of media. The secretary closed by describing some of the cabinet's plans, which included working with bordering states to create regional collaboration opportunities and expanding on public-private partnerships. The secretary said that other states' commerce cabinets are fundamentally different from Kentucky's and are often privately funded or do not have to get incentives and other programs approved by their legislatures from year to year. Potential clients often question the commonwealth's financial stability, pension issues, and community readiness.

Labor Cabinet Update. The commissioner of the Department of Workers' Claims provided a workers' compensation update. He noted that the National Council on Compensation Insurance recently submitted to the Department of Insurance a loss cost filing that went into effect October 1, 2019. The recommendation was a 9 percent decrease in rates. This marks the 14th consecutive year that the loss cost filing has seen a decrease. However, there was a 6.2 percent increase for surface coal mining and a 5.5 percent increase for underground coal mining.

The 2020 Special Fund assessment rate is 6.41 percent with no additional assessment on coal employers or severed coal. There was an assessment rate of 6.41 percent for 2019 with an additional 2 percent assessment for coal employers and $0.02 per ton of severed coal. The Workers' Compensation Funding Commission and *Kentucky* Employers' Mutual Insurance have determined that, at the end of the second quarter of 2019, there was enough money in the coal workers' pneumoconiosis fund to eliminate the coal assessment.

Through August 31, 2019, the Department of Workers' Claims has had 2,602 claim filings. Of those claims, 2,303 were due to injury, 24 were due to occupational disease, 108 were coal workers' pneumoconiosis claims, and 167 were due to hearing loss. There are projected to be a total of 3,903 claim filings by the end of 2019, compared to 4,047 in 2018. The commissioner said that the decrease in workers' compensation claim filings has been a national trend that could possibly be attributed to the increased emphasis on workplace safety across the country.

The passing of HB 2 in the 2018 Regular Session made changes to the pharmaceutical formulary used, medical treatment guidelines, and the coal workers' pneumoconiosis evaluation program. The Official Disability Guidelines (ODG) formulary was adopted and became effective July 1, 2019, for post-2018 injuries and January 1, 2020, for pre-2019 injuries. The ODG formulary is the most widely used set of guidelines in the country. The ODG treatment guidelines were also adopted with a proposed effective date of July 1, 2020. The Department of Workers' Claims has contracted with two qualified physicians to perform coal workers' pneumoconiosis evaluations required by KRS 342.316. Other areas that the Department of Workers' Claims still needs to address include hearing site relocations, the pharmacy fee schedule, telecommunication regulations, and the 2020 physician fee schedule.

The commissioner clarified that after planned hearing site relocations, hearing sites will be decreased from nine to five sites eventually. He also explained that although there is a 3-year statute of limitation on filing a claim, there is also a statute of repose of 5 years.

Education And Workforce Development Cabinet Update. *Registered Apprenticeship Program.* Registered apprenticeship provides employers with a highly skilled and qualified workforce that is critical for the state's economic growth and ability to compete on an international scale. Over $1.5 million in federal funding was allotted to the state to expand apprenticeship initiatives, which include 251 registered programs, nine competency-based programs, and 3,391 registered apprentices. New programs have been added within the five high-demand sectors including a registered nurse program; an information technology program involving coding and programming; and programs in civil service within various state agencies, such as the Cabinet for Health and Family Services, the Transportation Cabinet, the Commonwealth Office of Technology, and the Department of Veterans Affairs. The K-Tech Program is intended to equip students with recognized postsecondary credentials and science, technology, engineering, and math (STEM) skills. It was launched with a $627,000 grant for students enrolled in Hazard Independent and Perry County Schools and offers apprenticeships concentrated in STEM fields such as radiography, nursing, and telehealth technician.

Unemployment Insurance. The commissioner of the Department of Workforce Investment gave an overview of the modernization and progress of the Unemployment Insurance Program. A bill affecting the Service Capacity Upgrade Fund was effective July 1, 2018, and is intended to upgrade technology through the acquisition of new software and increase service delivery capacity by the Unemployment Insurance Division. There is a $60 million collection cap over the course of a maximum of 5 years with a projected $10 million to $12 million to be collected each year from calendar years 2019 to 2023. In the first quarter of 2019, the unemployment insurance trust fund balance was $506.6 million, the unemployment contributions from employers were $44.5 million, and the benefits to claimants were $82.1 million. The current maximum weekly benefit is $552, which is greater than the national average of $344. The state's maximum weeks of eligibility is 26 weeks, compared to the national average of 24.1 weeks. The state's average benefit duration is 18.4 weeks, compared to the national average of 15.4 weeks. The claim duration and maximum benefit amount are challenges for the department, along with aging technology, reemployment activities, and the success of connecting suitable work with the commonwealth's workforce. The unemployment offices are being converted to career centers to better serve not only the unemployed but also those currently employed who want additional training to further their careers.

Vocational Rehabilitation. Personnel from the Office of Vocational Rehabilitation (OVR) indicated that its philosophy is to recognize and respect the contribution of all individuals as a necessary and vital part of a productive society, and the mission is to assist Kentuckians with disabilities to achieve suitable employments and independence. The three core values of the agency are

- valuing the rights, merit, and dignity of all persons with disabilities and the opportunity to pursue employment as an important aspect of a full and meaningful life;
- valuing all staff and their individual talents, unique abilities and contributions; and
- valuing collaborative efforts and partnerships.

In Kentucky, there is a 28.7 percent employment rate for the 17.2 percent of people with disabilities, compared to the 75.1 percent employment rate for people without disabilities. The highest employment rate of individuals with disabilities is 45.2 percent, in Scott County; the lowest is 6.3 percent, in Owsley County. The OVR receives both state and federal funding. For every 22 cents funded by the commonwealth, a total of 78 cents in federal funds is received. The executive director said that, because of the General Assembly, OVR was fully funded with general funds this past year, which in turn allowed the agency to receive all of its federal funding. The OVR received $13,571,171 in general funds and $50,158,027 in federal funds.

The population serviced by OVR is 50.3 percent male and 49.6 percent female. Almost 86 percent of consumers are white, 12.7 percent are black, and 1.6 percent are of other races. Consumers have various types of disabilities, which include sensory, physical, cognitive, and psychological or mental; a person can have disabilities from more than one category. The vocational rehabilitation process has four main steps: application, eligibility, plan services, and program exit. Individuals themselves can apply for services, a doctor can refer them, or a friend or family member can initiate the process. Eligibility for services is determined by an individual's disability and whether the disability has an effect on the person's ability to work. The OVR typically determines eligibility within 60 days. An individual vocational plan is made for each person, documenting the agreed-upon vocational goal. A case is considered closed when the individual has maintained 90 days of consistent employment and all services required were provided.

The Workforce Innovation and Opportunity Act (WIOA), passed in 2014, requires vocational rehabilitation to be a part of the workforce system. WIOA places emphasis on credential attainment, measurable skills gain, and long-term employment. The legislation also added the requirement that OVR spend 15 percent of federal funds on preemployment transition services for individuals with disabilities who are ages 14 to 21. There was also an increased emphasis on developing partnerships with employers to increase work experiences available to consumers. In October 2018, OVR created a branch specifically dedicated to fostering relationships with employers. Three employer partnerships were discussed, involving collaborations with Kentucky Kingdom, CVS, and UPS. The director of human resources for Kentucky Kingdom briefly spoke about the partnership with OVR and the impact it has had on the park as well as on the participants in the program.

There was discussion of two grant programs used by OVR, which are geared toward providing career pathways and helping injured or ill employees remain in or return to their jobs. The first is Project CASE, a 5-year demonstration grant through the federal Rehabilitation Services Administration. The objective is to increase training and employment for vocational rehabilitation consumers with disabilities in the advanced manufacturing, health care, and information technology sectors. Career pathway coordinators help to increase capacity by collaborating with employers to create work experiences. A total of 516 people enrolled in postsecondary training through the program, 262 have earned industry recognized credentials, and 134 are successfully employed with an average weekly wage of $665. The second grant that was detailed was RETAIN Kentucky, which is one of eight federally funded state pilot demonstration projects to implement and evaluate early intervention strategies. It focuses on assisting workers to stay at work or return to work in the event of injury or illness. The target population is workers who have experienced a musculoskeletal injury or illness off the job in the Louisville metro area or in Bullitt, Henry, Oldham, Shelby, or Trimble County. Phase one of the pilot program began in August 2018 with $2.5 million in funds. The state is eligible for phase two competitive funding with a potential of an additional $19 million to replicate and establish this model in other parts of the state.

Kentucky Community And Technical College System Update. The president of the Kentucky Community and Technical College System (KCTCS) said that the Work Ready Kentucky Scholarship (WRKS) helps individuals in the commonwealth who have not attained an associate's degree, so that they can afford an industry-recognized certification or diploma, which must be within a high-demand workforce sector. Funding was appropriated for the scholarship in 2016 HB 303, and Governor Matt Bevin signed an executive order in 2017 to establish the framework. Stakeholders—including KCTCS, the Kentucky Higher Education Assistance Authority (KHEAA), the Kentucky Department of Education, and the Education and Workforce Development Cabinet—came together in the fall of 2018 to determine what was else was needed to enhance the WRKS. 2019 SB 98 passed, expanding the scholarship to include awards for the summer term, extending eligibility from secondary to postsecondary to ensure access for up to 60 credit hours of WRKS access if the student used the WRKS for dual-credit classes, and removing the requirement for the Dual Credit Scholarship to be used first. The programs of study that have been approved for the program and identified by the Kentucky Workforce Innovation Board and the Education and Workforce Development Cabinet are advanced manufacturing, health care, transportation and logistics, business services and information technology, and construction.

To be eligible for the WRKS, a high school student must be a resident of Kentucky, be enrolled in a Kentucky high school, be enrolled or accepted in an approved dual-credit course at an eligible institution, and complete and submit a WRKS dual credit application to the KHEAA. The student is limited to two approved dual-credit courses per academic year. The WRKS is intended to be a last-dollar scholarship, and the scholarship amount awarded to an eligible workforce student for an academic term is the amount remaining after subtracting the student's federal and state grants and scholarship from the maximum scholarship amount. Adult eligibility expires when one of the following is met: the recipient receives scholarship for four academic terms, the recipient reaches 60 credit hours of enrollment, or the recipient obtains an associate's degree.

For the 2017-2018 academic year, there were approximately 1,350 recipients of the scholarship, totaling roughly $2.3 million in funds. For the 2018-2019 academic year, there were almost 3,000 recipients, with a total of $4.5 million in awarded funds. This program has attracted male students back into the community college system. According to the spring 2019 demographics, 60.7 percent of the participants are males, with an average scholarship award of $1,570.

Administrative Regulations

803 KAR 025:270 & E – Pharmaceutical formulary. "The purpose of the formulary is to facilitate the safe and appropriate use of prescription drugs in the treatment of work-related injury and occupational disease." The commissioner of the Department of Workers' Claims said that the department had three choices when choosing a pharmaceutical formulary: formulating its own formulary, adopting another state's formulary, or choosing one of two existing commercial formularies (the Official Disability Guidelines or the American College of Occupational and Environmental Medicine Guidelines). The ODG formulary is the most widely used and has been adopted by surrounding states. Tennessee and Texas were two states that the department examined.

787 KAR 003:010 – Registration of apprenticeship programs. The chief of staff of the Education and Workforce Development Cabinet was present to explain the administrative regulation.

Proposed Legislation

2019 Regular Session House Bills 333 And 391. The need for these two bills is driven by talent attraction and retention stemming from the struggle to meet workforce demand. There are currently 134,800 job openings in the state but only 26,220 active job seekers. The job demand by 2022 will be 415,041 positions. Approximately 25 percent of graduates from Kentucky postsecondary institutions are employed in the state 3 years after graduation. Additionally, over the last 5 years the commonwealth's average net migration has been approximately 1,500 people per year. The proposed legislation will offer tax credits as an incentive to employees and employers. HB 333, or the Highly Skilled Employee Tax Credit, is for individuals who either stay in Kentucky or relocate to Kentucky to fill a job in a high-demand industry sector. These sectors include manufacturing; health care; business and information technology; construction; and transportation, distribution, and logistics. The credit would be $1,500 per applicant with a total annual approval cap of $3 million. HB 391, or the Earn and Learn Tax Credit, is for employers who pay the educational expenses of employees in high-demand industry areas. There would be a credit of up to 25 percent for employee educational costs, and companies would be eligible for $1,500 per employee per year with an approval cap of 10,000 employees per year. The deputy secretary of the Education and Workforce Development Cabinet explained that HB 391 also includes a portion that addresses training to qualified employees in recovery. The hope is that these two tax credits can incentivize companies to develop their own training and educational programs, attract employees from other states, and keep established employees and their families in the commonwealth. Legislation such as HB 333 and HB 391 may help the commonwealth compete with other states in the region.

Call Center Relocations. The primary sponsor of legislation prefiled for the 2020 Regular Session, Representative Jason Nemes, along with Representative McKenzie Cantrell, spoke about why BR 113 will help to protect state taxpayers and jobs. The bill would create a new section of KRS Chapter 337 to require that, if an employer intends to relocate a Kentucky call center or some of its units in certain situations from Kentucky to a foreign country, it must notify the secretary of the Labor Cabinet at least 120 days prior to such relocation. It would also require the secretary of labor to compile a list of employers that have relocated a call center to a foreign country, within 6 months after the enactment of the bill and every 6 months following. KRS 337.990 would be amended to create a civil penalty of not more than $1,000 for each violation. Only those call centers with more than 50 full-time employees would be required to comply. Representative Nemes said that, if a call center has over 50 employees and takes more than 30 percent of the company's positions to a foreign country, then the call center would lose future economic incentives but not existing benefits. He further explained that if a call center company has multiple locations, then all locations would be used to calculate the total number of employees.

Economic Development Updates

Kentucky Venues. The president and chief executive officer of Kentucky Venues thanked the General Assembly for funding that made several improvement projects possible, including upgrades to restrooms and improvements to meeting spaces. Since January 2019, Freedom Hall and the Kentucky Exposition Center have hosted 123 shows with an estimated economic impact of $200 million. The Kentucky International Convention Center in downtown Louisville has hosted 80 shows with an economic impact of $100 million. Over 60 percent of the area's hotels are occupied due to the shows and business of these facilities. The 2019 Kentucky State Fair, which was held at Kentucky Exposition Center, was the 115th state fair. The 2018 State Fair had had over 614,000 patrons, and online ticket sales showed that purchases were made from all 120 Kentucky counties. For the 2019 State Fair, there were over 1,100 animals were to be shown and judged, 23,000 competition entries, 5,000 exhibitors, and over 400 vendors. Two other major events that are held at the Kentucky Exposition Center, which has over 1.2 million square feet of climate-controlled space, are the North American Livestock Show and the National Farm Machinery Show.

Craft Beer Industry Update. Representatives of the craft beer industry noted that independent craft brewers contributed over $76.2 billion to the US economy in 2018 and currently support more than 500,000 jobs. Craft beer sales account for 24 percent of the nation's $114.2 billion beer market, and the US Department of Labor ranks the craft beer industry's wages among the highest of the 350 industries surveyed. Although Kentucky craft breweries led the nation in 2018 for growth, the state still ranks 41st in number of breweries. The commonwealth has 69 active licensed craft breweries, 11 known brewery locations in the planning stages, and 30 existing breweries with confirmed expansion activity. The owner of Hopkinsville Brewing Company, which opened in 2016, spoke about her experience as a brewer. She said that her goal is for her brewery to be a downtown anchor to attract people to the area and that she hopes to increase sales and hire more employees; she recently purchased a neighboring property and has plans to expand. In 2018, state craft beer had an economic impact of $657 million, and there has been an economic impact of $765 million thus far in 2019. Craft beer from the commonwealth's breweries is now being sold in more than 45 states and over 25 countries. The industry has created 133 jobs in the state in 2019 and employs over 1,000 people. Microbreweries have increased their workforce in 2019 by more than 15 percent and are offering tourism amenities such as tap rooms, food, and rooftop experiences.

Tax data shows that Kentucky is the sixth most highly taxed in the nation in terms of beer. In-state microbreweries are required to pay federal, state, and local taxes, as well as excise, wholesale, and sales taxes on all products. After upfront investments for facility and brewing equipment, taxes are a significant portion of the ongoing operating expenses. Microbreweries are concerned with several key issues both nationally and statewide, including transparency; brewery and producer direct-to-consumer sales; franchise reform; excise tax and tax reform; tariffs and trade; responsible consumption; preservation of existing privileges; independent distribution systems; access to materials; water quality; and the modernization of the state's alcohol laws. Legislation that would address the needs of the craft beer industry would include fixes to statutory inequities; process simplification; barrier reduction; promotion of healthy competition; alignment with modern processes and tax policies; and codification of direct-to-consumer e-commerce. One issue for brewers is sales and use tax on manufacturing equipment.

Dippin' Dots. The chief development officer of Dippin' Dots provided information on the company, which is headquartered in Paducah. In 1988, a microbiologist used his knowledge of cryogenic technology to invent Dippin' Dots, the first cryogenically frozen beads of ice cream. They are created using liquid nitrogen and must be kept at a constant temperature of -40 degrees. The first Dippin' Dots plant was in Grand Chain, Illinois, but the company relocated to its present location in Paducah. The current location is a 185,000-square-foot facility encompassing the main plant, kiosk fabrication, loading, and shipping. There are 200 employees, 125 of whom are Kentucky residents. Dippin' Dots ships to all 50 states and four countries by using dry ice for transport. Total retail sales within the state are $6,072,992; total retail sales nationwide are $365,254,166; and international sales are almost $3.5 million. Dippin' Dots has three in-state franchisees, 120 franchisees nationwide, and freezers in more than 12,000 convenience, drug, and grocery stores. In 2018, Dippin' Dots Cryogenics was created; it supplies the specialized cryogenic pelleting equipment for pharmaceutical, nutraceutical, and feed industries. It also provides ultra-low-temperature storage freezers. In order to expand this new business venture, a 6,000-square-foot facility is being built in Paducah that will also provide contract manufacturing.

Dippin' Dots is working to overcome several challenges. One challenge is a maturing market that requires more overhead to accomplish and maintain growth. Another challenge has been trade barriers, with the dairy tariff with Canada increasing by 277 percent. Other challenges include shipping and transportation costs, packaging, and staffing. The maturing market has been addressed by identifying new and less traditional markets such as chain entertainment venues. The trade barrier may be overcome by using global manufacturing sites. Shipping and transportation costs may be reduced by accessing regional manufacturing and distribution centers. Packaging may continue to pose an issue because compostable packing may not be sustainable. Dippin' Dots has tried to deal with staffing issues by increasing starting wages to $14 per hour and accommodating the schedules of its employees. Recruiting high school and college students and offering employment opportunities to those in a local rehabilitation center are also possible solutions to staffing problems.

Western Kentucky Alliance For A Vibrant Economy. Representatives from The Western Kentucky Alliance for a Vibrant Economy (WAVE) spoke to the committee. WAVE is an economic development partnership of the Western Kentucky River counties of Ballard, Carlisle, Hickman, and Fulton. It was founded in 2015 and is made up of eight subcommittees that include Steering, Agriculture, Tourism, Entrepreneurship, Education, Infrastructure, Energy, and Port Authority. The most active subcommittees are the Agriculture Committee, Tourism Committee, and Port Authority. The Agriculture Committee has created the WAVE Ag Initiative, which creates a bridge between agriculture and economic development, serves as a liaison to farmers, works to combat the Asian carp crisis, and explores opportunities in the hemp industry. The Tourism Committee has established the Kentucky Great River Road Region Organization, which has been further developing river bottoms in Ballard County, ATV trails in Carlisle County, agritourism and Columbus Belmont State Park in Hickman County, and the link between Kentucky and Tennessee in Fulton County. WAVE has formed the West Kentucky Regional Riverport Authority, which is working on establishing a commercial port through a public-private partnership. These four counties have unique economic possibilities due to their proximity to the Mississippi River, four surrounding states, major highways, and several local technical colleges and universities. The counties' four judges/executive hold monthly meetings and open conference calls every other week to discuss a proactive approach to increasing the economic vitality of their region.

Business Courts. The deputy chief justice of the Kentucky Supreme Court explained the Jefferson County Business Court Docket Pilot Project. It creates a business court to hear complex commercial and business litigation cases. The goal is to relieve the backlog on regular Circuit Court dockets, improve timeliness of all cases, improve consistence in results, and make the state more attractive for business. In April 2019, the Supreme Court authorized the pilot program, which will begin on January 1, 2020. The court recently adopted rules of practice for the business court.

A member of the Jefferson County Business Court Docket Advisory Committee testified that the program will provide practitioners with consistency and a more efficient litigation model. Businesses in Jefferson County and practicing attorneys support the project.

Workforce Updates

The Opioid Response Program For Business. The opioid epidemic has a major impact on the business community, mainly through its effect on overall workforce participation. The commonwealth ranks forty-seventh in the nation in workforce participation. The Kentucky Chamber of Commerce has put together a response program to become a resource to business to deal with related issues and facilitate a link between employers and employees who are recovering from drug addiction and reentering the workforce. The Opioid Response Program includes public and private partners. Chamber members have also formed the Opioid Task Force.

The president and CEO of Volunteers of America Mid-States gave her perspective and discussed some opioid-related statistics. There were 1,565 deaths in the commonwealth in 2017 due to drug overdose, compared to 782 deaths related to traffic accidents and 263 murders. Kentucky has the fourth highest rate of overdoses in the nation. Workers' compensation programs account for 18 percent of opioid prescriptions, and 68 percent of injured workers receive opioids. Workers who abuse opioids miss an estimated 29 days of work per year, which contributes to the decline in workforce participation rates. People who abuse pain medication have the lowest workforce participation rate compared to people who misuse other types of drugs, and half of all men ages 24 to 54 who are not in the labor force take medication on a daily basis. Opioid prescriptions could account for approximately 20 percent of the decline in male workforce participation, and 25 percent of the decline for females. An important statistic for employers to note is that 75 percent of adults ages 18 to 64 with substance use disorders are active in the workforce.

Volunteers of America provides care and support for those working to overcome substance use disorder. Its programs are tailored for individuals who are pregnant and parenting, veterans, men exiting the criminal justice system, and populations who have been out of the workforce because of addiction. Volunteers of America provides treatment for substance abuse as well as assisting with living arrangements and employment opportunities. The organization works with employers that are willing to work with individuals who have previously had substance abuse issues. The president of the organization highlighted one program called Freedom House that is a two-generation solution treating both mothers and babies.

The chief of staff of Aetna Better Health of Kentucky spoke briefly about what the chambers' partners are trying to do to find solutions to the opioid epidemic. The Opioid Task Force has been analyzing the state's workforce participation rate and working with employers that want to become second-chance employers for those who are recovering from opioid addiction. The Opioid Response Program recently hired two employment specialists: one human resource specialist and another individual who is in recovery. Additionally, the program has aligned with the Talent Pipeline Management Network in hosting employer technical assistance clinics across the state. Ultimately the Opioid Response Program is to meet with employers to assess their needs and connect them with treatment providers in an effort to help those who are in recovery reenter the workforce.

Aerospace In Kentucky

Space Science Center At Morehead State University. The executive director of the Space Science Center at Morehead State University noted that aerospace is Kentucky's number 1 export, topping $14 billion in 2019. Kentucky has seen a 63 percent employee increase in the aerospace industry since 2000. Morehead State offers several programs in aerospace. Students receive hands-on experience in designing, developing, and building space-related equipment such as satellites. Nearly 100 percent of these students find employment in the aerospace or defense industry immediately after graduation. Increasingly, those graduates are finding jobs in Kentucky instead of having to relocate. Recently, the program has been working on developing small satellites that have been used in six recent space launches. The Lunar IceCube is being developed at Morehead and will be used in the Artemis 1 launch scheduled for 2020.

Aerospace Industry. The former executive director of the Kentucky Aerospace Industry Consortium (KAIC) indicated that the aerospace industry has benefited from unification through the consortium. KAIC has also promoted the industry as well as educational and workforce issues. Kentucky has seen great growth in the aerospace industry, and this growth is both recession-proof and nonexportable since these jobs are not going overseas. The consortium ended in October 2019 when the funding ended. KAIC has been absorbed by the Kentucky Association of Manufacturers but will continue to advocate for the aerospace industry.

Report Of The 2019 Interim Joint Committee On Education

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Presented to the
Legislative Research Commission
and the
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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; the 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 six times during the Interim. All meetings were held at the Capitol Annex in Frankfort. The committee heard reports relating to early childhood education, homeschooling, required academic standards for social studies, the Kentucky High School Athletic Association, education issues facing students in foster care, child abuse and neglect awareness and prevention, improving teacher recruitment and retention, construction management-at-risk, arts education, Dataseam, school councils, use of guidance counselors' time, and reports from the Kentucky Department of Education (KDE) on the state accountability system.

Early Childhood Education

The executive director of the Governor's Office of Early Childhood gave an overview of services provided to the more than 20,000 children enrolled in public preschool programs and more than 25,000 children in child care programs. The Early Childhood Advisory Council (ECAC) was also discussed, specifically the new strategic plan for early childhood education in the commonwealth.

As the result of federal grants in the amount of $10.62 million, early childhood education in the state has been strengthened to have better alignment, coordination, and efficiency. Other funding opportunities available to several agencies throughout the state to support early childhood education were also discussed with the ECAC being charged with determining the best allocation of funds as they become available.

Inadequate child care options were also discussed, with emphasis on creation of a model to start in-home child care to educate willing individuals on the steps necessary to open child care centers in their own homes. This would be a way not only to address child care needs in struggling regions of the state, but also to provide economic security for individuals who may not have other employment opportunities.

Homeschooling

Staff from the Office of Education Accountability (OEA) presented a report on homeschooling in Kentucky that had been shared with the Education Assessment and Accountability Review Subcommittee in September 2018. KDE defines *homeschools* as private, unaccredited schools operated by a child's parent or guardian. Homeschools receive no state assistance, and their diplomas do not necessarily carry the same legal status as those from accredited public or private schools. Families reported several reasons for choosing to homeschool, including desire for specific religious education, increased flexibility, or concerns about school safety.

Homeschool rates have risen nationwide in recent years, and Kentucky's rates slightly exceed the national average. Available outcome data suggests that these students perform well; however, the data is very limited. State requirements for homeschools face enforcement challenges, which prompted several recommendations for greater clarification of current homeschool laws.

Outcome data was available for only a limited number of students who enroll in Kentucky postsecondary institutions. Homeschool students outperform their public school peers; however, homeschool students enroll in college at about half the rate of public school students. Therefore, the results of this report are not likely representative of all homeschool students.

Limited data is also collected by district directors of pupil personnel (DPPs). Nearly half of DPPs reported concern about students who appear to transfer to homeschool to avoid legal repercussions of habitual truancy. Additional concerns included content of required attendance and scholarship reports; lack of parental education; and lack of computers, books, and other instructional materials in homes during required home visits for truant students prior to transfer to homeschool. When students transfer to homeschool, there is no longer any direct monitoring under the law. Although DPPs can make reports of educational neglect for homeschools that they believe are not educating students, there was a low level of confidence that there would be follow-up from the Cabinet for Health and Family Services.

Homeschool parents surveyed for the report felt that accountability under the law was adequate and pointed to their efforts to work with KDE to develop a best-practices document in 1997. This document has been revised over time, and DPPs reported being unclear about whether it is law or informal guidance. There were several recommendations from OEA staff for greater clarity and guidance from the law regarding homeschooling.

Required Academic Standards For Social Studies

Several members of the public came before the committee to express concerns about the content of proposed academic standards for social studies. Concerns included the elimination of specific historical figures from the standards, the implied removal of Kentucky state history, and the implementation of a C3 framework, which places greater emphasis on process than on specific content elements. The committee did not take any action on the administrative regulation when it was referred.

Kentucky High School Athletic Association

The commissioner of the Kentucky High School Athletic Association (KHSAA) gave a general overview of the agency. KHSAA is a nonprofit, public-private partnership that adopts rules for playing and facilitates state competition play in 13 sports and 6 sport activities, including e-sports. Authority for KHSAA starts with the General Assembly, which requires the Kentucky

Board of Education to manage interscholastic activities in the common schools. The Kentucky Board of Education appoints members of the KHSAA Board of Control, which creates the rules and regulations that member schools agree to follow.

Title IX adherence is a priority for KHSAA, which ensures it through an auditing program that evaluates compliance of every member school over a 6-year period. Recommendations for improvements are made when deficiencies are found; however, KHSAA does not have any authority to penalize schools for noncompliance.

KHSAA does not receive any general fund appropriation; rather, it is sustained through dues from member schools, event revenue from statewide competitions, and private sponsors and partnerships. There are 13 full-time staff, 3 part-time staff, and 4 retired school administrators for the Title IX audit program. The Board of Control consists of 18 members who purposefully reflect the diversity of the state by region, employment, race, sex, and public/private education institutions.

There was discussion of format changes for the state golf championship to speed up the pace of play, which included testimony from members of the public. The commissioner responded that efforts have been made to address the challenge of pace of play in many ways, and while the decision to reduce the field is final, there are still possibilities for the style of play to be modified before the state championship is held.

The KHSAA operational philosophy is not to create events that ensure the absolute best field at the state tournament; rather, the Board of Control strives to ensure that all regions of the state have an opportunity for their competitors to experience the state championship and represent their schools, communities, and regions. Overall, KHSAA and school sports are the most effective dropout prevention program in high schools today. Challenges facing KHSAA are the need for officials, specifically in wrestling and soccer, and the need to strengthen laws securing the safety of officials.

Issues Affecting The Education Of Students In Foster Care

A panel of representatives from the Kentucky School Boards Association, Clay County Schools, and Lewis County Schools presented their concerns about educating students in the foster care system. The number of students in foster care is rising, and almost all of them are educated in the public school system. Although much attention has been centered on social services supports needed by these children, there needs to be more attention placed on their education and the care they receive in the public schools.

The primary concern facing schools is the lack of information provided regarding students' education readiness, support needs, and possible triggers. There is also typically less support at home and less collaboration between foster parents and school personnel. Lack of stability and frequent interruptions to education also pose as barriers to providing a high-quality education to students in the foster system.

A large number of students in foster care also have or need an individualized education (IEP) plan to accommodate special education needs. However, without the signature of a parent, an IEP cannot be established, posing another barrier for students. In many cases, the students themselves do not know what information they should provide to schools, and it is difficult or impossible for students to establish social and emotional bonds when they are frequently moved between homes, schools, and districts.

Lack of communication and information transfer exists, even while there are laws, policies, and procedures that exist to mitigate these problems. Some foster parents are not invested in the care of their students, with examples given of abuse of the system by parents who were disqualified by one agency only to apply and receive placements from a different agency in the same community. Such instances indicate that there is no centralized review of foster parents and little coordination between departments and agencies tasked with the care of foster children.

The panel advocated for additional funding to districts for support of the whole foster child, to programs serving these children, and to children at risk for neglect and abuse. Prioritizing education and keeping these vulnerable students in the classroom is in the best interest of the child.

The commissioner and the deputy commissioner of the Department for Community Based Services, Cabinet for Health and Family Services, responded to the presentation. They indicated that the cabinet is experiencing a period of transformation and is actively seeking the best ways to address the concerns expressed by the panel. They stressed the need to elevate the conversation about foster care, keeping in mind that children who enter the foster care system have suffered a great amount of trauma and need a great deal of additional care. Ongoing efforts will also focus on upstream interventions to help keep families together.

Child Abuse And Neglect Awareness And Prevention

Senator Rick Girdler led a panel of students from Boyle County Schools and a child abuse prevention advocate in discussing proposed legislation that emphasizes the need for child abuse and neglect awareness and prevention education for educators and students. The panel shared several personal reflections on the trauma of childhood sexual assault and abuse. The statistics for the number of victims were sobering, but the child abuse prevention advocate reported that up to 95 percent of abuse can be prevented with proper education and reporting. If students are educated in body safety and if an environment of open communication exists, they are much more likely to report their own abuse or the suspected abuse of others.

The panel strongly encouraged the committee to support proposed legislation that would be similar to Senate Bill 68 of the 2019 Regular Session when it was refiled for the 2020 Regular Session. In addition to encouraging age-appropriate education of child abuse and neglect, it encourages the establishment of Child Abuse Awareness and Prevention Day so that Kentucky's abused and neglected children know that they are not alone and that child abuse is unacceptable in any situation.

Improving Teacher Recruitment, Retention, And Quality

The executive director of the Kentucky Association of School Superintendents; superintendents from Lawrence County Schools, Union County Schools, and Washington County Schools; and the director of special education at Casey County Schools presented concerns and challenges facing school districts in terms of teacher recruitment, retention, and quality. Since April 2019, over 2,000 vacancies existed for the 2019-2020 school year and many remained open when school started. Fewer individuals are entering and graduating from teacher preparatory courses. A more competitive salary with appropriate benefits and safe working environment is necessary to attract more candidates to this profession.

Many districts report using emergency and alternative certification to fill vacancies. Although this approach can assist in filling required positions, it has resulted in the elimination of enrichment courses and Advanced Placement options in many districts. Online offerings have also been used, but they are not an appropriate method for all learners.

The panel stressed the need for mentorship and continued education support for teachers, especially those who enter the profession through emergency or alternative certification. These teachers need support in areas such as classroom management and would benefit from advice from veteran educators. However, amid concerns about school safety and about increased uncertainty about the Teachers' Retirement System, many seasoned educators are choosing to leave the profession, making mentorship situations difficult to achieve. The panel expressed a desire to change the narrative around the teaching profession to allay these fears and improve the quality and quantity of teachers.

Construction Management-At-Risk

Representative Massey was present with representatives of the construction industry to discuss his bill proposal to use the Construction Management-At-Risk (CMAR) delivery method to streamline school construction projects. There are several methods available to schools for construction of new facilities. The most common is design-bid-build, which frequently results in many change orders and higher costs. In the CMAR process, there is a guaranteed maximum cost set by the owner, and any the construction manager covers any overages. CMAR lowers the financial risk of the contracting body and provides more control during the procurement process. It also reduces change orders.

Representative Massey spoke about his experience with the CMAR method during the construction of a new school in his district. Although KDE granted a waiver to use CMAR, timing issues prohibited its use. However, this experience indicated KDE's receptivity to the CMAR methodology.

Arts In Education

A panel of arts educators from Danville Public Schools and the Kentucky Music Educators Association, including the executive director, presented proposed arts education legislation. The Arts Education Equity Act would ensure equity of opportunity for arts education by requiring minimum amounts of arts education in the elementary and middle grade levels, prohibit the use of arts instructional time for remediation, and prohibition the withholding of arts education as a form of punishment. The bill would also include a checklist to evaluate arts education in schools and provide a way for benchmark arts education programs to be made available to all schools. The panel expressed concerns that arts education was not included in the new state assessment and accountability system aside from protecting a single hour of arts instruction in high school as part of graduation requirements.

Dataseam—Education And Workforce Development Efforts

The chief executive officer of Dataseam, the chief information officer (CIO) of Williamsburg Independent Schools, and students from Whitley County Schools and Caldwell County Schools presented on the education and workforce development investment being made by Dataseam. Dataseam is a program by which school computers are used during noninstruction hours to perform cancer research. The program also creates many workforce development advantages. Much focus has been made on increasing the certification of information technology professionals in the school systems to maintain the computers placed there as part of the Dataseam grid. There have also been investments by the University of Louisville and Morehead State University in the Dataseam Scholars program, an initiative to encourage and prepare students for careers in information technology.

Dataseam uses investments from community partners, rather than general fund appropriations, to increase opportunities for students. It also serves as an authorized training center for Apple technologies, creating in-house technicians among students. These students can take these skills into the workforce upon graduation. Additionally, Dataseam supports professional development for adults wishing to work in the IT field, resulting in highly skilled individuals to fill local school CIO positions.

Assessment And Accountability

The commissioner of education and representatives of KDE spoke at length about changes to the assessment and accountability system. KDE is statutorily required to convene a committee to review the assessment system and align it with academic standards.

Beginning in FY 2018 and every 6 years thereafter, the review committee is assembled, as are three advisory panels consisting of schoolteachers and representatives of Kentucky's higher education institutions. The review committee created assessment blueprints to outline the items to be assessed within the domains of the academic standards in each subject area. These blueprints then guide the development of individual assessment items and define how assessment results are reported.

The commissioner spoke favorably of the listening tour he had taken across the state to gather feedback about the changes to Kentucky's graduation requirements. Although there had not been a large number of participants during the tour, there had been rich feedback and discussion. He said there was a great amount of miscommunication regarding the reading and math competency elements. Students will be able to prove competency in these elements not only from assessments, but also through the submission of a portfolio of work. The commissioner said he felt that these standards represented the bare minimum of what should be expected of Kentucky's high school graduates.

An overview of the accountability system—including the indicators for elementary, middle, and high school—was presented. For the 2018-2019 school year, all schools and districts received a rating of 1 to 5 stars as an overall accountability score. The distribution of ratings among each level was set by stakeholders during the development of the accountability system. Different combinations of school performance were used, and a very high criterion-based approach was taken. The use of a criterion-based approach, as opposed to a norm-referenced approach, was to provide schools a target that would not fluctuate based on the performance of other schools.

There were a range of scores, with most resulting in a 3-star ranking. Low-performing schools were identified, and there were schools that performed well even with challenges such as high numbers of students receiving free or reduced-price lunch or large populations of non-English-speaking students. Achievement gaps still exist for many of the at-risk demographics, and the commissioner pledged to continue working to close those gaps.

Use Of Guidance Counselors' Time

Staff from OEA presented a study of the use of guidance counselors' time as required by 2019 RS SB 1. The bill had set forth two major goals relating to guidance counselors: that they use 60 percent of their time in direct services to students, and that there be a ratio of one counselor to every 250 students. The study found that 57 percent of guidance counselors do not meet the goal for direct services to students and that the number of counselors in schools would need to increase by 80 percent to meet the goal ratio of 250:1. Staff noted that there was a need for clarity in the law to determine which schools should be considered (only A1 schools were considered for this study), and that the definition of *direct services* was not included.

On average, guidance counselors spend 53 percent of their time with students; guidance counselors in elementary schools have the least direct time with students. High school guidance counselors spent the most time with students, with a large amount spent on academic counseling. Overall, 28 percent of guidance counselors' time is spent on duties that are neither direct nor indirect, such as test monitoring, bus duties, and event planning.

Staff stated that the goal of a 250:1 ratio is very ambitious, with most schools currently having a 400:1 ratio. An additional 1,156 counselors are needed statewide to meet the goal ratio, and the annual cost for this increase would be approximately $93 million. Additionally, continuing education credits are required for guidance counselors, and the study found that almost half are not meeting their requirements for continuing education.

School-Based Decision-Making Councils

Senator John Schickel provided testimony on the need for legislation revising school-based decision-making councils, specifically the ability for superintendents to hire school principals. The Boone County superintendent said the statutes governing school councils need revision because of discrepancies and changes in legal interpretation of school council authority. Additionally, there needs to be greater alignment among the curriculum of schools within a district.

The president and chief executive officer of the Bluegrass Institute expressed concerns about school councils, indicating that they may pose an impediment to possible changes schools may need to take to see the same kinds of improvements witnessed in other states' education systems.

Parent representatives from Dear JCPS and Save Our Schools testified that school councils are an effective venue for parents and other stakeholders to have a voice and effect change. Reduction of their input during a critical choice, such as hiring of a new school principal, would be unwelcome and possibly damaging to districts.

Recommendations From The Career And Technical Education Task Force

Senator Wilson and Representative Bobby McCool, co-chairs of the Career and Technical Education in Kentucky Task Force, spoke briefly regarding its findings. They said that the task force had specifically focused on inequity among the split system of area technology centers (ATCs), which are largely funded by the state, and local area vocational education centers (LAVECs), which receive considerably less state assistance. Although there is no overarching solution to these inequities at this time, there are some recommendations for places to start that can be translated into legislative proposals in the 2020 session. Representative McCool said there are significant differences in funding for the two types of career and technical education centers, and there is also a need for better alignment among the centers, the Kentucky Career and Technical College System, and local industry. To address the funding needs, they presented a proposed 4-year phase-in funding illustration that would increase the funding levels for LAVECs to that of ATCs, requiring over $45 million in additional state appropriations.

Report Of The 2019
Interim Joint Committee On Health, Welfare, And Family Services

Sen. Ralph Alvarado, Co-Chair
Rep. Kimberly Poore Moser, Co-Chair

Sen. Julie Raque Adams
Sen. Tom Buford
Sen. Danny Carroll
Sen. Julian M. Carroll
Sen. David P. Givens
Sen. Denise Harper Angel
Sen. Alice Forgy Kerr
Sen. Morgan McGarvey
Sen. Stephen Meredith
Sen. Max Wise
Rep. Danny Bentley
Rep. Tina Bojanowski
Rep. Adam Bowling
Rep. George Brown Jr.
Rep. Tom Burch
Rep. Daniel Elliott
Rep. Deanna Frazier
Rep. Robert Goforth
Rep. Joni L. Jenkins
Rep. Scott Lewis
Rep. Mary Lou Marzian
Rep. Melinda Gibbons Prunty
Rep. Josie Raymond
Rep. Steve Riley
Rep. Steve Sheldon
Rep. Nancy Tate
Rep. Russell Webber
Rep. Lisa Willner

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, Dana Simmons, Becky Lancaster, and Hillary McGoodwin

Presented to the
Legislative Research Commission
and the
2020 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; violent acts against the elderly.

Committee Activity

The Interim Joint Committee on Health and Welfare met eight times during the 2019 Interim.

Addiction And Overdose Treatment And Prevention Efforts

The executive director, Office of Drug Control Policy (ODCP), Justice and Public Safety Cabinet, stated that from 2017 to 2018, there was a 15 percent drop in overdose rates. The distribution of Narcan and the increased accessibility to treatment have been huge contributing factors in reducing the number of overdose deaths.

ODCP has partnered with the Kentucky Injury Prevention and Research Center to provide assistance to individuals seeking an addiction treatment facility that is accepting new clients.

In 2016, the Kentucky State Police (KSP) started the Angel Initiative as a proactive approach offering an alternative escape to those battling addiction. Under this initiative, anyone battling addiction can come to any KSP post and get help finding a treatment center.

Kentucky's Strategic Initiative for Transformational Employment began in April 2019, and phase one of this program will last until June 30, 2020. This initiative will offer support to the business community by creating workforce-driven solutions to help alleviate the addiction epidemic and increase workforce participation.

A representative from the University of Kentucky said that 2 years ago the National Institutes of Health (NIH) launched the Helping End Addiction Long-Term (HEAL) Initiative. The HEALing Communities Study (HCS) is a partnership of the NIH, the National Institute on Drug Abuse, and the Substance Abuse and Mental Health Services Administration. The University of Kentucky was awarded an $87 million grant for the study. The primary goal of the HCS is to reduce opioid-related overdose deaths by 40 percent over 3 years.

Biologistics

The president/chief executive officer of the Kentucky Life Science Council, the director of United Parcel Service's supply chain solutions Louisville campus, the director of Amgen's Louisville distribution center, and the vice president for public affairs of the Kentucky Chamber of Commerce presented on the process of safely and securely shipping pharmaceutical drugs.

Cabinet For Health And Family Services

The deputy secretary, Cabinet for Health and Family Services (CHFS), said that CHFS employs 6,700 people, including approximately 1,400 contractors. The CHFS budget is $14.4 billion, which is 33 percent of the total state operating budget of $33.4 billion. An overview of each department in the cabinet was presented.

The executive director, Office of Finance and Budget, presented a budget overview of CHFS. For FY 2019, CHFS expenditures were over $13 billion. In FY 2019, CHFS' expenditures were paid with 71 percent federal funds, 21 percent general funds, 8 percent restricted funds, and less than 1 percent tobacco funds.

Medicaid expenditures were 82 percent of the CHFS budget. The remaining 18 percent, approximately $2.4 billion in expenditures, covered all other CHFS departments.

The secretary and deputy secretary, CHFS, provided an overview of the cabinet's accomplishments and legislative priorities.

Child Welfare Issues

The commissioner, Department for Community Based Services, CHFS, testified on the implementation of 2018 Regular Session House Bill 1 and cabinet compliance with the federal Family First Prevention Services Act by October 2021.

The transitional services branch manager and a social service specialist, Division of Protection and Permanency, Department for Community Based Services, CHFS, and a representative from Voices of the Commonwealth discussed programs for foster youth including the Resources for Independence Success and Empowerment internet portal, the LYFT curriculum (an online skills program for foster youth aged 16 and older), and Fostering Success (a 10-week workforce development initiative).

Controlled Substances

Presentations were made by representatives from the Office of Drug Control Policy, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, and the Office of Opioid Safety, University of Kentucky Health Care, on prescription diversion, overdose data, and monitoring and investigations of health care providers who prescribe controlled substances.

The chief deputy director, Michigan Department of Licensing and Regulatory Affairs, presented an overview of Michigan's prescription drug monitoring system.

The deputy executive director, Office of Application Technology Services, Office of the Secretary, and the inspector general, Office of the Inspector General, CHFS, presented an update on the Kentucky All Schedule Prescription Electronic Reporting program.

Crisis Intervention Teams

An officer representing the Community Paramedicine Unit, Lexington Police Department, stated that crisis intervention team training educates responding officers on best practices for managing individuals in a crisis caused by mental illness or addiction. Mobile crisis units are typically composed of police officers, paramedics, and qualified mental health professionals who conduct assessments on individuals in crisis and determine the most appropriate treatment. Lexington's paramedicine team was funded through a 2-year federal Assistance to Firefighters grant.

Community Mental Health Centers

A representative from the Community Mental Health Centers said that it contracts with CHFS to help people with serious mental illness through services such as crisis services, diversion, reentry, and homelessness outreach. The expansion of Medicaid's service array has not assured access for treatment for severe mental illness because of difficulties with managed care organization (MCO) approvals, low provider reimbursement rates, and continued shortages in the mental health workforce.

Early Childhood Programs

Representatives from United Way presented information on the Health Access Nurturing Development Services program and early college and career programs.

Eating Disorders

The president of the Louisville chapter of the National Eating Disorders Association discussed issues related to limited treatment options for eating disorders.

Emergency Medical Services

The committee heard testimony on 2020 RS BR 83—AN ACT relating to ground ambulance service providers and making an appropriation therefor. BR 83 authorizes emergency medical service providers to access a fund to be matched by federal Medicaid dollars. The cost of providing a Medicare emergency transport ranges from $350 to $800. The average reimbursement from Medicaid to transport a patient is $125. The federal funds matching program would double that reimbursement and bring the total closer to the lower end of the Medicare cost.

Female Genital Mutilation Prohibition

The senior director of the AHA Foundation said that it works to end honor violence, forced marriage, child marriage, and female genital mutilation. There are no health benefits to female genital mutilation, but there are lifelong health and psychological consequences associated with the practice. There are 35 states with laws against female genital mutilation. A local survivor and advocate against female genital mutilation stated that the practice is found across racial, ethnic, and religious boundaries.

Living Donor Of Human Organs And Bone Marrow

Representative Jerry Miller presented on 2020 RS BR 179—AN ACT relating to the promotion of living donor human organ and bone marrow donation. A living organ donor shared her experience of donating one of her kidneys to her neighbor’s son. Kentucky is among 13 states that do not have any protection for living organ donors. Under the bill, state employees would be given 240 hours of paid leave for organ donation. For a bone marrow transplant, state employees would be given 40 hours of paid leave. The bill allows a $10,000 tax deduction related to the organ donation. The executive director of the National Kidney Foundation, the medical director of the Kidney and Kidney/Pancreas Transplant Program, and a transplant surgeon from University of Louisville Hospital, KentuckyOne Jewish Hospital Downtown, also provided testimony supporting the bill.

Medicaid Budget

The chief financial officer, Department for Medicaid Services, CHFS, stated that approximately 1,385,788 eligible persons were covered by Medicaid in Kentucky in FY 2019. Approximately 88,928 children are covered under the Kentucky Children’s Health Insurance Program.
Ten percent of the Medicaid population consumes almost 30 percent of the budget. The total expenditures to MCOs was approximately $7.4 billion, or 71 percent of the expenditures.

Medicaid “Free Care” State Program Amendment

A CHFS representative said that the cabinet submitted an amendment to its Medicaid state plan to allow for payment of qualifying physical and mental health services. If the amendment is approved, school districts can begin billing for medically necessary Medicaid-eligible services provided to any Medicaid enrolled at no charge. School districts will be able to leverage federal Medicaid funding to increase access to school-based health services such as comprehensive health screenings, certain mental health services, and diabetes and asthma management. If a school district decides to participate, it will be able to choose specific services based on needs. For services to be reimbursable, they must be provided by an appropriately licensed Medicaid provider.

Medicaid Managed Care Organizations

The committee heard testimony from each of the Medicaid MCOs—Aetna, Anthem Blue Cross Blue Shield Medicaid, Humana/Humana CareSource, Passport, and WellCare—on medical loss ratios and the provision of medical services.

Medicaid Mental Health Waiver

The executive director, Kentucky Association of Regional Mental Health-Mental Retardation Programs, presented information on home and community-based services (HCBS) 1915(c) waivers that serve individuals who are aging, have physical disabilities, have brain injuries, have intellectual or developmental disabilities, or depend on ventilators. Adults who are severely mentally ill, adults with substance use disorder, and children with serious emotional disturbances are not included and have never been included in the HCBS waivers. A Medicaid waiver or state Medicaid plan amendment to provide needed services such as supportive housing and supported employment to adults with severe mental illness should be considered.

Medication-Assisted Treatment

The chief medical officer, Addiction Recovery Care (ARC), stated that medication-assisted treatment has been around for 20 years. ARC prescribes medications in conjunction with behavioral health and case management on an outpatient basis. Via telemedicine, patients can be evaluated and started on therapy. The director of addiction services, Kenton County Detention Center, stated that there is a need to look at barriers for individuals who need medical care while in the custody of the criminal justice system but who are not covered by Medicaid or health insurance.

Mental Health And Homelessness

The executive director of the Homelessness and Housing Coalition presented information on mental health and homelessness. The implementation of the Housing First model 15 years ago has helped homeless service providers to make inroads into the challenges associated with severe mental illness and homelessness. The coalition urges the General Assembly to pass legislation to create a state affordable housing tax credit that would encourage private development of more affordable homes. It is nearly impossible to address homelessness without creating a housing environment where individuals with a mental illness can be successful.

Mental Health Programs For Youth

Representatives from the Division of Student Success, Office of Continuous Improvement and Support, Department of Education, presented on the Project Advancing Wellness and Resilience Education (AWARE) 5-year federal grant. The AWARE grant is used to train adults on responding to mental health issues when interacting with school-aged youth; to connect children, youth, and families who may require support to appropriate mental health services; and to implement Youth Mental Health First Aid in state and local training programs.

The commissioner, Department for Behavioral Health, Intellectual and Developmental Disabilities, CHFS, discussed a $1 million Transition Age Youth Launching Realized Dreams (TAYLRD) 2.0 federal grant. By improving access to high-quality culturally and developmentally appropriate supports and services, TAYLRD aims to improve the lives of 16- to 25-year-olds who have behavioral health challenges or are at risk of developing them.

Personal Care Homes, Individuals With Serious Mental Illness, And Homelessness

The commissioner, Department for Behavioral Health, Developmental and Intellectual Disabilities, CHFS, listed the housing options for people who have a serious mental illness: independent housing; living with family or a friend; supported housing; three-person homes; and institutions such as hospitals, nursing homes, personal care homes, and boarding homes. The key services necessary to help people live in the community are assertive community treatment, targeted case management, and supported employment. Vouchers from the Housing Corporation and the cabinet's supplemental funding financially assist people in maintaining housing. With regulatory changes and an enhanced reimbursement, personal care homes could become a more integral part of the continuum of care.

The legal director of the Kentucky Protection and Advocacy Division (KYPA) said that KYPA is an independent state agency that promotes the rights of individuals with disabilities. KYPA gathered information on personal care homes and defined them as free-standing homes that are not a part of an assisted living facility or a nursing facility. KYPA reported in March 2012 that 85 percent of people living in personal care homes had a serious mental illness, 48 percent had guardians, and 39 percent had lived in the personal care home for more than 5 years.

The president and executive director of the Kentucky Association of Health Care Facilities said that there are gaps in services for the elderly and people with a serious mental illness in the continuum of care. The last rate increase for personal care homes was in 2006. An increase in reimbursement would allow care, medication, food, and services to continue for those with a serious mental illness.

Public Health Department Transformation

The commissioner, Department for Public Health, CHFS, stated that fiscal instability is a challenge in developing a sustainable public health system. The statutes and regulations regarding public health do not allow for proper operational restructuring. The statewide implementation of the public health transformation began on July 1, 2019. An overview of legislative initiatives for 2020 was presented.

Social Worker Caseloads, Career Ladders, Recruitment, And Retention

The commissioner, Department for Community Based Services (DCBS), CHFS, stated that DCBS offers a special entrance pay rate for social workers and clinicians. DCBS has a Public Child Welfare Certification Program in which students sign a contract to work for DCBS for 2 years after obtaining their degree in exchange for DCBS paying for their schooling. The front-line social workers received a raise last year, along with technology solutions to make the administrative parts of the job easier while in the field. DCBS has increased the starting salary for social workers and has a career ladder in place for them. High average caseloads reflect the underlying issues with staff recruitment and retention, in addition to the overall increased volume in the service demand. DCBS has hired an additional 40 social workers statewide since 2018.

Substance Use Treatment And Recovery

The director of addiction services, Kenton County Detention Center (KCDC), said that KCDC offers a comprehensive biopsychosocial and spiritual treatment program for substance abuse disorders (SUDs). KCDC uses medications that are approved by the Food and Drug Administration to treatment opioid use disorder, methamphetamine disorder, cocaine disorder, and other drug disorders. Currently 150 of the 800 inmates are in-house clients who are in treatment.

As part of the Kentucky Opioid Response Effort, the Department for Behavioral Health, Developmental and Intellectual Disabilities awarded a grant to KCDC to establish or expand the Quick Response Team model. A Quick Response Team provides a way for public safety officials to work with behavioral health providers to serve individuals who have experienced an opioid-related overdose or related complications.

Representatives from CHFS presented on programs to help families in recovery.

Reentry Programs For Substance Use Disorder Recovery

The president and chief executive officer, Life Learning Center, stated that the center addresses any barrier that holds an individual back from continuing the journey toward recovery and employment. The center does not take any public funding. The General Assembly needs to address the lack of accreditation for sober-living housing facilities.

The chief of staff to the chief executive officer, Addiction Recovery Care, stated that ARC provides the full continuum of care, including withdrawal management, crisis stabilization, residential treatment, sober living, outpatient services, and vocational training. ARC also has a facility dedicated to SUD treatment for pregnant and postpartum women.

The chief executive officer, Transitions Inc., said that Transitions offers long-term high-quality drug and alcohol treatment. Challenges for incarcerated individuals transitioning out of care include restarting Medicaid services and authorization for treatment by MCOs.

Syringe Exchange Program

The district director of health, Northern Kentucky Health Department, discussed harm reduction in regard to substance use disorders including trying to prevent death from overdoses and trying to prevent the spread of infectious diseases associated with injection drug use. The syringe exchange programs provide access to hepatitis A vaccination, hepatitis C testing, and human immunodeficiency virus testing.

Treatment For Individuals With Intellectual Disabilities And Mental Health Disorders

Representatives from Therapeutic Intervention Services and the Kentucky Association of Private Providers discussed the types of residential facilities for people with intellectual disabilities including family homes or residences under the Supports for Community Living (SCL) waiver program, psychiatric facilities for individuals with acute psychiatric problems necessitating a higher standard of care, and intermediate care facilities. The KRS Chapter 202A psychiatric facilities and Chapter 202B ICF/ID facilities are not designed to be permanent residences; instead they are used when individuals need a higher level of care than the community can provide. Individuals with both intellectual disabilities and mental illness can present unique challenges that make it unsafe for them to remain in the community, whether living in residences with family or in SCL residential placements. Individuals often remain in the community even when they present a risk of harm to self or others, posing risk to the individuals, personnel working with them, and the public.

Trauma Care System

Individuals representing the statewide trauma care system provided an overview of the system. In 2008, legislation was enacted to create the Trauma Advisory Committee to develop criteria for in-state verification of Level II-IV trauma centers. There was no provision for state funding. The long-range goals of the trauma care system are to decrease the death rate from injury, decrease morbidity and disability, and decrease the overall health care impact of trauma. The short-term goal of the system is to secure funding to support its growth and operation. The funding would help with employing a full-time program manager, employing a full-time trauma educator, adding software support for the registry, increasing basic operating costs, and facilitating a greater amount of educational programming.

Referred Block Grant Applications

Pursuant to KRS 45.353, the committee held legislative hearings on five block grant applications: the Federal Fiscal Year 2020-2021 Community Services Block Grant Application; the Federal Fiscal Year 2020-2021 Social Services Block Grant Application; the Federal Fiscal Year 2020-2021 Unified Block Grant Application for funding of the Community Mental Health Services Block Grant and the Substance Abuse Prevention and Treatment Block Grant Application; the Federal Fiscal Year 2020-2021 Maternal and Child Health Services Title V Block Grant Application; and the Federal Fiscal Year 2020-2021 Preventive Health and Health Services Block Grant Application.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee reviewed 63 administrative regulations upon 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 four executive orders upon referral from the Legislative Research Commission: Executive Order 2019-028, relating to the reorganization of the Kentucky Board of Emergency Medical Services; and Executive Orders 2019-286, 2019-466, and 2019-719, all relating to the reorganization of the Cabinet for Health and Family Services.

Report Of The 2019
Interim Joint Committee On Judiciary

Sen. Whitney Westerfield, Co-Chair
Rep. Jason Petrie, Co-Chair

Sen. Danny Carroll
Sen. Perry B. Clark
Sen. Alice Forgy Kerr
Sen. Gerald A. Neal
Sen. John Schickel
Sen. Wil Schroder
Sen. Dan "Malano" Seum
Sen. Robert Stivers II
Sen. Robin L. Webb
Sen. Stephen West
Sen. Phillip Wheeler
Rep. John Blanton
Rep. Charles Booker
Rep. Kevin D. Bratcher
Rep. McKenzie Cantrell
Rep. Daniel Elliott
Rep. Joseph M. Fischer
Rep. Chris Harris
Rep. Angie Hatton
Rep. Jeff Hoover
Rep. Joni L. Jenkins
Rep. Nima Kulkarni
Rep. Stan Lee
Rep. Derek Lewis
Rep. Savannah Maddox
Rep. C. Ed Massey
Rep. Chad McCoy
Rep. Reginald Meeks
Rep. Patti Minter
Rep. Kimberly Poore Moser
Rep. Jason Nemes
Rep. Brandon Reed
Rep. Maria Sorolis

LRC Staff: Katie Comstock, Dale Hardy, Chandani Kemper, Alice Lyon, Matt Trebelhorn, Randall Roof, Yvonne Beghtol, and Raleigh Dixon

Presented to the
Legislative Research Commission
and the
2020 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; juvenile matters.

Committee Activity

The Interim Joint Committee on Judiciary held six meetings during the 2019 Interim.

Guardians Ad Litem And Court-Appointed Counsel

The Chief Justice of the Kentucky Supreme Court, the justice of the 3rd Supreme Court District, the family court judge of the 28th Judicial Circuit, and district judges of the 3rd and 23rd Judicial Districts discussed the appointment of guardians ad litem (GAL) and court-appointed counsel (CAC), the implementation of the Family First Prevention Services Act, concerns regarding a proposal to create a centralized agency to appoint GALs and CACs statewide, a review of the appointment and duties of GALs and CACs, concerns in determining indigency, proposed amendments to the Family Court Rules of Procedure and Practice regarding GALs and CACs, and a review of payment to GALs and CACs.

Representatives of the Kentucky Court Appointed Special Advocate (CASA) Network and the CASA Program of Christian County reviewed the number of CASA volunteers, required training and duties, funding, and current state coverage.

Representatives of the Finance and Administration Cabinet reviewed the billing and payment process for GALs and CACs, gave an update on the FINGAL-1 Form, and reviewed issues relating to attorneys who provide GAL and CAC services in counties where there are no family courts.

Child Support Enforcement And Guidelines

The family court judge of the 22nd Judicial Circuit reviewed the history of Kentucky's child support guidelines and stated that the guidelines have to be adjusted, case data must be analyzed, the cost in raising a child has to be established, and there has to be consistency.

The commissioner with the Department for Income Support reviewed the federal requirements for child support guidelines. In addition, a final report from the Child Support Guidelines

Commission was presented, which recommended updating the child support table, providing a self-support reserve, and providing a shared parenting-time formula.

The Kenton County attorney and the director of the county's Child Support Division agreed that an update to the child support guidelines is necessary and reviewed child support funding, child support enforcement on administrative and judicial levels, and the need for clarification on the shared parenting calculation.

National Parents Organization

Representatives of the National Parents Organization addressed federal tax codes for child support, self-support reserve, and punishment for a parent who makes false claims.

Dissemination Of Personally Identifying Information About Minors

A father testified on the harassment his son, who is a minor, received from a video that went viral on social media. Senator Schroder advised that he will be filing anti-doxing legislation to protect minors from such threats.

County Jail Populations And Trends In Incarceration

Representatives from the Vera Institute of Justice and from Government Strategies presented statistics on jail incarceration in Kentucky and the need to reduce the jail population.

Perfecting Vehicle Liens

Representatives of the Kentucky Automobile Dealers Association, the Kentucky Transportation Cabinet, the Kentucky County Clerk's Association, Legacy Nissan, and the Rotunda Group presented concerns with the perfecting of a vehicle lien.

Disposition Of A Decedent's Body

Senator Robby Mills presented BR 201, on behalf of himself and Representatives Suzanne Miles and Rob Wiederstein, to amend the current law stating that a decedent's surviving spouse controls the disposition of the body.

Introduction And System Overview

The secretary of the Justice and Public Safety Cabinet and the interim commissioner with the Department of Corrections addressed the incarceration crisis in Kentucky and its relationship to the opioid drug epidemic, the need for criminal justice reform, the shortage in staffing of correctional officers, drug rehabilitation for prisoners, and incentives to retain and recruit correctional officers.

Probation And Parole Update

The director of the Division of Probation and Parole, a legislative liaison with the Department of Corrections, and the secretary of the Justice and Public Safety Cabinet reviewed the high caseloads of probation and parole officers, results from the new community orientation intake process, the use of expanded graduated sanctions, and giving officers more options in dealing with each client.

Division Of Reentry Services Overview And SB 120 Update

Representatives from the Department of Corrections reviewed the benefits and successes of reentry programs for inmates.

Hardin County Inmate Release Program

The Hardin Circuit Court judge, the commonwealth's attorney for the 9th Judicial Circuit, the founder of Sheriff Staffing Services, and an inmate employed by Sheriff Staffing Services explained Sheriff Staffing Service's business and its benefits to inmates, counties, and local businesses.

Justice And Public Safety Cabinet's Legislative Priorities To Address Population Challenges

The secretary of the Justice and Public Safety Cabinet discussed the Strategic Initiative for Transformational Employment program and advocated for the following legislative changes:
- Reclassifying simple drug possession as a misdemeanor
- Raising the felony theft threshold level
- Limiting supervisory time for those on parole to 3 years
- Bail reform
- Mandating the use of graduated sanctions for probationers
- Expanding the work for time credit

The director of the Division of Local Facilities commented on the impact of the Work Release Program and SB 120.

State Of The Judiciary

The Chief Justice of the Kentucky Supreme Court gave an update on the judicial branch, outlined concerns and successes, and reported on the following:
- Improving access to justice through civil justice reform and business courts
- Case triage and case management
- Court Efficiency Committee focused on reducing delays
- Judicial redistricting and a new caseload study
- Community engagement listening sessions in Jefferson County
- Progress on move to electronic court records

- Open courts pilot project
- Court system help in mitigating Kentucky's drug epidemic
- Future of specialty/drug courts
- Jail overcrowding and bail reform
- Judicial salaries
- Changes in the organizational structure of the Administrative Office of the Courts based on audit recommendations

Prosecutorial Issues And Concerns

The commonwealth's attorneys from the 8th and 16th Judicial Circuits reported on the Rocket Docket program, the Heroin Expedited Addiction Recovery and Treatment (HEART) program, the need to amend the deferred prosecution statute, and a loophole in the system pertaining to individuals in the justice system who are incompetent to stand trial but not committable.

The Pulaski County attorney addressed needs of the District Courts pertaining to pretrial release, search warrants in DUI investigations, child support guidelines and budgeting, and county attorney lawsuits.

Criminal Defense Issues And Concerns

The public advocate discussed his department's participation with expungement clinics, concerns with the continued passage of new crimes and higher penalties, consequences of the strangulation bill, the need for trials, and advocated for allowing juries to reduce charges if "unduly harsh."

The legislative agent for the Kentucky Association of Criminal Defense Lawyers discussed remedies to support pretrial release, the need for resources to supervise those on probation for misdemeanors, regulating but not criminalizing possession of marijuana, the effects of incarceration on those between the ages of 18 and 25, ending the death penalty, and the need to review the application of civil asset forfeiture.

Smokers As A Protected Class

Senator Schickel, an attorney with Frost Brown Todd, and the chief executive officer of Erigo Employer Solutions spoke on proposed legislation to remove smokers as a protected class, giving employers the right to choose whether they want to take on the additional financial burdens of hiring a smoker, and to encourage Kentuckians to make healthier choices.

Grandparent Custody

A grandparent testified regarding having custody of her grandchild since birth, until the courts turned over custody to the biological parents without considering the traumatic effect on the child and without granting the grandparents equal visitation.

Female Genital Mutilation

The senior director and chief financial officer of the AHA Foundation presented information and statistics on the reality of female genital mutilation (FGM) happening in Kentucky and elsewhere in the United States and advocated for legislation banning FGM. A victim of FGM gave testimony on the health issues and traumatic effects of FGM.

Extreme Risk Protection Orders

Senators Paul Hornback and Morgan McGarvey advocated for the passage of extreme risk protection orders (ERPOs). There was testimony from a victim whose mother was shot and killed by her brother, who then committed suicide. The executive director of Whitney/Strong testified as a mass shooting survivor on the need for ERPOs. The prosecuting attorney from Clark County, Indiana, gave information on the process and success of Indiana's ERPO laws. The state affairs director of the Coalition to Stop Gun Violence provided statistics on gun violence and the increased number of suicides in Kentucky. The Kentucky state volunteer chapter lead of Moms Demand Action for Gun Sense in America gave support for ERPOs. A representative of the National Rifle Association stated that interpersonal protective orders and emergency protective orders are already in effect to remove firearms from those deemed dangerous to themselves or others.

Report Of The 2019 Interim Joint Committee On Licensing, Occupations, And Administrative Regulations

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

Sen. Julie Raque Adams
Sen. Tom Buford
Sen. Julian M. Carroll
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Paul Hornback
Sen. Christian McDaniel
Sen. Damon Thayer
Sen. Reginald Thomas
Rep. Kim Banta
Rep. Tom Burch
Rep. Al Gentry
Rep. Thomas Huff
Rep. Dennis Keene
Rep. Matthew Koch
Rep. Nima Kulkarni
Rep. C. Ed Massey
Rep. Chad McCoy
Rep. Jerry T. Miller
Rep. Kimberly Poore Moser
Rep. Ruth Ann Palumbo
Rep. Phillip Pratt
Rep. Sal Santoro
Rep. Buddy Wheatley

LRC Staff: Tom Hewlett, Bryce Amburgey, Melissa McQueen, Jasmine Williams, and Lisa Moore

Presented to the
Legislative Research Commission
and the
2020 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

Interstate Compacts

The Audiology And Speech-Language Pathology Interstate Compact. Representative Walker Thomas said Speaker David Osborne was interested in creating interstate compacts in audiology, speech-language pathology, and psychology. The goal is to obtain the license in one’s home state but to be able to practice in any state within the compact agreement. There is an effort to get 10 states to agree to the compact, and then fees and bylaws can be established.

The Audiology and Speech-Language Pathology Interstate Compact (ASLP-IC) facilitates the practice of audiology and speech-language pathology by securing a privilege to practice in a member state or through telehealth. The purpose of the compact is to facilitate interstate practice and improve public access to audiology and speech-language services. The ASLP-IC emulates and functions similarly to occupational licensure compacts for nursing and other medical fields. Audiologists and speech-language pathologists licensed in their home state would apply for a privilege to practice under the ASLP-IC, and states would communicate and exchange information including verification of licensure and disciplinary sanctions. This increases access to client, patient, and student care, and facilitates the continuity of care when clients, patients, and students relocate or travel. There are currently seven compacts nationwide, and Representative Thomas said this one is in the infancy stage and Kentucky can help set the guidelines by being in the forefront.

Psychology Interjurisdictional Compact. Representative Lisa Willner, Ph.D., the executive director of the Kentucky Psychological Association, is partnering with Representative Thomas on the Psychology Interjurisdictional Compact (PSYPACT), an interstate compact that facilitates the practice of psychology using telecommunications technologies (telepsychology) and/or temporary in-person, face-to-face psychological practice. Representative Willner said there is a severe shortage of licensed psychologists across Kentucky, and the interstate compact can address client/patient access to care. Many members do not have a single licensed psychologist in their counties, which is a huge problem.

PSYPACT provides protection to the public by certifying that psychologists have met acceptable standards of practice, and it provides compact states with a mechanism to address disciplinary issues that occur across state lines. It increases access to mental health care when care is not readily available, while also providing continuity of care for an increasingly mobile society. Psychology is uniquely suited to take advantage of telehealth services, as the key intervention is talking and does not require the additional equipment that some medical specialties do. Mental health treatments are just as effective for patients through a live video link in telehealth as in an actual office visit. PSYPACT legislation has already been passed in 12 states, and 4 more have legislation pending.

Alcohol Issues

Kentucky Guild Of Brewers. The Kentucky Guild of Brewers reported another year of continued growth and increased economic impact. It remains imperative to continue efforts to modernize and advance Kentucky’s alcohol laws, improve the tax structure, and avoid pitfalls of those seeking to keep everything as it has always been. Kentucky continues to rank toward the bottom among states in terms of brewers per capita. Tremendous potential for growth still exists.

Kentucky craft breweries led the nation in 2018 for growth with 69 active licensed craft breweries. Currently, 30 existing breweries have confirmed expansion activity, and 42 percent of existing Kentucky craft brewers are already expanding operations. In 2018, Kentucky craft beer had an economic impact of $657 million. So far in 2019, midyear data shows its economic impact has increased to $765 million. Kentucky craft breweries have created 133 jobs so far in 2019, while employing over 1,000 Kentuckians. Kentucky microbreweries have already invested $6.6 million this year in the commonwealth in expansions.

The craft brewing industry is concerned with several key issues: transparency; brewery and producer direct-to-consumer sales (shipping and limited self-distribution for small brewers); franchise reform; excise tax and tax reform; tariffs and trade; underage drinking and responsible consumption; preservation of existing privileges; independent distribution systems; access to materials; water quality; modernization of state alcohol laws; and threats to the ability to be competitive.

Kentucky Winery Association. The president of the Kentucky Winery Association (KWA) said the first item on its legislative agenda is to raise the Kentucky small farm winery gallon limit to 500,000 from 100,000. He noted that this is important to be competitive with surrounding states. Indiana’s limit is 1 million gallons, and the limit is 500,000 gallons in Ohio, Missouri, and Iowa.

The second item on the legislative agenda is to allow a Kentucky small farm winery to open earlier on Sunday. In an effort to remain competitive with surrounding states, they would like to open at 11 a.m. on Sundays instead of the current time of 1 p.m. This change would significantly help tourism sales, and it would also put the statute for wineries equal to the laws for restaurants that serve alcohol.

The third legislative agenda item is to allow a Kentucky small farm winery the ability to self-distribute its wine if it produces less than 50,000 gallons. Fifteen states have such a program, which helps small farm wineries to have a level playing field.

The KWA also supports legislation that allows direct-to-consumer shipping of wine into and out of Kentucky. The association is fully in favor of direct shipping to consumers.

Wholesale And Retail Alcohol Sales. A representative of the Wine and Spirits Wholesalers of Kentucky said Kentucky's wine and spirits wholesalers, beer distributors, and alcohol retailers employ nearly 16,000 Kentuckians in 104 counties in jobs ranging from accounting and sales to logistics and truck delivery. The wholesale and retail alcohol industries generate nearly $500 million in taxable wages and collect hundreds of millions of dollars for state and local governments, which helps to support families, communities, and schools. There are also over 4,000 off-premise retailers, such as package stores, grocery stores, pharmacies, convenience stores, and general stores, with approximately 3,713 employees and a $99.4 million total payroll. She noted that over $2 billion in products is sold annually. There are also over 800 retail package stores licensed to sell liquor by the package in Kentucky.

Another representative of the wholesalers said Prohibition proved to be a huge failure. He said alcohol is a sensitive product, but the three-tier system provides checks and balances. Three big benefits of the three tiers are consumer safety, tax collection, and product selection.

A representative of the Kentucky Retail Federation said the General Assembly passed legislation in 2000 to allow restaurants meeting certain criteria to sell alcohol on Sundays. Historically, dry counties are now trending to become wet; out of 120 counties, only 15 are left that are completely dry. The retail federation representative encouraged committee members to remain open to change in order to modernize the system to help economic development. This could include selling wine in grocery stores, as is done in all states that border Kentucky, as well as 40 others.

Kentucky Distillers' Association. Representatives of the Kentucky Distillers' Association said that bourbon is an $8.6 billion industry, creating 20,100 jobs with a $1 billion payroll. Distillers currently have 8.5 million barrels of bourbon in inventory, and they filled more than 2 million barrels in the past year. There are seven taxes imposed on every bottle of spirits produced in Kentucky, and 60 percent of every bottle of spirits goes to taxes. International trade wars are having a negative impact on sales, but the tourism aspect of the industry is setting records, with 1,404,926 visits on the Kentucky Bourbon Trail and Kentucky Bourbon Trail Craft Tours.

The president of New Riff Distilling said his company is 5 years old and has invested $22 million in two campuses. Another campus with new rick houses is in the planning stage. In the summer of 2019, the distillery was to add three fermenters, creating a 50 percent increase in production capability. However, the industry does need regulatory reform and continued reduction of red tape. It is important for smaller distillers to be able to ship to other states. Also, the ability to sell single bottles to tourists in distillery gift shops will benefit the business. The president of Boone County Distilling Company said tourism has also become a big part of its revenue stream. With e-commerce, alcohol needs to ship across state lines. A representative from the Kentucky Distillers' Association said that, because of *Tennessee Distillers v. Total Wine*, other states will see an opportunity to begin online sales.

Verona Vineyard Winery. The owners of Verona Vineyard Winery noted that their winery was small in comparison to other alcohol industries in Kentucky. Established in 2005, Verona Vineyard has a capacity of 15,000 bottles, or 3,000 gallons, in comparison to other wineries in Kentucky that are producing hundreds of thousands of gallons. Partnering with other industries is important to grow tourism in the state, so the winery is now licensed to sell bourbon and beer. It has also added food sales to enhance the experience. Facebook is a primary mode of advertisement for the winery, with 9,800 followers on its page. Forty-five percent of the winery's revenue comes from customers from Indiana and Ohio. It is important to cultivate a team that partners with local high schools and 2-year colleges to develop individuals who want to work in food service, farming, and manufacturing. This ensures quality in the products that they sell as well as great customer service and the hospitality that Kentucky is known for. With today's interest in farm-to-table restaurants, the winery gets requests to deliver wine to those restaurants, which can be cost prohibitive with the current distribution model. Automation of the licensing processes would be less time consuming.

Gaming Issues

Fixed-Odds Wagering On Horse Races. The executive director of the Thoroughbred Idea Foundation said Kentucky can set an example for the rest of the country in horse wagering. Horse racing does not have to be only pari-mutuel; it can also include fixed-odds wagering. Customers want the opportunity for fixed odds, as they know what to expect in return. There are many benefits of amending horse wagering laws to include fixed odds. It will modernize a struggling industry, which provides a tremendous amount of jobs and has a substantial economic impact. It will domesticate a business that American racing operators, including some in Kentucky, are already tapping into internationally. Finally, it will serve as a legal option against the growing illicit offshore operators who are poaching customers in Kentucky and hurting horse people in the industry nationwide.

The Thoroughbred Idea Foundation, launched a year ago, is a privately funded think tank for thoroughbred racing. Its purpose is improve the thoroughbred racing industry for all stakeholders. There are some bright spots in the horse racing industry, but the overall financial metrics of racing are down. The foal crop is at its lowest point since 1965, and wagering on the sport across America is down 50 percent over the last 15 years, after adjusting for inflation. Revenue from wagering is a key driver of prize money and is the most significant incentive for owners to continue participating in the sport. Fixed-odds wagering can help by allowing customers to know exactly their return.

The American market for sports betting is widely estimated to be between $80 billion and $150 billion a year, all of it on fixed-odds bets. The executive director said that, to combine fixed-odds wagering in horse racing, Kentucky would need a new business model, different pricing to customers, and the means to present the sport to modern audiences similarly to how the market is already meeting their expectations with other sports. The minority of money is on single-horse wagers now in the tote system, which is win, place, or show. Most fixed-odds bets on racing are going to be focused on the performance of one horse, not trifectas or superfectas. Fixed odds would not harm the exotic wagers, which account for the majority of the tote handle.

The tax rate in Kentucky on pari-mutuel wagering is clear, with a percentage appropriated in an established, clear manner to the horsemen and to the state. To determine tax percentages for fixed-odds racing, the state is starting from scratch. There are examples to follow, and in general on the current pari-mutuel bets, the total takeout paid to the track is approximately 20 percent. In Nevada, which has a very efficient sports betting market, the average hold on a sports bet is 5 percent. There is no expectation that racing would be able to charge 5 percent; even though customers would love it, it is not a realistic scenario. It has to be determined how much the percentage is and what piece the horsemen get to fund purses and prize money. This funding model is completely different and will require a fresh look.

Senator Thayer said he is supportive of fixed-odds wagering and would like the language included in Chairman Koenig's sports wagering bill. He would like for Kentucky to lead the way on this issue and for the horse industry to be included in the growing popularity of sports wagering being implemented across the country. He added that horse racing should be innovative to attract new customers to the sport. Representative Koenig said fixed-odds wagering falls under the same umbrella as sports betting. He indicated that he would have a legal expert testify at the committee's December meeting.

Senator Thayer said that operators, the state, and the horsemen must be considered when enacting a taxation plan. He said pari-mutuel wagering contributes to the state's general fund each year, and purse sizes will continue to be of increased importance to all parties. He said Chairman Koenig's sports betting bill has a 10 percent tax rate for brick-and-mortar buildings and a 14 percent tax rate for online mobile bets. Kentucky may want to look at a similar model for fixed-odds wagering. The tax rates also have to be kept at a competitive level, or customers will not wager on it. The competition is people who are doing this illegally, so the tax rate must be at a level such that the customer will want to wager on the products, and the operator will invest in it appropriately to attract people who are currently making wagers illegally.

Sports Wagering In Kentucky

The vice president and chief operating officer of Keeneland said HB 175/HCS 1 from the 2019 session could be a vehicle to move sports wagering forward in the 2020 session. He said the intent of this legislation is to drive more people to the racetracks and to protect the tracks. The racetracks have the facilities and infrastructure ready to start taking wagers as soon as the legislation is passed. Additionally, he noted that there are differing tax rates in the legislation that allow for a 10 percent tax revenue at the facility, versus an online tax of 14 percent if people bet via their smartphones or home computers. The bill could realize approximately $20 million in tax revenue for the state. He noted that 18 states have implemented some sort of sports wagering, with New Jersey leading the way. Indiana will join these states and was in position to take its first wagers on September 1, 2019. He said that Monmouth Park, a horse track in New Jersey, has experienced a 16 percent increase in its simulcast wagers since implementing sports wagering. He said sports wagering will also generate incremental revenue for the racetracks through the sales of food and beverages, sales tax, and the creation of new jobs for tellers.

The vice president spoke strongly against a tax increase on historical racing machines at racetracks. Kentucky has seen an increase in horse field size and record purses because of revenue generated by historical racing, with Ellis Park in Henderson leading the way. Keeneland was anticipating record purse sizes for the fall of 2019, and Churchill Downs had already revealed allowance races for the fall over $100,000, which is more than competitive with all other racing jurisdictions. The effective tax rate on historical racing, even though it is a pari-mutuel wager and taxed at the 1.5 percent of total handle, is nearly 20 percent of the track's revenue from historical racing. All pari-mutuel wagering is taxed on the handle, so even though the pari-mutuel tax rate is 1.5 percent, it is paid off the top and does not change by profit amount for the facility. The pari-mutuel tax helps fund the Kentucky Thoroughbred Development Fund and many other programs besides the contribution into the general fund. The vice president believes in paying a fair share of tax, but the current tax rate is appropriate for this type of product.

Senator Thayer commented that there is a good chance to create a bipartisan coalition and pass this legislation out of the Senate in the 2020 session, especially if it passes out of the House of Representatives with strong support. He adamantly opposes any tax rate increase on historical horse racing. He said there is no reason to penalize this growth industry that has been on an upswing for several years while other industries are struggling. He noted these are the "good old days" for the horse racing industry. Senator McDaniel cautioned the committee to never look at revenue and then work toward policy on any legislation. He said working out the language to make the legislation good public policy should be the first priority, and the revenue piece will work itself out.

In response to a question from Senator McDaniel, Chairman Koenig said this is the bill he plans to move forward in the 2020 session, with a few tweaks. He gave his assurance that there would be no integrity fee in the legislation.

Labor Issues In The Equine Industry

The executive director of the Kentucky Thoroughbred Association discussed labor challenges for the equine industry. He said grooms play an important role on the farm, with Kentucky producing a little under 10,000 foals a year, but as the overall economy has started to recover, horse farms are having to pay their workers at least 20 percent to 30 percent above the minimum wage. The horse industry has used a Hispanic labor force for many years, just as other agriculture sectors in the commonwealth have. These workers tend to be particularly good with livestock. The H2-A program is uncapped but allows only seasonal workers. The H2-B program is capped at 66,000 people; however, Congress allowed the addition of 30,000 workers in 2019 as temporary nonagricultural workers. These workers are predominantly used in hospitality and tourism in larger states, and they are also used by trainers. Kentucky and the equine industry are working on creating a pipeline of these workers for a local labor source in the community. One such example is the partnership and collaboration with Locust Trace AgriScience Center in Lexington.

The executive vice president of the Kentucky Equine Education Project said that its primary mission is to advocate for issues that affect the economics of the horse industry, and that horse farms and trainers have communicated over the last few years that the biggest challenge to their success is an adequate workforce and labor supply. It is a critical issue that is hampering growth within the industry. These are jobs that cannot be mechanized or computerized and will require a living, breathing person. The equine industry produces 60,494 direct and indirect jobs and has seen $20.2 billion in new business investment since 2015. Feedback was received from several central Kentucky farms; they have identified grooms, night watchmen, and barn foremen as their most critical positions, while also being their most difficult to fill and retain.

Licensing Boards

Boxing And Wrestling Commission. The legislative liaison for the Public Protection Cabinet introduced a request to amend KRS 229.260 to allow the Medical Advisory Panel to designate one or more of its physician members to assist the executive director of the commission to review physical exams and other medical records submitted at the time of licensure, and to compensate that physician $500 per month of service. This amendment would assist in the recruitment and retention of experienced and qualified physicians. Moreover, it will help the commission continue to emphasize and promote the standards for the health and safety of all combat sports participants.

The Board Of Cosmetology. The administrator for Board of Cosmetology presented draft legislation to allow a permit holder to practice outside of a licensed facility in order to provide temporary event services for events such as weddings, or to provide services to persons suffering from medical conditions that limit physical mobility. The draft legislation would also define *shampoo and style services*.

Kentucky Academy Of Audiology. The director of public policy, Kentucky Academy of Audiology (KAA), said Kentucky is one of seven states that still require audiologists to hold both an audiology license and a license to dispense hearing aids. Statutes require licensed audiologists to also hold a separate, duplicative license for hearing loss treatment and rehabilitative services. KAA recognizes the importance of licensure for professionals involved in fitting and dispensing hearing aids as a means of consumer protection, but requiring audiologists to hold two licenses for the same services offers no additional protection to the consumer. In fact, subjecting audiologists to the authority of a licensing board composed largely of competitors creates opportunities for unchecked anticompetitive behavior. Additionally, because the education and training requirements for audiologists are substantially more advanced than those for hearing aid specialists, the hearing aid specialists may be unqualified to provide oversight of the licensure for audiologists as related to any service within an audiologist’s scope of practice. Therefore, the appropriate licensure requirements for the practice of audiology are universally and singularly contained under the Kentucky licensure statute for audiology, KRS Chapter 334A.

Long-Term Care Administrators’ Temporary Permits. The chairman of the Kentucky Board of Licensure for Long-Term Care Administrators requested an amendment to KRS 16A.070 related to temporary permits for individuals in the process of obtaining their license as a long-term care administrator. The board is requesting that a temporary permit be valid for a period not to exceed 9 months, changed from the current 6-month period. Law requires nursing facilities to have a licensed, long-term care administrator at all times. When a vacancy occurs, it can be difficult to obtain a licensed long-term care administrator within the typical 30-day resignation timeframe. The facility may be able to hire an interim administrator if a full-time person had not been identified prior to the resignation. In this situation, the facility can request that a temporary permit be issued to an individual who has the minimum education but not the management experience that would be required.

Massage Therapy. The chair of the Board of Licensure for Massage Therapy said it is essential for the board to increase its fee structure. Fees have not been amended since the creation of the board in 2003. The board is funded solely through the fees it charges. The chair offered two options to increase fees: either allow the board to set fees in administrative regulations, or increase the current statutory fee amounts. The board would prefer to be allowed to set fees in administrative regulations.

Athletic Trainers. The president of the Kentucky Athletic Trainers Society introduced a proposal to expand the scope of practice for athletic trainers, stating that the proposal was consistent with what other states have implemented, with no known negative impacts on patient care or health care payment models. Representatives of the physical therapy and occupational therapy professions spoke in opposition to the proposal. The chairman directed the groups to work together and to bring a compromise proposal back to the committee during the 2020 legislative session.

Real Estate Appraisers Board. Representatives of the Real Estate Appraisers Board spoke to the committee about the need to place a statute of limitations on filing complaints with the board. Currently there is no limit, forcing the board to maintain extensive transaction records. Limiting complaints to transactions within the past 5 years would still provide consumer protection but would reduce the amount of records the board was forced to maintain. The board also proposed adding new fees for returned checks, a prelicensing course review fee, a continuing education course review fee, and changes to statutes to conform to recommendations made by a congressional subcommittee with jurisdiction over real estate appraisals.

Other Issues

BR 94—AN ACT relating to Criminal Damage to Rental Property. The Boone County commissioner said that not all tenants treat rental property with respect. BR 94 will help landlords screen future rental residents in order to protect their property investments. By reducing damage, and thus reducing the cost of repairs, investors will have more capital to invest in other projects. Additionally, the new screening tool will improve neighborhoods and communities. This new tool would be a way to track damage left by a tenant that would be reflected on the background check, allowing the landlord to rent to a better-quality tenant.

December Meeting

The committee was scheduled to have its final meeting of the year on December 16, after the deadline for this publication. Topics scheduled for the December meeting include

- a legal opinion on the constitutionality of sports betting,
- vaping and the use of artificial flavors and other additives,
- 2020 legislative requests from the Kentucky Guild of Brewers,
- licensing fee increases for opticians,

- therapeutic massage for animals,
- the shipment of alcoholic beverages, and
- sampling and rebate coupons for malt beverages.

Individuals desiring information on these topics may refer to the minutes for the committee's December meeting, which should be available online shortly after December 16.

Report Of The 2019
Interim Joint Committee On Local Government

Sen. Wil Schroder, Co-Chair
Rep. Michael Meredith, Co-chair

Sen. Ralph Alvarado
Sen. Denise Harper Angel
Sen. Stan Humphries
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. Robby Mills
Sen. Albert Robinson
Sen. Damon Thayer
Sen. Johnny Ray Turner
Rep. Danny Bentley
Rep. George Brown Jr.
Rep. Jeffery Donohue
Rep. Larry Elkins
Rep. Deanna Frazier
Rep. Joe Graviss
Rep. Cluster Howard
Rep. Regina Huff
Rep. Kim King
Rep. Adam Koenig
Rep. Stan Lee
Rep. Russ A. Meyer
Rep. Jerry T. Miller
Rep. Brandon Reed
Rep. Rob Rothenburger
Rep. John Sims Jr.
Rep. Ashley Tackett Laferty

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

Presented to the
Legislative Research Commission
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2020 Regular Session of the
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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; the powers, duties, and composition of fiscal courts and municipal legislative bodies; the 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; special districts not assigned to another committee.

Committee Activity

Kentucky Property Tax Calendar

There was discussion of duties and challenges relating to the Kentucky property tax calendar from the following individuals, with regard to the entities they represent: the president of the Kentucky Association of Counties (KACo), the executive director and the legislative vice president of the Kentucky Property Valuation Administrators Association, the legislative committee chair of the Kentucky County Judge/Executive Association, the Fayette County clerk, the chief deputy of the Kenton County Sheriff’s office, the director of governmental affairs with the Kentucky School Boards Association relating to the property tax collection calendar, a representative of the Kentucky League of Cities (KLC), the assistant director of the Division of Local Support with the Kentucky Department of Revenue, and the general counsel for the Department for Local Government.

Local Issues In Boone And Campbell Counties

The county judges/executive of Boone and Campbell Counties discussed the challenges their respective counties are facing and the successes each county is experiencing, as the committee traveled to northern Kentucky in connection with Northern Kentucky United Day.

Consolidation Of Local Emergency Services

The chief of the Burlington Fire Protection District discussed local emergency services governance reform. He noted the Boone Emergency Services of Tomorrow Comprehensive

Study and Recommendations, which examined the present structure of emergency service provision and contained a proposal for consolidation of those emergency services.

The assistant chief of the Point Pleasant Fire Protection District discussed challenges to fire service, emergency medical services, and rescue services provision.

The chief operating officer for BlueStar US discussed his company, which is a solutions-based distributor, and its relationship with the Point Pleasant Fire Protection District.

Fire Department Hiring Of Candidates Having EMT And Paramedic Certification

The executive director of the Kentucky Board of Emergency Medical Services, the president of the Kentucky Association of Fire Chiefs, and the chief of the Winchester Fire Department discussed the types of training disciplines, the agency organization types, and concerns and possible solutions relating to the recruitment, training, and hiring of new emergency medical technician (EMT) and paramedic personnel.

Issues Relating To Incarceration Of Prisoners

County Jail Population And Trends In Incarceration. The campaign director for In Our Backyards of the Vera Institute of Justice discussed Kentucky's incarceration trends relative to national trends, a brief history of Kentucky's county jails, the lodging of state prisoners in county jails, jail overcrowding, and the effects of those issues on governments and individuals.

The director of criminal justice policy with the Pegasus Institute discussed the overcrowding of Kentucky's jails, noted that this problem is unique to Kentucky, and informed the committee that there was a high likelihood of a judgment adverse to the commonwealth should a lawsuit in federal court be lodged against the state relating to overcrowding. He also discussed possible policy regarding pretrial incarceration reform in Kentucky.

A senior fellow for the Pegasus Institute and professor of criminology at the University of Cincinnati provided demographic information on arrests in Kentucky, as well as a discussion of Kentucky's prison bed capacity.

State And Local Fiscal Impact Of Housing State Prisoners In Jails. The secretary of the Justice and Public Safety Cabinet discussed overincarceration, the costs of state incarceration, limited resources of jails in terms of hosting substance abuse programs, the early nature of jails being used only to house prisoners for pretrial incarceration, and incarceration rates of women.

Incarceration Of Prisoners In Jails. The president of the Kentucky Jailers Association discussed the various statuses of jails, the duties of the jailers, and jail funding sources. He suggested possible solutions to consider that include raising the county jail per diem, and comprehensive penal code reform that would include pretrial and sentencing. Bail reform, felony threshold, expansion of substance abuse programs, and deputy jailer training are also subject to policy discussion.

The vice president of the association noted the responsibilities of counties for the incarceration of prisoners, even when a particular county's jail is closed. He also discussed potential force multipliers for substance abuse programs.

Local Costs Associated With Incarceration Of Prisoners In Jails. The Campbell County judge/executive noted that jails were the biggest public expense for Campbell County and for counties in general. He suggested that if no efficiency exists in housing state prisoners in local jails, then the state is just passing off costs. He noted issues relative to medical care of prisoners in terms of funding and transportation logistics.

Special Purpose Governmental Entity And Fire Department Annual Reports

The cities and special districts branch manager, the chief of staff, and the general counsel 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 executive director, the legislative director, and the auditor of the Kentucky Fire Commission presented the annual report required by KRS 95A.055 dealing with the fiscal and administrative reporting compliance of fire departments that must be registered with the fire commission for annual reports in lieu of registration with the Department for Local Government pursuant to KRS Chapter 65A.

KACo Legislative Platform For The 2020 Session

The KACo president and Boone County judge/executive, along with the KACo president-elect and Madison County judge/executive, presented KACo's legislative platform for the 2020 session of the General Assembly. Some of the primary platform items discussed were

- transportation as it relates to the gas tax and road infrastructure funding,
- jail funding,
- local tax reform as it relates to a local sales tax, and
- fiscal court approval of special district tax rates.

KLC Legislative Platform For The 2020 Session

The deputy executive director of KLC, the KLC president and mayor of Jeffersontown, and the KLC first vice president and mayor of London presented KLC's legislative platform for the 2020 session of the General Assembly. Some of the primary platform items discussed were

- separation of the governance of the County Employees Retirement System from the other systems;
- road funding modernization as it relates to the gas tax;
- revenue diversification as it relates to the restaurant tax, a local sales tax, and preserving the status quo of the occupational license tax as it relates to the crediting provisions;
- enacting provisions for the awarding of a conservatorship of blighted, deteriorated, and vacant properties;

- expanding internet-based publication options;
- expanding the alcohol regulatory license fee to all municipalities;
- modifying the law relating to emailed open records requests;
- modifying the law relating to open records dealing with the disclosure of the purchase and sale of property by local governments;
- issues related to ambulance service contracts and paramedic and EMT training;
- retirement and employment issues relating to local officials;
- annexation filings with the secretary of state;
- updates to the Interlocal Cooperation Act;
- addressing issues with maintenance of common areas of inactive residential associations; and
- refining health and safety laws relating to splash parks and pads.

Report Of The 2019
Interim Joint Committee On Natural Resources And Energy

Sen. Brandon Smith, Co-Chair
Rep. Jim Gooch Jr., Co-Chair

Sen. Jared Carpenter
Sen. Matt Castlen
Sen. C.B. Embry Jr.
Sen. Paul Hornback
Sen. Robby Mills
Sen. John Schickel
Sen. Reginald Thomas
Sen. Johnny Ray Turner
Sen. Robin L. Webb
Sen. Whitney Westerfield
Sen. Phillip Wheeler
Rep. John Blanton
Rep. Charles Booker
Rep. Adam Bowling
Rep. Terri Branham Clark
Rep. R. Travis Brenda
Rep. Randy Bridges
Rep. Myron Dossett
Rep. Jim DuPlessis
Rep. Daniel Elliott
Rep. Chris Fugate
Rep. Angie Hatton
Rep. Cluster Howard
Rep. Dennis Keene
Rep. Derek Lewis
Rep. Suzanne Miles
Rep. Melinda Gibbons Prunty
Rep. Josie Raymond
Rep. Cherlynn Stevenson
Rep. Jim Stewart III
Rep. Rob Wiederstein

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

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

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; 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 2019 Interim. No subcommittees were authorized. The committee considered a wide range of topics during the Interim: coal production and use, coal mine safety and reclamation, waste management, utility ratemaking procedures, rare earth element recovery, and state efforts to cleanup abandoned oil tanks and wells. The committee approved the Low Income Home Energy Assistance Program (LIHEAP) block grant application for fiscal year 2020.

Coal Mining

Coal Production And Use In Kentucky. The president of the Kentucky Coal Association stated that Kentucky is the fifth largest coal producer in the country; approximately 20 percent of all operating US coal mines are in the commonwealth. In 2018, approximately 75 percent of Kentucky's electricity generation was coal fired, so coal remains an important part of Kentucky's energy portfolio despite the recent decrease in production. The majority of coal burned in Kentucky is imported from other states, some of which have lower or no coal severance tax imposed on the coal they export. To help address this issue, the Kentucky Coal Association supported the Public Service Commission's decision to change its administrative regulation on the fuel adjustment clause, so that any assessed coal severance tax would be deducted in determining the reasonableness of a utility's fuel costs.

Kentucky is on a downward trajectory for energy intensity, a measure of energy consumption per real dollar of gross domestic product. The Energy Information Administration estimates that the energy intensity in the United States will continue to decrease. Kentucky is ranked seventh nationally for lowest cost of electricity.

Mine Safety And Reclamation. The secretary of the Energy and Environment Cabinet stated that the injury rate in Kentucky for surface mining is slightly higher than the national rate, and the injury rate for underground mining is the same as the national rate. The cabinet has proposed new regulations with coal industry input to require more reflective material on surface and underground coal miners and to require flashing beacons for coal miners on foot underground.

The Kentucky Reclamation Guaranty Fund (KRGF) provides monetary assistance to the cabinet in the event a reclamation bond is insufficient to complete reclamation on a mine site. In 2015, KRGF had a balance of $35 million with $80 million in liabilities. In 2019, KRGF has a balance of $49 million with $31 million in liabilities.

Waste Management

Waste-To-Energy Developments. Representatives from Inez Power discussed an energy-from-waste system using a gasification process that they have developed to convert municipal solid waste into energy. The gasification process produces synthesis gas that can be turned into valuable commercial products. It also does not produce any waste products, because all of the by-products have beneficial reuses.

Litter And Illegal Open Dump Cleanup Programs. The commissioner for the Department for Environmental Protection discussed state efforts to abate litter and clean up open dumps. The Litter Abatement Grant Program (LAGP) within the Kentucky Pride Fund (KPF) was established with the passage of HB 174 in 2002. The Kentucky Department of Transportation transfers $5 million annually to KPF for LAGP. The funds are distributed to counties based on road miles, total population, and rural population. The funding is used for direct expenses associated with litter cleanup and litter prevention education. From 2003 to 2018, total litter expenditures of grant funding plus additional spending by cities and counties were $126,302,172.

The Illegal Open Dump Grant Program was established with the passage of SB 50 in 2006. It is supported by a statutory environmental remediation fee of $1.75 per ton of landfill waste. A portion of the funds must be used for orphaned landfills. The total grant expenditures from 2006 to 2018 were $18,839,206.

Debris Management At Fishtrap Lake. The US Army Corps of Engineers's (USACE) resource manager for Fishtrap Lake stated that the majority of the debris in Fishtrap Lake is naturally occurring from trees and beaver dams; such debris comes from Virginia, where 95 percent of the watershed is located. USACE signed an agreement with Pike County Fiscal Court in February 2019 to use a $126,000 grant from the state. Two phases of the cleanup have been completed. Two additional phases of cleanup were scheduled for September 2019 and January 2020.

Environmental Remediation

Cleanup Of Orphan Wells And Abandoned Oil Storage Tanks. The director of the Division of Oil and Gas stated that the well-plugging program for orphaned wells prioritizes well closures based on their environmental and safety impact. The degradation of abandoned storage tanks results in leaks of crude oil, bottom sludge, and produced brine water, which causes contamination to the surrounding soil and water. The abandoned sites reduce property values, limit the use of the land, and affect agriculture.

2019 HB 199 created the Kentucky Abandoned Storage Tank and Orphan Well Reclamation Program (KASTOW) and authorized the use of existing Energy and Environment Cabinet funds for cleanup. The financial liability for plugging of orphan wells is approximately $72 million, and the financial liability to remove and clean up abandoned storage tanks is unknown. KASTOW will require reauthorization of funding through the biennial budget process and will need a minimum of $1.5 million a year. The focus of the first year was the cleanup of abandoned storage tanks on 10 pilot project sites. There are plans to expand the orphan well cleanup in the second year if funding is provided in the biennial budget.

Public Utilities

Utility Ratemaking 101. A commissioner at the Public Service Commission (PSC) stated that the PSC regulates 1,100 jurisdictional utilities, including water and sewer utilities, natural gas distribution systems and intrastate pipelines, electric utilities, and telecommunications. The PSC does not regulate most municipal utilities or utilities regulated by the Tennessee Valley Authority. Utilities are allowed to recover the cost of serving customers and to earn a reasonable rate of return on capital investments. The PSC ensures that rates are fair, just, and reasonable, and utilities must provide safe and reliable service.

In 2019, the PSC opened an administrative case to take public comments on implementation of 2019 SB 100 relating to compensation rates for net metering customers. The PSC also opened an investigation and adjusted rates downward after the federal Tax Cut and Jobs Act was signed into law in 2017 to ensure that utilities' tax savings under the Act were passed through to ratepayers.

Rare Earth Elements

The chair of the Department of Mining Engineering at the University of Kentucky stated that the majority of rare earth elements (REEs) are located in China, which supplies 74,000 tons of the 125,000 tons of REEs used globally each year. China purchases REEs from other countries, and controls the majority of the resources. The United States uses approximately 10,000 to 12,000 tons of REEs annually.

REEs are used in a wide variety of modern technologies, including smartphones, wind turbines, and electric vehicle batteries. The worldwide number of electric vehicles is expected to increase from approximately 4 million today to 400 million by 2040 and will require an increase of REE production of around 60,000 tons annually.

Recovery Of Rare Earth Elements From Coarse Coal Refuse. In 2014, the University of Kentucky conducted a study and found the total amount of REEs contained in the coarse refuse generated from 20 active coal preparation plants. Coarse refuse is the rock material co-produced with coal that is separated from the coal as part of its preparation process. The total amount of REEs in the coarse refuse found would generate 50 percent of the annual demand for REEs in the United States. Kentucky has more than 50 coal preparation plants and could meet the need for REEs in the United States.

There is an REE pilot plant, funded by the Department of Energy, in Providence. The plant processes REEs from coal and coal byproducts in Kentucky. The pilot plant has been successful in creating a concentrate that is 99 percent pure REE material.

Based on a preliminary assessment of a single hypothetical REE recovery plant, the plant could generate $6 million in state and federal income tax per year and create 50 jobs.

Recovery Of Rare Earth Elements From Coal Combustion Residuals And Electronic Scrap. A professor of mining engineering at the Center for Applied Energy Research within the University of Kentucky discussed his research in recovering REEs from fly ash, which is a byproduct of the coal combustion process. Although fly ash has somewhat low concentrations of REEs generally, it does have relatively higher concentrations of some of the heavier and more valuable REEs, which makes it an attractive possible source for recovery. Additionally, all of the byproducts from the fly ash recovery process are marketable.

Research is also being conducted at the Center for Applied Energy Research on the recovery of REEs from electronic scrap, including discontinued computer hard drives, printed circuit boards, and electric vehicle batteries. These discarded items are extremely rich sources of REEs, and also contain other valuable recoverable metals, including copper, silver, and gold. The challenge continues to be that there are limited acceptable domestic technologies and infrastructure for recovering REEs from these sources.

Reports Received

- Low Income Home Energy Assistance Program Block Grant Program Status Report Jan-June 2019
- Report Of The Audit Of The Kentucky Department Of Fish And Wildlife Resources FY 2018
- Report Of The Audit Of The Kentucky Heritage Land Conservation Nature License Plate Fund FY 2019
- Kentucky Department Of Fish and Wildlife Resources No Net Loss Report FY 2019
- Cabinet For Economic Development—Incentives For Energy Independence Act Annual Report FY 2019

Referred Block Grant Applications

- Low Income Home Energy Assistance Program Block Grant Application, Fiscal Year 2020

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee, as of November, had reviewed 22 administrative regulations upon referral from the Legislative Research Commission under the review process established in KRS Chapter 13A.

Report Of The 2019 Interim Joint Committee On State Government

Sen. Wil Schroder, Co-Chair
Rep. Jerry Miller, Co-Chair
Rep. Kevin Bratcher, Co-Chair

Sen. Ralph Alvarado
Sen. Denise Harper Angel
Sen. Stan Humphries
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. Robby Mills
Sen. Albert Robinson
Sen. Damon Thayer
Sen. Johnny Ray Turner
Rep. Tina Bojanowski
Rep. Tom Burch
Rep. McKenzie Cantrell
Rep. Jeffery Donohue
Rep. Jim DuPlessis
Rep. Larry Elkins
Rep. Joseph M. Fischer
Rep. Kelly Flood
Rep. Derrick Graham
Rep. Joe Graviss
Rep. Richard Heath
Rep. Samara Heavrin
Rep. Jeff Hoover
Rep. Derek Lewis
Rep. Scott Lewis
Rep. Mary Lou Marzian
Rep. Reginald Meeks
Rep. Patti Minter
Rep. Jason Nemes
Rep. Jason Petrie
Rep. Rick Rand
Rep. Attica Scott
Rep. Steve Sheldon
Rep. James Tipton
Rep. Tommy Turner
Rep. Ken Upchurch
Rep. Les Yates

LRC Staff: Alisha Miller, Michael Callan, Daniel Carter, Bo Cracraft, Kevin Devlin, Brad Gross, Jennifer Black-Hans, Roberta Kiser, Karen Powell, Angela Rhodes, and Peggy Sciantarelli

Presented to the
Legislative Research Commission
and the
2020 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; absentee ballots.

Committee Activity

The Interim Joint Committee on State Government held six meetings during the 2019 Interim, focusing on local issues in Boone and Campbell Counties; consolidation of local emergency services; fire department hiring of candidates having emergency medical technician (EMT) and paramedic certification; update from the Finance and Administration Cabinet; property tax exemptions for veterans service organizations; sanctuary cities; the Legislators' Retirement Plan (LRP); the 2020 Kentucky Employees Health Plan; the legislative code of ethics; the Office of Secretary of State; the Registry of Election Finance; legislative agenda for the Kentucky County Clerk's Association (KCCA); election contest boards; terms of members of the Kentucky House of Representatives; prefiled legislation for the 2020 Regular Session; and the annual recommendations of the Public Pension Oversight Board.

Local Issues In Boone And Campbell Counties

The county judges/executive of Boone and Campbell Counties discussed the challenges their respective counties are facing and the successes each county is experiencing as the committee traveled to Northern Kentucky in connection with the Northern Kentucky United Day.

Consolidation Of Local Emergency Services

The chief of the Burlington Fire Protection District discussed local emergency services governance reform. He noted the Boone Emergency Services of Tomorrow Comprehensive Study and Recommendations that examined the present structure of emergency service provision and contained a proposal for consolidation of those emergency services.

The assistant chief of the Point Pleasant Fire Protection District discussed challenges to fire service, emergency medical services, and rescue services provision.

The chief operating officer for BlueStar US discussed his company, which is a solutions-based distributor, and its relationship with the Point Pleasant Fire Protection District.

Fire Department Hiring Of Candidates Having EMT And Paramedic Certification

The executive director of the Kentucky Board of Emergency Medical Services, the president of the Kentucky Association of Fire Chiefs, and the chief of the Winchester Fire Department discussed the types of training disciplines, the agency organization types, and concerns and possible solutions relating to the recruitment, training, and hiring of new EMT and paramedic personnel.

Update On Construction Projects Of The Finance And Administration Cabinet

The secretary of the Finance and Administration Cabinet welcomed the committee to the State Fair and discussed major projects relating to Louisville and Frankfort properties owned or managed by the cabinet. He stated that additional parking spaces and upgrades to roads and infrastructure are being provided at the Kentucky Fair and Exposition Center. Other planned upgrades focus on safety and security and the digitizing of signage. The Kentucky International Convention Center received a 2-year, $207 million renovation and, in 2019, will host events with an economic impact of more than $95 million. The Kentucky Center for the Performing Arts is being remodeled after a June 2018 fire, with completion expected in November 2019. Downtown Louisville's L & N Building, which primarily houses the state's Cabinet for Health and Family Services, has also been upgraded at a cost of $9.5 million.

The new office building in downtown Frankfort was named the Mayo Underwood Building in recognition of the publicly funded African-American school of the same name that once stood on the same location. The Public Protection, Labor, Education and Workforce, and Tourism Cabinets are to be housed in that new 358,000-square-foot, five-story building.

Discussion Of 20 RS BR 127 And 20 RS BR 247

Representative Bratcher discussed his prefiled bill, BR 127, that proposes to amend Section 170 of the Constitution of Kentucky to exempt certain veterans' organizations from state property taxation if they have qualified and been approved for exemption from federal income taxation.

The adjutant for Veterans for Foreign Wars (VFW) Post 696, Owensboro, spoke in support of BR 127. There are 26 veterans' service organizations (VSOs) in Kentucky. These 501(c)(19) organizations are exempt from federal income tax. VSOs provide assistance to active duty military personnel and their families and contribute greatly to communities. Subsequent to Owensboro's $300 million downtown revitalization, the property tax on the Post 696 building in 2019 increased 243 percent. Language in Section 170 of the Constitution of Kentucky includes "institutions of purely public charity" in categories that shall be exempt from taxation of property. In 2016, Post 696 applied to the Kentucky Department of Revenue for exemption as a "purely public charity," but the exemption was denied. In 2018, then-Representative D.J. Johnson prefiled BR 7, to exempt VSOs from city and county property taxes if the majority of net revenue was donated to charitable causes. That bill later became 2019 Regular Session HB 153, sponsored by Representative Walker Thomas and others, but it was not called up for a vote in committee. This issue is a priority of the Kentucky Department of Veterans Affairs (KDVA).

The adjutant provided preliminary estimates of the potential annual impact of the property tax exemption on revenue to the state and counties. Loss to the state from all of the three largest VSOs (VFW, American Legion, American Veterans/AMVETS) is estimated at $25,000 to $30,000. Loss to all counties and cities combined is estimated at $250,000 to $300,000.

Representative Matthew Koch testified in support of the property tax exemption. He prefiled BR 247 on August 16, 2019, to exempt a VSO from ad valorem taxation on property assessed on or after January 1, 2021, if over 50 percent of the VSO's annual net income is expended on behalf of veterans and other charitable causes.

The commissioner of KDVA spoke in support of the exemption. He stated that veterans organizations are struggling to increase membership and stay open. It is important to continue supporting veterans and would be detrimental if any VSOs are forced to close.

Proposed Legislation Relating To Sanctuary Cities

Representative John Blanton and Senator Danny Carroll discussed legislation they plan to co-sponsor for the 2020 legislative session relating to enforcement of sanctuary policies. A special operations sergeant in the Lexington Police Department who is also president of Bluegrass Lodge 4, Fraternal Order of Police (FOP), testified in support of the proposed legislation.

Representative Blanton said the intent of the legislation is to prevent any government entity within the commonwealth from declaring, enacting, adopting, or otherwise enforcing any sanctuary policy, whether written or oral. It seeks to enable law enforcement officers to do their jobs and to prevent local government entities from dictating which laws can and cannot be enforced.

Senator Carroll said that the safety of citizens depends on cooperation between law enforcement agencies at all levels. To allow any action that would limit that cooperation would be detrimental to safety and is unacceptable. The Kentucky League of Cities (KLC) and the Kentucky School Boards Association (KSBA) have proposed changes to the draft legislation.

KLC is proposing language to address cooperation between state, local, and federal law enforcement agencies and to ensure that the law will apply on a statewide basis. It would nullify any preexisting or later-enacted sanctuary policy that would be in violation of the law and would allow any constitutional officer or legislator to file suit to enforce the law. KLC's proposed language would also cover employees of a law enforcement agency, not just sworn officers. It would eliminate the requirement for an Immigration and Customs Enforcement detainer if the person provides proof of citizenship or legal immigration status. KLC would also add a requirement that the attorney general defend any relevant actions brought against an agency, if requested by the agency head, with the state being be liable for expenses or other associated cost. Many of KLC's changes were based on similar laws that have been implemented in other states. The KSBA's proposed changes would consider Supreme Court case law, the federal Family Educational Rights and Privacy Act, and other federal laws that might preclude enforcement in Kentucky schools.

The FOP president stated that police agencies, sheriff's departments, and correctional facilities rely on partnerships with, and resources provided by, federal agencies. The federal partnerships are critical to the safety of Kentucky citizens and the police officers that protect them. The legislation addresses the ability of local entities to continue using resources as they have in the past.

Representative Lynn Bechler discussed his prefiled bill, BR 240, relating to compliance with state and federal law. BR 240 proposes that any political subdivision in the commonwealth, such as a county, city, or institution of higher learning, be precluded from adopting a sanctuary policy. It would also establish monetary penalties for entities that choose to have such a policy. It is estimated that approximately 42,500 illegal aliens of working age reside in Kentucky.

Representative Bechler said that 13 states—Alabama, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, and Texas—have laws of some type to ban sanctuary cities.

He stated that a Kentucky administrative regulation specifically allows illegal aliens to be charged in-state tuition at Kentucky public colleges and universities, which conflicts with federal law and could result in an annual loss of more than $250 million to the colleges and universities.

Proposed Legislation Relating To The Legislators' Retirement Plan

Representative Tipton discussed BR 268, his draft proposal relating to current and future legislators enrolled in the Legislators' Retirement Plan and the Kentucky Employees Retirement System-nonhazardous plan (KERS-NH). He said his goal with the legislation is to ultimately end the Legislators' Retirement Plan.

BR 268 would affect only current and future legislators who are members of LRP or KERS-NH. Effective July 1, 2020, a new legislator would participate in KERS-NH unless the member opts out of KERS coverage within 30 days after taking office. This would effectively close LRP to new members.

Current legislators who joined LRP on or after January 1, 2014 (cash balance members) would cease participating in LRP effective December 1, 2020, and have their service and account balances transferred to KERS; they would prospectively participate in a KERS cash balance account. They would also have the option to make a one-time irrevocable election to not participate in KERS for service as a legislator.

For legislators elected after January 1, 2014, the LRP inviolable contract covers only their account balance. Current legislators who joined LRP prior to January 1, 2014, (defined benefit members) would have the option to make a one-time irrevocable election to prospectively participate in KERS instead of LRP, or to prospectively not participate in LRP or KERS for all future legislative service. The benefit factor would be reduced from 2.75 percent to 1.97 percent for each year of service accrued on or after July 1, 2020, for service as a legislator. BR 268 would also modify the LRP inviolable contract to exclude future changes to the law after July 1, 2020.

Under BR 268, salary reciprocity for nonlegislative compensation earned on or after July 1, 2020, would be removed for defined benefit members in LRP prior to January 1, 2014, and benefits at retirement would be calculated based on legislative salary and nonlegislative compensation earned prior to July 1, 2020. The same change would apply to benefits earned by legislators in KERS. Legislators would still be able to participate in the deferred compensation program.

2020 Kentucky Employees' Health Plan

The secretary of the Personnel Cabinet, the commissioner of the Department of Employee Insurance, and an Aon actuary reviewed the Kentucky Employees' Health Plan (KEHP) for plan year 2020.

KEHP covers more than 6 percent of the state's population. The membership includes school boards (52 percent), early retirees (24 percent), state agencies (19 percent), and quasi-governmental groups (5 percent). It is the largest self-funded plan in the commonwealth, with an annual spend of $1.9 billion. KEHP members include 180,040 active employees and pre-65 retirees, and the plan covers 292,703 lives.

Premium increases in 2020 are small. The highest premium increase is less than $20, and there are small deductible and maximum out-of-pocket increases of $250. The healthcare flexible spending account maximum contribution is increased to $2,700. Members eligible for a waiver general purpose Health Reimbursement Arrangement (HRA) will be allowed to receive $175 per month ($2,100 per year). KEHP must hold HRA funds in reserve. To be fiscally responsible, the cap on the carryover balance from 2019 to 2020 was lowered to $6,000. The carryover from 2020 to 2021 will be lowered once again—to $5,000. The cabinet regularly communicates to members the importance of using HRA funds. KEHP also reaches out to individual planholders who have high HRA balances that are in danger of lapsing.

StayWell is the new well-being vendor for 2020, replacing Go365. There will be no changes to the LivingWell Promise. Planholders must complete a health assessment or biometric screening between January 1 and July 1, 2020, to receive the $480 annual premium discount incentive in 2021.

KEHP began offering optional dental and vision benefits in 2019 at no cost to the state. School boards represent KEHP's largest population; 680 of the 690 Kentucky schools that KEHP services have participants in the dental plan, and 678 have participants in the vision plan.

Through the Department of Employee Insurance, Commonwealth of Kentucky public employees are also provided $20,000 of basic life insurance coverage at no cost.

KEHP began offering the free Rethink benefit in January 2019 to offer online and telephone assistance to support those who care for children and teenagers with learning or behavioral challenges, including autism. The Live Health Online-Medical benefit has had more than 31,000 visits and has realized cost savings of $6.6 million. Live Health Online-Behavioral Health is a free benefit that uses the cabinet's Employee Assistance Program as a resource. This online benefit has had 5,691 visits. SmartShopper is a benefit that helps KEHP and its members save money by identifying lower-cost providers for medical procedures. This benefit has realized total claims savings of $11.8 million. Members have received incentives of $2 million, and the average claims savings per incentive is $551.

Solera became administrator for the free Diabetes Prevention Program in September 2019, and 4,030 members have enrolled in the program. The Value Benefits Program now includes not only diabetes, but also chronic obstructive pulmonary disease and asthma.

The secretary said it would be helpful if KEHP had the ability to maintain reserve funds for carryover from one plan year to the next. The actuary said that Aon's survey of all states indicates that it is best practice to have some type of solvency reserve. Senator Thayer said that KEHP is the only state-funded plan in the nation that is required by statute to start each plan year with zero funding and no prior year carryover. He suggested that the Personnel Cabinet develop language for possible legislation to address that issue and deliver it to the State Government Committee co-chairs for consideration during the 2020 legislative session.

Proposed Changes To The Legislative Branch Code Of Ethics

The executive director of the Kentucky Legislative Ethics Commission, the chairman of the commission, and the commission's counsel presented five recommended changes to the Code of Legislative Ethics that were approved by the commission in August 2019.

- Create a comprehensive ethics prohibition against discrimination and harassment by legislators and legislative agents against legislative employees, legislators, or legislative agents. The recommendation would specifically define *discrimination*, *workplace harassment*, and *sexual harassment* as actions that violate either Kentucky or federal statutes, regulations, or case law relating to protected classifications, and it would define *legislative workplace complaint*. It would prohibit legislators, legislative agents, and the LRC director from intentionally engaging in discrimination or workplace harassment against an employee of the legislative branch, legislator, or legislative agent, and would provide that a violation is ethical misconduct.
- Add a requirement for ethics training for legislative staff and change the commission's current issues seminar to 2 hours. Require that the seminar and the orientation course for new legislators qualify for continuing legal education credit.
- 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.

- Clarify that the Legislative Ethics Commission 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.
- Clarify that any alleged violation of the Code of Legislative Ethics can be adjudicated by the commission as ethical misconduct, even if it is designated as a misdemeanor or a felony.

The executive director said the legislative ethics code is codified in statute and is considered one of the strongest ethics codes in the nation. Portions of the proposed recommendations were contained in HB 60, sponsored by Representative Kim Moser during the 2019 Regular Session.

Office Of The Secretary Of State

The secretary of state-elect discussed his campaign platform and his goals for the office. He intends to focus on cleaning the voter rolls, enacting a law to require a photo ID for voting, and addressing recent problems relating to the role of the secretary of state. He discussed his plans to facilitate recruitment of poll workers, rebuild the relationship of his office with the State Board of Elections, work closely with local officials, and research whether excessive wait time at the polls is a problem in Kentucky. He also supports passage of a constitutional amendment to restore voting rights to convicted felons who have paid their debt to society.

Registry Of Election Finance—Update

The executive director of the Registry of Election Finance stated that the registry is continuing to implement the changes enacted in 2019 RS SB 4, which requires mandatory electronic filing of campaign finance reports. Development of the electronic filing system is a work in progress. The registration process is working, and electronic filing will be required for the first time for the 2020 primary election cycle.

The first electronic filing requirement will be the 30-day pre-primary election filing. That part of the system should be operable in early 2020, and it can be used as a tool for storing an individual’s campaign finance records. The phone app is not yet available, but the electronic filing system can be accessed through the registry’s website. Electronic filing will be allowed only on the new system, but data can be exported to the new system by persons who already use a vendor for electronic filing.

KY County Clerk’s Association—Legislative Agenda For 2020

The Fayette County and Kenton County clerks discussed the Kentucky County Clerk’s Association’s legislative proposals for the 2020 regular session. In order to improve the ability to recruit poll workers, KCCA is suggesting that persons who change party affiliation may serve as an election officer if the change in party occurred before December 31 of the prior year. KCCA also proposes allowing registered independents to serve as election officers while still requiring that the two crucial judge positions include both a Democrat and a Republican. In voting locations that serve more than one precinct, the county clerks said, it would make sense and save money to consolidate functions by using fewer sets of machines and requiring fewer sets of officers. Although such consolidation can be done legally now, the clerks said KCCA would like to have it specifically authorized by statute. The clerks suggested that there may be other proposals relating to absentee voting, duplication of paperwork in candidate filing, and other minor changes.

Legislation Relating To Election Contest Boards

Two members of the LRC staff—the general counsel for House majority leadership and the general counsel for the House Democratic caucus—testified regarding legislation relating to election contest boards that was sponsored by House Speaker David Osborne and House Minority Floor Leader Rocky Adkins for the 2019 Regular Session. The bill is bipartisan and is intended to remedy problems that became apparent after the results of the 2018 House District 13 election were contested. The bill does so primarily by separating the mechanisms for a regular recount from an election contest that may allege irregularities or voter fraud. It provides for an automatic recount if an election is within half a percentage point or less. The automatic recount removes discretion and politics from the process. The recount is done at the county level by election professionals and would be paid for by the state rather than by the candidates. The current system favors the wealthy candidate who can afford to pay for a recount. The bill provides for election security and a chain of custody for the ballots and the voting machines, which is not addressed in current election contest statutes. The bill provides for transparency in the election process and is intended to restore confidence in the integrity of elections. It would allow political parties, political groups, or political organizations, as defined in statute, to post a bond and pay for recounts. The bill does not apply to primary elections.

Proposed Constitutional Amendment Relating To Terms Of Office Of Members Of The Kentucky House Of Representatives

Representative Heath discussed his draft legislation proposing to amend Sections 30 and 31 of the Constitution of Kentucky relating to terms of members of the Kentucky House of Representatives. It would provide that members could be elected to 4-year terms instead of 2-year terms. If enacted, the question would appear on the ballot for the 2020 general election. If the constitutional amendment were to be approved, candidates in even-numbered House districts would be elected to 4-year terms beginning with the November 2022 general election and every 4 years thereafter. At the general election in November 2024, and every 4 years thereafter, candidates in odd-numbered House districts would be elected to 4-year terms. Representative Heath is proposing the bill to address three issues: voter confusion, voter fatigue, and legislators' use of their time. The ballot language for the bill has not been determined.

Pensions And Prefiled Legislation

The committee met in December to discuss prefiled legislation and to hear a report from the Public Pension Oversight Board.

Senator Jimmy Higdon and Representative DuPlessis, co-chairs of the Public Pension Oversight Board (PPOB), discussed the recommendations that were approved at the December 2019 PPOB meeting.

Representative Tipton, sponsor, discussed BR 224, relating to dually employed retirement system members, and BR 461, relating to state employee compensation. The chief of police of the Lawrenceburg Police Department and the director of emergency management in Anderson County testified in support of BR 224. The president of the Kentucky Transportation Employees' Association and the president of the Kentucky Association of Transportation Engineers testified in support of BR 461.

Representative Buddy Wheatley, sponsor, discussed BR 463, relating to changing beneficiaries after retirement in state-administered retirement systems.

Report Of The 2019 Interim Joint Committee On Tourism, Small Business, And Information Technology

Sen. Danny Carroll, Co-Chair
Rep. Tommy Turner, Co-Chair
Rep. Phillip Pratt, Co-Chair

Sen. Perry B. Clark
Sen. Rick Girdler
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Jimmy Higdon
Sen. Alice Forgy Kerr
Sen. Wil Schroder
Sen. Reginald Thomas
Sen. Mike Wilson
Sen. Max Wise
Rep. Lynn Bechler
Rep. Terri Branham Clark
Rep. George Brown Jr.
Rep. Jeffery Donohue
Rep. Deanna Frazier
Rep. Chris Freeland
Rep. Chris Fugate
Rep. Jim Glenn
Rep. Robert Goforth
Rep. Jim Gooch Jr.
Rep. David Hale
Rep. Richard Heath
Rep. Cluster Howard
Rep. Kim King
Rep. Adam Koenig
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Rep. Charles Miller
Rep. Ruth Ann Palumbo
Rep. Josie Raymond
Rep. Brandon Reed
Rep. Bart Rowland
Rep. Steve Sheldon
Rep. Maria Sorolis
Rep. Cherlynn Stevenson
Rep. Ashley Tackett Laferty
Rep. Nancy Tate
Rep. Rob Wiederstein
Rep. Les Yates

LRC Staff: Andrew Manno, Chip Smith, Candice Messer, Janie Boyd, and Sasche Allen

Presented to the
Legislative Research Commission
and the
2020 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; 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 Cabinet; hunting and fishing; boating; horseback riding; hiking; bird watching; rock climbing; recreational use of all-terrain vehicles; mountain biking; cycling; kayaking; recreational land use.

Committee Activity

The Interim Joint Committee on Tourism, Small Business, and Information Technology held seven meetings during the 2019 Interim. One meeting was held jointly with the Interim Joint Committee on Economic Development and Workforce Investment. In addition, the Subcommittee on Economic Development, Small Business, and Information met on one occasion.

Cabinet Updates

Tourism, Arts, And Heritage Cabinet Update. The secretary of the Tourism, Arts, and Heritage Cabinet stated that the cabinet has asked for $150 million to fix problems within the parks. The first $80 million will be for infrastructure improvements. The next $70 million will help with increased sales. The deputy secretary said the cabinet completed 133 projects with the funding that had already been allotted. This $18 million had been spent on new roofs, exterior repairs, and electrical and safety repairs. It upgraded swimming pools, campgrounds, and hospitality. Customer feedback scores have improved significantly since the implementation of these upgrades.

The commissioner of parks said that during FY 2019 the department received $20 million, which is divided in half for each year of the biennium, for safety and aesthetics upgrades. Of that amount, $7.3 million will be used for new roofs and exterior repairs, $5.2 million will be allocated to a maintenance pool, $3.8 million will be for infrastructure and utility upgrades, $2.4 million will be for campground updating, and $1.3 million will be used for hospitality upgrading. Sixty-five percent of the funded projects are under way. The department has planned for many more projects to restore and renovate the commonwealth's state parks, broken into two phases. During the 2019 Regular Session, the department received $50 million for phase one as part of a bond pool from the General Assembly. Of that amount, $20.1 million will be used for wastewater treatment facilities, $11.6 million will be used to replace roofs at all 17 state resort parks, $7.4 million will fund various infrastructure needs, $4.1 million will be used for life safety systems and ensuring compliance with the Americans With Disabilities Act (ADA), $3.4 million will update guest lodging at all resort parks, and $3.4 million will be used to update outdated communications systems. Phase two requires $100 million, which will be requested from the General Assembly in the 2020 Regular Session. These extensive repairs will include $25 million for campground upgrades, $11.2 million for new cottages and accommodations, $10 million for a deferred maintenance pool, $6.6 million for outdated communications systems, $4.9 million for golf courses, $4.6 million for various infrastructure needs, $3.8 million for new roofs, $2.2 million for life safety systems and ADA compliance updating, and $2.1 million for wastewater treatment facilities.

Kentucky Dam Village State Resort Park has seen an increase in business and guests due to its recent renovations, but other state parks have seen a decline, some as much as 14 percent, due to the Asian carp issue among other reasons. Improving and expanding campgrounds is a top priority to capitalize on because of the large number of campers that are currently being manufactured and sold. Several parks have had extensive damage. Kentucky Dam Village State Resort Park had the worst damage, and 70 percent of its campgrounds are still unusable. Nolan Lake and Green River State Resort Parks also had damage that has since been fixed. The occupancy rate of state lodges is 38 percent, taking into account the winter months, which is comparable to rates of other states. During the summer months, most lodges are almost at capacity. The secretary confirmed that there is a public private partnership project in the works, but current litigation is creating a delay. There need to be amendments to public private partnership legislation. The secretary explained that decisions regarding special events held at state parks are made by each state park's management, but permits do have to be obtained through the department.

The chief of staff for the cabinet stated that information requested at a previous meeting regarding the return on investment of a $150 million proposal for renovations to state parks had been dispersed to members. He said that by August 1, 2019, members of the General Assembly would be provided with a list of completed, planned, and current projects of the Department of Parks.

Department Of Fish and Wildlife. Department leadership gave overviews and updates. The department uses various platforms to relay information to the public, including the *Kentucky Afield* television show (the longest continuously running outdoors television show in the country), Facebook, Twitter, and YouTube. Although *Kentucky Afield* draws 250,000 viewers each month, the most growth has been with the YouTube page, which receives 12 million views a year. The Department has created 25 informational videos this year, which have garnered 350,000 Facebook views. Available on its website are statewide news releases, meeting agendas, video archives of committee and commission meetings, and quarterly financial reports. Another communication medium that has been expanded is GovDelivery, a communication tool that will allow the department to engage customers and staff by email.

Some of the information dispersed to citizens includes details regarding the Asian carp crisis that the state is currently facing. Black, bighead, and silver carp have been infesting Kentucky lakes and rivers for the past several years. One solution has been the creation of a bioacoustical fish fence that will be installed by the end of 2019 at Lake Barkley. These fences will use bubble fences and a sound deterrent to prevent the fish from traveling any further. This effort is a collaboration with the US Fish and Wildlife Service, the US Geological Survey, the Tennessee Wildlife Resources Agency, and the US Army Corps of Engineers through a 3-year research grant. The department also recently began contracting with commercial fishermen to remove carp around the Louisville area through a $400,000 grant from the US Fish and Wildlife Service. Nine commercial fishermen are already under contract and in 1 day pulled out 8,000 pounds of fish from the Ohio River. The department has also partnered with the Kentucky Fish Center to help combat the massive number of carp. The Kentucky Fish Center is a private business whose goal is remove 5 million pounds of carp from waterways by the end of 2019. The deputy commissioner highlighted a press release that had just been issued which said the US Fish and Wildlife Service would dedicate personnel and equipment to the state to combat the carp infestation, specifically deploying its unified method, which is a combination of sound and specialized netting.

There was discussion of chronic wasting disease (CWD), a neurological disease of deer, moose, and elk. It is a contagious prion disease that causes deterioration of the brain and causes the animals to become emaciated, lose their fear of humans, and react erratically; it can eventually be fatal. CWD has not been found in Kentucky but has been found in six of the seven surrounding states. Due to the proximity of known cases in other states, forward planning is being used through the department's communication team. Community forums have been held in the western, eastern, and northern parts of the state to give information about how to prevent CWD from crossing into the commonwealth.

Boater safety is currently being focused on, specifically the use of alcohol and failure to wear life jackets, which are the top two factors in causes of boat fatalities. Public service announcement videos have been created by the department and posted on social media to bring awareness to boating safety. Kentucky law requires each occupant of a boat to have a life jacket. Boating safety educational videos are available on the department's website, and a boating safety coordinator was recently hired. The department's chief of staff thanked members for the passage of HB 248 during the 2019 Regular Session; it gives conservation officers added authority to make arrests for boating under the influence, based on probable cause.

More than 250,000 people have taken part in the summer camp programs over the years. There were 4,500 children of ages 10 to 13 who were to attend during the summer of 2019. The campers were to learn about nature, archery, boating, outdoor survival, firearm safety, fishing, and swimming. At the close of camp, children can obtain completion patches and hunter education cards. The program staffs a director, educators, superintendents, and maintenance workers and has eight air-conditioned cabins per camp that hold 25 to 30 campers. The yearly budget of the program is $1 million, or approximately $300 per camper.

Kentucky Venues. The president and chief executive officer of Kentucky Venues thanked the General Assembly for funding that made several improvement projects possible, including upgrades to restrooms and improvements to meeting spaces. Since January 2019, Freedom Hall and the Kentucky Exposition Center have hosted 123 shows with an estimated economic impact of $200 million. The Kentucky International Convention Center in downtown Louisville has hosted 80 shows with an economic impact of $100 million. Over 60 percent of the area's hotels are occupied due to the shows and business of these facilities. The 2019 Kentucky State Fair, which was held at Kentucky Exposition Center, was the 115th state fair. The 2018 State Fair had had over 614,000 patrons, and online ticket sales showed that purchases were made from all 120 Kentucky counties. For the 2019 State Fair, there were over 1,100 animals were to be shown and judged, 23,000 competition entries, 5,000 exhibitors, and over 400 vendors. Two other major events that are held at the Kentucky Exposition Center, which has over 1.2 million square feet of climate-controlled space, are the North American Livestock Show and the National Farm Machinery Show.

Kentucky Center For The Performing Arts. The president and chief executive officer of the Kentucky Center for the Performing Arts outlined its history, its operation, and an upcoming venue opening. In 1980, the General Assembly developed a plan to build the $33.5 million center through a public private partnership in which the state would provide partial funding, a foundation would provide partial funding, and a portion of the Louisville transient room tax would also fund operation. It was established as a 501(c)(3) to promote the growth and development of the arts while serving as a catalyst for tourism and talent attraction. Members of the board of directors are appointed by the governor, and the center is administratively attached to the Tourism, Arts, and Heritage Cabinet. The Kentucky Center for the Arts Corporation was also created, in conjunction with the Finance and Administration Cabinet, to supervise construction of the center and provide all management functions for facility or any other property acquired or leased. The center is not included in the state's personnel or pension systems and is considered a component unit of the commonwealth. Sources of funds for the FY 2020 budget included 2 percent from the Governor's School for the Arts (GSA) state appropriation, 1 percent from a state maintenance pool, 19 percent from the Louisville transient room tax, 10 percent from contributed income, and 68 percent from center operations. The budget in 1983 was $3 million, and the budget for FY 2020 is approximately $25 million.

The Kentucky Center for the Arts Corporation has a family of venues that include the Kentucky Center, the Brown Theater on Broadway, and the Old Forester's Paristown Hall. The Kentucky Center houses Whitney Hall, Bomhard Theater, and MeX Theater. The Brown Theater was purchased by the center in 2018, and the Old Forester's Paristown Hall opened to the public on July 23, 2019. Old Forester's Paristown Hall is a 2,000-person standing room and part of a larger

$32 million development project that is receiving tourism tax incentives. The venue is financed through private donations and a private commercial loan that will be maintained by the Kentucky Center for the Arts Foundation. It will attract national music artists with local, regional, and national audiences while driving tourism dollars to the area. No state tax dollars were used to build the Old Forester's Paristown Hall. GSA has been hosted over the years at Bellarmine University, Centre College, Transylvania University, and the University of Kentucky. GSA has 98 percent of its students attend college, with 92 percent receiving a scholarship averaging $20,000.

Travel And Tourism Industry

Cincinnati/Northern Kentucky International Airport. The Cincinnati/Northern Kentucky International Airport (CVG) encompasses 7,700 acres, which is larger in land area than the city of Florence, and has runways that are positioned in a way to lessen noise for the surrounding area. In June 2019, CVG set a local record of 426,246 passengers served. According to US Department of Transportation rankings, CVG's $346 average airfare is the lowest in the region, and CVG is the only airport in the region whose average is lower than the national average of $353. In June 2019, Frontier Airlines announced new nonstop routes from CVG to include Fort Lauderdale, Florida; Miami, Florida; New Orleans, Louisiana; and Sarasota-Bradenton, Florida, in the fall of 2019. The airport is a regional jobs hub with more than 70 employers on campus and more than 31,000 total jobs supported. Employees are 52 percent Kentucky residents, 38 percent Ohio residents, and 10 percent residents of Indiana and other states. CVG has an annual economic impact of $4.4 billion, and the total passenger volume has grown 38 percent since 2015. Air service growth has been driving down airfares, contributing to increased passenger volume. Every year since 2016, CVG has supported more than $21 million in income tax revenues for the commonwealth and more than $4 million for Ohio. Furthermore, the airport supports more than $625 million in direct labor income and more than $1.3 billion in total labor income.

In January 2017, Amazon announced that its new air cargo hub will be located at CVG. This represents a $1.5 billion investment and is projected to create 2,000 jobs at its initial opening. The Amazon Prime Air hub will be over 900 acres and will include a 3-million-square-foot sorting facility, a loading dock, and ramp space for 100 planes. Until construction of phase one is complete in the third quarter of 2021, Amazon has partnered with DHL to use its existing space for package sorting. Groundbreaking for the major project took place in May 2019.

Creating a hub of innovation has been a top priority for the airport. CVG is engaging startups, integrating universities through research and development, partnering with established companies, and navigating positive regulatory change. Partnerships with startups and universities such as the University of Louisville, the University of Kentucky, and Northern Kentucky University have been used to improve and explore logistics, cyber security, application development, work health and safety, and weather applications. CVG is currently working on automated kiosks for passenger check-in that will maximize efficiency and lower costs. Self-navigating Segways that could be used by those with limited mobility are being developed. Lastly, CVG is working to develop wearable technology for individuals with vision disabilities.

Kentucky Travel Industry Association. The president and chief executive officer of the Kentucky Travel Industry Association indicated that the tourism industry is a major economic driver in the commonwealth. The tourism industry brought 71.6 million visitors to the state in 2018 and had an economic impact of $11.2 billion. The industry also provides over 94,500 jobs and $787 million in local and state taxes. Three main categories of the tourism industry are service providers, experience providers, and destination marketing organizations. Service providers are businesses that supply the basic needs of travelers such as hotels, restaurants, and retail stores. Experience providers are those businesses and locations that are delivering the attractions such as the state's distilleries, museums, historical sites, and recreational sites. Destination marketing organizations are the promoters of the tourism industry such as the Kentucky Department of Tourism, local tourism commissions, and local convention and visitors bureaus.

The Department of Tourism receives its administrative funding from the general fund and receives funding for marketing from the 1 percent statewide transient room tax. The local tourism commissions across the state receive funding from the local transient room taxes, restaurant taxes in some smaller cities, and limited matching funds from the Department of Tourism. The tourism industry faces challenges such as workforce shortages, a backlog of needed repairs at some of the state parks, limited internet access in some areas, and, specific to the western part of the state, the Asian carp crisis. However, funds have recently been appropriated for the needed updates to some of the state parks, and new ways have been formulated to handle the Asian carp crisis. Furthermore, tourism faces intense competition from other states and competition for industry legitimacy. There are unrealized economic activity, jobs, and tax revenue for Kentuckians due to insufficient traveler awareness of Kentucky tourism products. In addition, concerning possible tax reform, a reduction or redirection of existing funds will jeopardize existing benefits of the industry.

Rails To Trails. Representative Fugate and members of the Kentucky Mountain Regional Recreation Authority gave an update of the program. Representative Fugate said he and members of the authority have looked to the Hatfield and McCoy Trail System in West Virginia as an example for the Kentucky Mountain Regional Recreation Authority. Last year the Hatfield and McCoy Trail System generated $2.1 million in permit fees and had 51,000 visitors, 85 percent of whom came from outside a 100-mile radius of the trail system. Representative Fugate detailed other statistics of West Virginia's trail system and said that the development of Eastern Kentucky's trail system could create major tourism and economic development opportunities. He said that he hopes in the 2020 Regular Session the General Assembly can appropriate funds for the authority, including hiring a permanent executive director.

The interim executive director for the authority said that in May 2019 the authority had a foundational meeting to establish the board members, and it has had two other meetings. He has accomplished everything thus far as a volunteer but cannot continue on as the permanent executive director. He was recently appointed as the chief of staff for the Department of Local Government, which would be a conflict of interest. With a full-time executive director, the authority will be able to move forward with finalizing arrangements with existing trails, setting up accounts with the Finance and Administration Cabinet, and obtaining insurance, among other things. The authority would like to be a self-sustaining entity that operates without interference from the General Assembly. Thus far, all counties involved have agreed to contribute $5,000 initially for the hiring of an executive director. At the authority's last board meeting it was decided it would form a 501(c)(3) to seek private funding.

The president of the authority said that the economic impact in West Virginia from the trail system was $23 million. The creation of that type of economic impact would be extremely beneficial after the loss of coal mining jobs in the region. The trail system will begin to generate revenue along with the creation of other entrepreneurial and investment opportunities. All 35 counties involved with the authority have pledged to find funds in their budgets to help assist with the endeavor. Recreational opportunities are imperative to the distressed counties in Eastern Kentucky. Establishing the trail system and other supporting businesses will help to draw more visitors, create jobs, and add new money into the economy.

Information Technology

Security Of Connected Devices And Telecommunications Location Data Legislation. Senator Whitney Westerfield explained that laws pertaining to cyber security are limited and have not caught up with the technological advancements of today's society. The only data-related laws in the commonwealth relate to private and public sector data breach notifications, but there are no time limits on when an individual should be notified about a breach of information. In 2018, the European Union (EU) enacted the General Data Protection Regulation (GDPR), which governs every company and digital service operating in the EU, even if they are not based in the EU. It gives the citizens of the EU a right to delete information and provides privacy regulations. Vermont passed data broker opt-out legislation in 2018. In 2019, Connecticut created a task force to study what data should be protected, and Illinois restricted the use of DNA information acquired through companies such as 23andMe and AncestryDNA. In addition, California's Consumer Privacy Act, which goes into effect in 2020, creates some of the same rights as the GDPR.

Senate Bill 195 from the 2019 Regular Session deals with the security of connected devices and the "internet of things." The internet of things is the interconnection, via the internet, of computing devices that are embedded in everyday technological devices that are enabled to send and receive information. There will be approximately 30 billion connected devices by 2020. These internet-connected devices include computers, phones, televisions, thermostats, refrigerators, medical equipment, transportation systems, and countless others. The manufacturers of these devices collect all of a person's data and information, whether the user realizes it or not. This detail is important to note because Kentucky has no laws governing who stores and controls consumer data collected, the security level or length of time the data is stored, or what types of companies can buy and sell consumer data.

Senator Westerfield said he was motived to file SB 243 in the 2019 Regular Session after learning that wireless carriers were collecting location data about their users and then selling that information to third parties, arguably without the consent of the consumer. He gave the example of a free online site that allows anyone to look up every internet router that has ever been mapped anywhere that is still active. This would make it fairly simple to identify a person based strictly on their router usage. Senator Westerfield said these bills may not address all areas of the security of connected devices or telecommunications location data, but these are two issues that need to be governed for the privacy and safety of the citizens of the commonwealth.

Cyber Security. The US Secret Service is responsible for protecting financial infrastructure, and recently business email compromises and ransomware have become a larger area of concern. Business email compromise is a type of scam that targets companies or individuals that conduct wire transfers and work with entities or individuals in countries outside of the United States. Ransomware is a type of malware designed to deny access to a computer or data until a ransom is paid. A special agent with the US Secret Service told the committee that one of the most important tools for combating business email compromise and ransomware is the financial fraud kill chain. The financial fraud kill chain is a series of events that must transpire very quickly in order for companies and individuals to have the best chance of recovering any lost funds; it consists of cooperation among victims, law enforcement, and the victim's financial institutions. The best chance of regaining any lost funds occurs within the first 72 hours, with the chances decreasing by approximately 15 percent every 12 hours. There are three conditions that effectuate the financial fraud kill chain: the wire must be sent from a foreign financial institution; the wire must be for more than $50,000; and the notification of the wire transfer to law enforcement must be made within the first 72 hours. The agency offers education to financial institutions, chambers of commerce, civic groups, and businesses to increase awareness of these crimes.

Public service announcements and education are ways to prevent these crimes from happening. One method to adopt is to trust but verify sources. The special agent said that cyber security may not be taught in school but may be a way to educate the public. Word-of-mouth is a simple way to spread awareness, along with investing money in security resources. A legislative solution is unlikely, but the Secret Service does do educational outreach about business email compromises and ransomware. There are online resources that list malicious IP addresses, and the location of origin can often be an indicator of potential criminal activity. Businesses can protect themselves through redundant backups. Regular assessments of a business's cyber security can help to protect information and avoid business email compromises and ransomware. There are companies that will evaluate businesses' systems and suggest ways to improve security. A series of events usually contributes to business email compromises and ransomware crimes. Generally, the easiest targets of these crimes are individuals, but there are times when someone working for the financial institution may have made a mistake that leads to these crimes. He said that people can eliminate most threats by using a virtual private network and two-factor authentication.

Commonwealth Office Of Technology. The commonwealth's chief information officer explained that the Commonwealth Office of Technology (COT) operates on a charge-back model. Every dollar spent has to go back to an agency. He described the enacted budget, actual spending, and outstanding restricted fund balance. The restricted fund balance is down to $2.8 million. COT works under four lines of effort: security, enterprise services, contract administration, and training/education. Each line of effort has a desired condition that COT wants to meet.

COT has made recent improvements and multiple staffing changes. COT hired a contracting officer, a chief compliance officer, an enterprise project management officer, and a chief data officer while increasing staffing in the Digital Transformation Office and the Kentucky Business One Stop program. COT made changes to its infrastructure in the areas of VBlock, Dynatrace, KIH3 Contract, Datacom, Bluejeans, Skype, and OnBase; it upgraded central network and the Geographic Information System (GIS); it implemented Citrix; it eliminated underused consulting agreements; and it moved the mainframe to the cloud.

COT has improved its security by implementing multifactor authentication, incident response evaluation, and advanced threat protection; by upgrading enterprise firewalls; by filling vacant security positions; by enhancing security programming controls; and by implementing Exabeam and Endgame. COT improved its applications as well. The chief information officer stated that COT has provided direct support to SB 77 (2019 session), HB 74, and HB 400 (2018 session). It has also been collaborating with other Kentucky entities. Kentucky is one of the first states that has a management control agreement with its state police. COT has been able to get five cabinets to sign a data sharing agreement.

Nine percent of COT's budget is specifically for security. COT has centralized Amazon purchasing, reduced the price of enterprise contracts and debt service, and focused more on GIS. COT has had to contract people for Windows 10 upgrades and networking, resulting in short-term investments. In long-term investments, COT has made data center improvements, is moving to a different building, and is working hard on all of the applications mentioned above. In the next 12 months, COT would like to upgrade to Windows 10, move to a new LinuxOne processor, integrate the enterprise services desk, work on digital transformation initiatives, decide on whether COT is going with Microsoft or Google, and figure out what to do with SAP.

Kentucky Communications Network Authority. The interim executive director of the Kentucky Communications Network Authority indicated that several rings of the Kentucky Wired project have been completed or are scheduled to be completed by the end of 2019. This will leave only the segments in western Kentucky to be completed at a later time. Connections to several state parks should begin in the near future, with the first to be completed by the end of 2019. The projections are for the Kentucky Wired program to begin returning revenue to the state by 2025 and to be "in the black" by 2035. The upcoming budget request for the agency will be about $15 million more than in the last budget cycle. He noted that it would not be cost prohibitive to terminate the program at this time since much progress has been made.

Small Business

Kentucky Small Business Development Center. The Kentucky Small Business Development Center (KSBDC) is funded in part through a cooperative agreement with the US Small Business Administration and is hosted by the University of Kentucky College of Agriculture, Food, and Environment. The organization is a cash match program, and funds that are invested are leveraged with additional resources to establish centers. As of October 1, there were to be only nine locations throughout the state. The KSBDC helps small businesses start, grow, and succeed through technical assistance, training, education, and referrals. The KSBDC will assess a business's needs and chart a plan of action. It also offers entrepreneurs help with business plans, assistance with applying for a loan, market research, or connections with additional small business resources. From 2015 to 2018, the KSBDC's economic impact included almost

500 new business starts, 3,400 jobs have been created, and clients have received over $2 million in capital infusion. Current partners that aid the KSBDC include Morehead State University, Southeast Kentucky Community and Technical College, and Northern Kentucky University. Due to decreases in funding, Northern Kentucky University and Western Kentucky University's contracts were to end after September 2019.

A new strategic plan has been implemented for the KSBDC that includes increasing relevancy, promoting value, maximizing resources, and strengthening network sustainability. The increased presence and relevancy of the KSBDC across the state is needed to advance business success. The organization needs to be positioned as the leading source of valued guidance for entrepreneurs and businesses. The KSBDC will continue to effectively use resources, tools, and technology to maximize client success. Lastly, the organization plans to grow and expand collaborative relationships with key stakeholders such as additional educational institutions, economic development partners, and chambers of commerce to strengthen and diversify funding. The director of the KSBDC concluded her presentation by showing a video about one of its clients.

Sprocket Inc. Sprocket is a nonprofit 501(c)(3) organization based in Paducah that develops innovative programs in education, entrepreneurship, and community learning to create talent pipelines, mainly in the growing sector of technology. The original focus was the educational aspect in elementary through high school students, but it evolved over time to a possible solution to a workforce shortage in the technology field. Sprocket began offering cyber camps and entrepreneurial experiences to children to expand their knowledge of technology and running a business in the real world. Eventually adults took an interest in Sprocket, which led the organization to create partnerships with companies and individuals in the technology field to assist innovative entrepreneurs with new business ventures that could lead to potential job creation.

Sprocket has partnered with a company called Codefi that will provide funds and training to technology entrepreneurs to start their businesses partially through a grant from Codefi and the Economic Development Administration. Sprocket is working to construct an 8,000-square-foot co-work space and a 1,500-square-foot makerspace. Also being developed is a 20-week programming boot camp, a regional youth coding league, and a First $50,000 Startup Competition. Sprocket will be working along with local resources such as the library system and school system and envisions this footprint working in other smaller communities across the state.

Kentucky's Talent Pipeline. The executive director of the Workforce Center at the Kentucky Chamber of Commerce noted the trend toward employer-led workforce systems based on data. Kentucky has seen record growth, and employers project moderate to high growth over the next 3 to 5 years. However, 84 percent of employers cannot find qualified workers for their businesses. This affects businesses of all sizes. Kentucky's Talent Pipeline is a partnership between the chamber and businesses to supply a talent chain. The goal is to organize employer sectors and have them engage in planning as to workforce demand and what training is needed for those jobs. Talent supply chains are then built to meet those needs. An example was provided showing how the need for registered nurses in Jefferson County is being addressed. Data is a key component of the process, and the Workforce Center has partnered with the Kentucky Center for Statistics to provide necessary data on workforce sectors.

Legislative Priorities For Small Businesses. The director of political affairs for the Kentucky Chamber of Commerce noted several issues that will be of interest to small businesses during the 2020 Regular Session, such as increased access to adult education, workforce wellness programs, answers to the drug epidemic, modernization and simplification of the state tax code, modernization of the unemployment insurance program, infrastructure investment, and increasing the workforce in Kentucky.

Report Of The 2019
Interim Joint Committee On Transportation

Sen. Ernie Harris, Co-Chair
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Presented to the
Legislative Research Commission
and the
2020 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 five times during the 2019 Interim.

Presentation Regarding Design-Build Projects

The secretary of the Kentucky Transportation Cabinet (KYTC) discussed I-Move Kentucky and the design-build projects, which includes an expedited approach that provides cost savings while reducing impact for priority projects. The I-Move Kentucky project objectives are to improve safety and relieve congestion on busy freight corridors, provide lower-cost solutions to build priority projects, and lessen construction impacts for local and regional travelers. The I-Move Kentucky Design-Build Project is centered on the I-265 widening project that expands I-265 to six lanes, widens the bridges, and addresses the bridge and pavement needs at an estimated cost of $93.2 million. In addition, this design-build megaproject includes three other projects:

- The I-71/I-265 Interchange Project adds collector and distributor lanes for I-71 southbound and improves safety and mobility, at an estimated cost of $5.4 million.
- The I-71 widening project includes expanding I-71 to six lanes from I-265 to Ky. 329, reconstructing five bridges, and significantly reducing congestion, at an estimated cost of $61 million.
- The I-64/I-265 interchange project includes reconstruction of the major interchange to improve safety and reduce congestion, at an estimated cost of $28 million.

The design-build approach, which uses increased authorization levels established by the General Assembly in 2018 (HB 35), improves coordination during construction, accelerates projects to lower actual costs, encourages innovation and creativity from teams, and avoids bridge and pavement maintenance items. Two charts were also provided to show the 6-year plan's construction funds schedule and the compressed project schedule under the design-build approach for the I-71/I-265 interchange, the I-71 widening, the I-64/I-265 interchange, and the I-265 widening.

Implementation Of Selected Transportation Legislation From The 2019 Regular Session

The commissioner of the Department of Vehicle Regulation, KYTC, and the assistant state highway engineer, Department of Highways, KYTC, updated the committee on implementation of transportation legislation from the 2019 Regular Session. House Bill 258 was passed, relating to low-speed scooters. This was a high-level bill that identified these vehicles and put them in a category to observe them, to understand the characteristics of that mode of transportation, and to regulate them as well. The commissioner said KYTC is in the observation portion relating to these vehicles.

HB 341 passed, relating to special license plates. A moratorium was invoked on developing new specialized license plates because on the front end, there was a significant cost occurrence and on the back end, very few people were purchasing and registering these license plates. The statute was changed to state that any organization that wanted a specialized license plate would pay the upfront cost for design and implementation, and then there is a threshold number of plates that would ideally be on the road for that special plate to be maintained.

SB 85 passed, relating to ignition interlock devices, and KYTC is in the beginning stages of implementing the more robust system needed to implement the bill.

HB 352 relates to motor carriers and the hauling of petroleum. Even though this bill will not come into effect for another 2 years, the Division of Motor Carriers is beginning the process of reviewing the possible routes that these hauls will be undertaking and preparing to permit those routes.

HB 244 passed, relating to speed limits in work zones, in an effort to reduce crashes in work zones to increase safety for workers as well as the traveling public. The bill added a more robust definition of *work zones*, including maintenance, bridge inspection, and electrical work. KYTC has worked internally with stakeholders in looking into updating the existing regulation to ensure it was consistent with the new language that was passed in HB 244. In addition, KYTC is looking into options for shorter-term work zones. One subject that has been discussed was how to notify the traveling public that workers are present. Temporary signs may be put into place for the notification.

HB 266 passed, relating to the possibility of increasing speed limits on I-165 and the Mountain Parkway. As projects come to completion, evaluations will be made to see whether a speed limit increase is appropriate.

CVG Operations

The chief executive officer, Cincinnati/Northern Kentucky International Airport (CVG), informed the committee on operations of CVG. She stated that CVG encompasses 7,700 acres and is larger in land area than the city of Florence. The airport is a regional job hub with over 70 employers on campus employing 14,000 badge holders, of whom 52 percent are Kentucky residents, 38 percent are Ohio residents, and 10 percent are residents of Indiana and other states. In total CVG supports approximately 31,000 jobs with an economic annual impact of $4.4 billion.

More local monthly passengers are being served at CVG than ever before, as the airport set a local passenger record in June of 426,246 passengers served. According to US Department of

Transportation rankings, CVG's average airfare of $346 is the lowest in the region and the only one in the region to beat the national average of $353. CVG is ranked 63rd among the top 100 US airports.

Five strategic objectives for 2021 are growing air service, facilitating economic growth, building meaningful partnerships, delivering operational excellence, and differentiating the CVG brand. As of 2016, CVG supports more than $21 million in income tax revenues for Kentucky and more than $4 million for Ohio. The airport also supports more than $4.4 billion in total annual output in the Cincinnati/Northern Kentucky area. More than $625 million in direct labor income and more than $1.3 billion in total labor income is supported by CVG. Air service growth has been driving down airfares and thereby contributing to increased passenger volume at CVG. A new study of economic impact is under way.

Local passenger volumes have increased by more than 50 percent in the past 3 years; average airfares have decreased by more than 30 percent in the same period. The CEO added that CVG has been one of the five fastest-growing US airports for the last several years. CVG offers more than 50 nonstop destinations. It is the only Ohio or Kentucky airport with nonstop trans-Atlantic service. There are nine passenger airlines with the addition of Allegiant, Frontier, and Southwest airlines in the last 6 years. Nearly 9 million passengers are served annually, and 90 percent are local travelers. The CVG total passenger volume has grown 38 percent since 2015, and the local passenger volume has grown 56 percent since 2015. New routes announced include Allegiant Airlines service to Norfolk, Virginia, and also Frontier routes from CVG to Fort Lauderdale, Florida; Miami, Florida; New Orleans, Louisiana; and Sarasota-Bradenton, Florida.

CVG has large air cargo success in that it is the 8th largest cargo airport in North America and is the fastest growing in the US. Over 1.2 million tons were handled in 2018, more than double the volume for 2012. It is home to one of three DHL Global Super Hubs (second largest in the world). Employment of 4,200 employees at the hub is up 60 percent from 2016.

Additionally, CVG is now home to an Amazon air hub as well. The Amazon air hub was announced in January 2017 and represents a $1.5 billion investment. It is also projected to create 2,000 jobs at its initial opening. The Amazon air hub has a partnership with DHL that began in May 2017, and a groundbreaking kickoff event occurred in May 2019. Phase one of the air hub is scheduled for completion in the third quarter of 2021.

There is also an aircraft maintenance facility development under way at CVG. Lynx's Industrial Contractors broke ground on an aircraft maintenance hangar for FEAM Maintenance and Engineering Services in fall 2018. The $19 million facility will be 103,000 square feet. FEAM Aero employs approximately 100 aircraft mechanics at CVG. The facility construction will create approximately 100 new permanent jobs with annual salaries starting at $65,000 to $70,000. A common-use cargo facility by Aeroterm began construction in 2019. The facility will be anchored by FedEx, which has two aircraft based in CVG.

There are several CVG workforce challenges, one being employment growth. Because CVG is a regional jobs hub with hundreds of jobs being added in the last several years and thousands more expected in coming years, a main concern is the available labor force for recruiting.

Transportation, security environment, and pipelines of future employees are all employer-related concerns. The CVG strategic workforce collaborative includes airlines, concessions, the federal government, ground transportation companies, and terminal operations. The CEO stated that CVG plans to increase supporting infrastructure investments in the region, address artificial barriers to airport business growth and innovation, and tackle regional and state workforce development challenges.

Kentucky Department Of Aviation

The commissioner for the Department of Aviation, KYTC, and an aviation engineer for the department gave a brief overview of the department and the Economic Development Fund and Supplemental Maintenance Fund. The Department of Aviation is the commonwealth’s resource for all aviation issues. It oversees airport projects, and it participates in federal and state airport inspections; development of unmanned aircraft systems; fleet services; economic development; advocacy for aviation education in science, technology, engineering, and math; homeland security issues; and airport zoning issues.

Kentucky’s airport system is composed of 57 public airports, 99 private airports, 138 private heliports, and two military air facilities. The system supports 23,392 on-airport jobs with a total of $1.4 billion in payroll for on-airport jobs.

Airport funding sources include economic development, Airport Maintenance Fund (legislatively approved funding), Federal Aviation Administration (FAA) funded grants from the Airport Improvement Program, and local matching shares from cities and counties. Economic development funding comes from jet fuel tax and is approximately $8 million per year. This funding is used for airport, terminal, and runway improvements and it supports a portion of the local share of federal grants. The Airport Maintenance Fund consists of approximately $9.7 million per year and specifically targets pavements from runways, taxiways, and aprons.

The commissioner said that every FAA-classified airport in Kentucky receives at least $150,000 per year in entitlement funds. He added that there are 50 classified airports in Kentucky. These funds require a 10 percent match. The state provides 7.5 percent of that match. Kentucky airports can also request additional federal discretionary funding based on need and available FAA funds. The FAA has committed over $36 million in airport improvement funds for Kentucky airport infrastructure over the next year, with more possible through discretionary grants. A list of projects and counties receiving those funds was provided.

The commissioner said that continued legislative commitment is essential for saving vital airport infrastructure. He added that a $70 million backlog of deferred pavement maintenance currently exists. Like highways, airport pavement degrades with time and requires continuing maintenance. Legislative commitment is also essential for catching up to neighboring states that compete for Kentucky’s aviation activity, contributing to developing a workforce that is ready for the future, supporting continued success in economic development, and continuing a positive and lasting statewide impact.

Road Fund Update

The executive director, Office of Budget and Fiscal Management, KYTC, gave a presentation on the fiscal year 2019 closeout of the road fund. The official revenue estimate for motor fuels tax in FY 2019 was $759.2 million. The actual revenue was $773.2 million, an increase of $14.0 million. The official revenue estimate of the motor vehicle usage tax was $494 million. The actual revenue received from the motor vehicle usage tax was $514.5 million, an increase of $20.5 million. Other revenues had an increase of $24.9 million. Total official revenue estimates combined amounted to $1,506.6 million. The actual revenues received were $1,566.1 million, leaving a total increase of $59.5 million.

A chart showcased the difference of FY 2019 actual revenues and FY 2018 actual revenues. In FY 2019, $773.2 million was collected in motor fuels tax, and $764.9 million was collected in FY 2018; therefore, an increase of $8.3 million was realized in FY 2019. In FY 2019, $514.5 million was collected in motor vehicle usage tax, compared to $493.1 million that was collected in FY 2018, resulting in a $21.4 million increase. In other revenues, $278.3 million was collected in FY 2019, and $252.9 million was collected in FY 2018, resulting in an increase of $25.4 million. Total surplus between FY 2019 and FY 2018 was $55.1 million, a 3.6 percent increase.

The motor fuels tax revenue is estimated to be $761.2 million in FY 2020, motor vehicle usage tax revenue is expected to be $492.6 million, and the motor vehicle license fee revenue is approximately $116.3 million. Also estimated in FY 2020, the weight distance tax revenue will be approximately $83.2 million, other road fund revenues will be approximately $36.4 million, revenue from the motor vehicle operators fee will be approximately $16.8 million, and total investment would be approximately $3.3 million, resulting in a total road fund estimate of $1,509.8 million for FY 2020.

Charts showed historical tax revenues for fuel tax and motor vehicle usage tax. Even though the motor fuels tax rate dedicated to the road fund has remained at 24.6 cents per gallon since FY 2016, the motor fuels tax revenue has steadily increased from $750 million in FY 2016 to $773.2 million in FY 2019. After a precipitous drop in revenue during the recession years of 2009 and 2010, motor vehicle usage tax revenues have spiked in recent years; they have been hovering near $500 million per year since 2016, though they may not stay at that level in the future. A chart showed total road fund revenues by fiscal year, indicating that in FY 2019 the total road fund revenues were $1,566.1 million; however, the amount was expected to drop to $1,509.8 million in FY 2020.

Regulations Of Transportation Network Companies

The commissioner of the Department of Vehicle Regulation, KYTC, and the director of the Division of Motor Carriers, KYTC, gave a brief presentation on the regulatory compliance and monitoring of transportation network companies (TNCs) authorized by KYTC. TNCs pay an initial application and yearly renewal fee of $250 per company. They must also pay a vehicle fee (initially and yearly) of $30 per vehicle up to a maximum of a $22,500 bulk fee. The TNC must be registered with the Kentucky secretary of state and demonstrate proof of financial responsibility and insurance. Vehicles must also have annual inspections by an automotive service technician certified by the National Institute for Automotive Service Excellence. Each TNC is required to perform a national criminal background check for each individual operating a TNC vehicle. Records are to be retained for a minimum of 3 years and are to be made available for audit purposes. Also for application and renewals, one unexecuted copy of the current contractual agreement between the business and the drivers must be enclosed. This copy must include any policies, procedures, and terms of service with which they intend a driver to comply. Lastly, a current driving history record for all drivers must be provided and updated annually.

Quarterly and annual audits are conducted on TNCs to ensure compliance with Kentucky statutes and regulations. The Division of Motor Carriers randomly selects vehicles and driver records to inspect. If the TNC is not found to be in full compliance, penalties are assessed per KRS 281.990. In 2019, five fines were issued, totaling $1,000. The violations were for not providing proof of completing an approved driver safety training course.

Information that is required from TNCs through the monitoring and auditing process includes proof that a driver has completed an annual driver safety training course, a current 5-year driving history record, the current address of the driver, a copy of a valid state-issued driver’s license, proof of current personal vehicle insurance coverage, proof of vehicle registration, written or electronic affirmation that a TNC driver is fit and able, verification of a nationwide criminal background check, records indicating whether a driver has refused to accept a prearranged ride and the reason for doing so, records of complaints against a driver, and a copy of the current vehicle inspection.

Industry Update From The Kentucky Petroleum Marketers Association

The executive director of the Kentucky Petroleum Marketers Association (KPMA) updated the committee on the petroleum industry. The industry has an economic impact of $3.7 billion on Kentucky. In Kentucky, there are $618 million in wages and over 33,000 jobs directly or indirectly linked to the petroleum industry. The industry collects and remits over $750 million in gas tax revenue to the commonwealth. Since the last update to the committee, both federal and state underground storage tank regulations were updated, and KPMA has been working hard to educate the members to ensure compliance.

The committee was updated on the petroleum storage tank environmental assistance fund (PSTEAF.) Petroleum underground storage tanks (USTs) exist in every county and every legislative district in Kentucky. Kentucky has approximately 10,400 active USTs in the ground. Approximately 80 percent of these active tanks are more than 15 years old. Because all tanks age and some will fail, there will always be a need for the PSTEAF program to assure remediation of petroleum UST leaks. Without the PSTEAF, businesses across Kentucky would be at risk, resulting in revenue loss for the commonwealth from the taxes these businesses pay and collect. Without the PSTEAF, Kentucky’s communities would suffer harmful environmental impacts, and the state, counties, and municipalities could face crippling financial liability. The essential need for the PSTEAF has not changed since its inception in 1990 and should continue for the foreseeable future without alteration, except to extend or even remove the deadline dates.

The committee was also updated on the evaporation and collection allowance. Kentucky fuel marketers are required by state law to remit the motor fuels tax (gas tax) based upon the volume of fuel purchased from the supplier. Marketers must then assume the cost, and the risk, of attempting to recoup the tax from the consumer when the fuel is sold at retail (KRS 138.220 and 138.240). A 2.25 percent allowance, set forth in KRS 138.270(1)(b), exists to cover the difference in the amount of fuel taxes remitted to the state by marketers and the amount they may ultimately recover from consumers. This difference arises from the natural evaporation, shrinkage, unaccountable losses, collection costs, and handling and reporting of the gas tax. That collection and evaporation allowance is a line-item deduction that offsets the portion of the motor fuels tax Kentucky marketers are obligated to pay but are not able to collect from the consumer, as well as specific costs incurred in performing the tax collection function. Adjustments to the motor fuels tax have direct impacts on marketers. As the gas tax increases, costs to marketers increase (collection, surety expense, etc.). This allowance is necessary and good for taxpayers as a whole. It was requested that a 2.25 percent allowance be preserved.

The owner of Hardy Oil, a KPMA board member, addressed the committee and stated that the loss of any PSTEAF or evaporation and collection allowance funds would be devastating to his business as well as any businesses like his. Without these funds, “mom and pop” operations across the state would likely close. He added that Hardy Oil alone has lost tens of thousands of dollars in collections. The surety bond alone has cost his company approximately $100,000 annually.

A representative from the Pegasus Institute further explained the motor fuels evaporation and collection allowance. Tax expenditures, often appropriately besmirched as “tax loopholes,” should be routinely examined for their effectiveness with three questions in mind:

- Is this expenditure a good deal for taxpayers as a whole?
- Is this expenditure accomplishing its intended purpose?
- Should the policy be altered to better achieve its intended purpose?

For at least 2 years in earnest, the General Assembly has been examining tax expenditures in an effort to broaden the tax base and create a more effective structure. The Pegasus Institute representative’s briefing provided an overview of the evaporation and collection allowance. On the books since 1936, it was a tax expenditure that not only upholds the three criteria listed above but, because of its age and effectiveness, should be a benchmark in evaluating expenditures currently on the books in Kentucky. Decreasing the allowance, which has remained unchanged for more than seven decades despite increases in cost to retailers and markets, would be devastating to one of Kentucky’s largest industries and would have a negative economic impact in every community in the commonwealth.

There are four steps of the evaporation and collection allowance process. Step one is that refiners supply motor fuels at the terminal. The second step is that marketers purchase motor fuels from refiners at the terminal and pay the entire tax to the state based on these purchases. In step three, marketers transport the product to individual retailers and commercial end users; during this period, evaporation and shrinkage occurs. Lastly, in step four, the consumer pays the motor fuel tax at the current rate. However, the marketers do not recoup all the tax liability they have incurred. Allowances similar in nature exist for most states. The average of 2.24 percent in neighboring states and regional distributor states nearly mirrors Kentucky’s 2.25 percent. There is a far-reaching recognition that the process described above, though imperfect, is an effective structure for a state to collect taxes.

In conclusion, the Pegasus Institute representative stated that there is little doubt that the allowance is good for taxpayers as a whole. There is a reasonable argument for increasing the percentage allowance, but there is no reasonable argument for decreasing it. Lowering the percentage would have a negative economic impact, would cost the commonwealth valuable jobs (many of which are in economically distressed areas), and would ultimately risk losing revenue for the state in the long term.

LRC Staff Presentation On The Effect Of Overweight Trucks On Highway Infrastructure

A senior legislative analyst, LRC Transportation Committee, gave a brief presentation on overweight trucks and highway infrastructure. In the 2017 Regular Session, the General Assembly passed HB 184. It tasked LRC's Interim Joint Committee on Transportation with conducting a review of the effect of all overweight and overdimensional vehicles on the commonwealth's roadways and railroad infrastructure. During negotiations regarding 2017 HB 184, this study was added as an incentive for support of the measure. The commissioner of vehicle regulation at the time assured the legislators and staff involved in the discussion that KYTC would keep the necessary data needed to complete the study. However, that individual left the position just after the session, and the data was not collected.

Despite best efforts by staff, there simply was not enough data to make a determination regarding any aspect of the study. In the 2019 Regular Session, the General Assembly passed HB 352. The measure allowed the transport of unrefined petroleum to operate at a gross weight not to exceed 120,000 pounds. The bill included a section that created a moratorium on new overweight or overdimensional permits or tolerances for motor carriers. If the General Assembly does not withstand 2019 HB 352, the moratorium on overweight vehicles will remain and no other commodities will be allowed to run at weights up to the 120,000-pound threshold.

If the IJC on Transportation or the General Assembly still seeks to add any overweight or overdimensional issues, including the issues that the study directed by HB 184 sought to determine, staff recommended the use of the Kentucky Transportation Center. The center is a leader at the state and national levels in multidisciplinary transportation research and is well equipped with the staff and resources to study any transportation-related issues that the General Assembly deems necessary. Staff has contacted the Kentucky Transportation Center, and it has confirmed that the study is something it can do and that a study is in the purview of its organizational vision.

REAL ID

The commissioner of the Department of Vehicle Regulation, KYTC, updated the committee on KYTC's new approach to issuing REAL ID compliant licenses, and ID cards, which will eliminate involvement of the circuit clerks and issue these documents through regional KYTC offices. KYTC opened a regional office concept location to Franklin County residents as the headquarters in September 2019. He added that there was expanded REAL ID access to

Anderson County residents on October 8, 2019, and that there is expected expansion to Scott County and then to surrounding counties.

The commissioner stated that as of November 1, more than 3,500 Kentuckians have applied for REAL ID compliant credentials. The Cabinet has worked with its third-party vendor, IDEMIA Security Company, to fix previous issuance speed issues. Currently transaction times average 8 to 10 minutes. The list of acceptable documentation has expanded for Kentuckians applying for a first-time REAL ID compliant credential.

In moving forward, KYTC has staffed regional offices to ensure that citizens across the state have the opportunity to obtain a REAL ID compliant credential before the October 2020 federal enforcement date. To accelerate the process and minimize expenses, KYTC focused on identifying existing state buildings rather than pursuing new construction. Also, using KYTC field offices that were already staffed was prioritized. Other considerations included drive times, capacity, parking, and accessibility.

The committee was provided a map of the KYTC Highway Districts to showcase district locations of citizens able to obtain REAL ID compliant licenses. The commissioner stated that hired and trained staff are being used to serve at these regional locations. He added that the necessity remains for legislative action to formalize the issuance transition from Circuit Court clerks to KYTC.

Discussion Of 2020 RS BR 166:
An Act Relating To Operating A Motor Vehicle

Representatives James Tipton and Steve Sheldon briefly explained BR 166, which would ban the use of handheld cell phones while driving. Under this measure, a motorist could still use GPS and make and take hands-free calls. If the phone is held by hand, the motorist would be in violation.

The chief executive officer of Stopdistractions.org gave a brief presentation in favor of the proposed bill. Distracted driving results in higher fatality rates for motorists. As of September 24, 2019, there have been 554 fatalities on Kentucky’s roadways this year.

Also, distracted driving related to smartphone usage has driven car insurance rates higher. Insurers increasingly blame distracted drivers as costs related to crashes outpace premium increases. Since 2011, the average insurance premium has jumped 16 percent to $926. Insurance companies say the sharp spike is caused partly by more drivers distracted on their smartphones and subsequently getting into crashes. In a recent study, it was found that driver cellphone interactions have increased 57 percent since 2014.

The CEO touched on successes on support of distracted-driving bills in Tennessee and Georgia. It was clarified that, in the proposed legislation in Kentucky, the use of GPS is allowed while driving. However, a motorist cannot watch, record, broadcast, or engage in video chat. She added that the proposed legislation does not cost constituents any additional money, adding that any smartphone can work with voice activation for free. She stated that over 90 percent of the population owns a smartphone.

Law enforcement has developed training on how to enforce these laws, and it is offered by the National Highway Traffic Safety Administration (NHTSA) and US Department of Transportation traffic safety services. Existing texting laws are unenforceable and obsolete, as it is too difficult to see what drivers are doing on their phones. States with stricter distracted-driving laws see an 11 percent lower rate of fatal crashes for motorcyclists. Zendrive estimates there are approximately 600 million trips involving distracted driving in the US each day. Distracted driving has occurred during 52 percent of trips that resulted in a crash. Almost one-fourth of the drivers were using a phone within a minute before a crash, which could include the moment the collision occurred.

Current laws are unenforceable, which results in a need for expanding language, as people do not just text anymore. There is no organized or individual opposition, and there is overwhelming public support.

A representative from the American Property and Casualty Insurers Association (APCIA) gave a brief presentation supporting BR 166. Over the course of several decades, auto accident rates had been slowly but steadily declining, offsetting slightly increased accident severity, and that decline had helped to keep car insurance rates relatively stable. But starting in 2013, there was a sharp increase in accidents, with the roads becoming increasingly dangerous, which is believed to be in large part because of distracted driving. Auto accident deaths increased nearly 14 percent from 2013 to 2017, the biggest increase in over a half a century. In 2017, 1.8 million people were significantly injured on the roads, an 11 percent increase since 2013. Meanwhile, automobile insurance loss costs have increased as the cost of repairing damaged cars and the number of injured people have continued to increase. According to the NHTSA, 5,977 pedestrians were killed in motor vehicle crashes in the US in 2017. Pedestrian deaths accounted for 16 percent of all traffic fatalities in 2017. Although bicyclists' deaths have decreased 23 percent since 1975, they have increased 25 percent since reaching their lowest point in 2010, suggesting that the at-risk population is not just distracted drivers but also the pedestrians and bicyclists with whom they share the road.

One company that has shared data and analysis with the APCIA, True Motion, found that 92 percent of drivers interact with their devices in some way while driving, including 71 percent for text messages. The list of the top 10 apps used while driving includes Google Chrome, YouTube, and Netflix. True Motion also found that drivers were being distracted by their smartphones roughly 20 percent of their driving time, with their corresponding accident risk increased by 2 to 20 times.

According to a NHTSA study released in the summer of 2019, having a strong set of distracted driving laws is key to prevent distracted driving. Many state laws cover only cell phone voice call usage, not modern smartphone use as it occurs today. States have started to update their laws; for example, this year Washington changed its laws to prohibit use of streaming video and social media while driving. Penalties for distracted driving need to be sufficient to change behaviors.

A lieutenant from the traffic unit of the Louisville Metro Police Department also spoke in favor of BR 166, reiterating statements that had been made.

Discussion Of 2020 RS BR 311:
An Act Relating To Vision Testing For Motor Vehicle Operators

Representative Kim Moser gave a brief overview of BR 311 proposed for the 2020 Regular Session. The bill addresses the issue of lack of vision screening for driver’s license renewals. Currently the only time an individual is tested for vision is when receiving an initial driver’s license. Kentucky is one of eight states that do not revisit vision testing. The proposed legislation is not age discriminatory due to the requirement of vision retesting at any age upon driver’s license renewal. The assistant state highway engineer, Kentucky Department of Highway Safety, KYTC, and an ophthalmologist both spoke in favor of the measure. A letter of support was also distributed to members from the American Automobile Association. The ophthalmologist stated that one must demonstrate 20/60 vision or better in order to obtain a Kentucky driver’s license. He added that there is no downside in continuing proper vision screening. There have been issues with state clerks being unable to keep up with vision screening; that screening can take place in the county clerk’s office, at a Kentucky State Police office, any ophthalmologist’s office, AAA offices, and physician’s offices.

Discussion Of 2020 RS BR 136:
An Act Relating To School Bus Safety And Making An Appropriation Therefor

Representative Goforth gave a brief overview of BR 136 proposed for the 2020 Regular Session, relating to adding stop-arm cameras on school buses. Representative Goforth said that a stop-arm camera is a device installed on the exterior of a school bus for the purpose of recording images of motor vehicles passing the school bus from any direction when the bus is stopped with the stop arm fully extended and signal lights activated.

Representative Goforth stated that a 2018 survey by the National Association of State Directors of Pupil Transportation Services reports the prevalence of illegal school bus passing in 38 states, including Kentucky. The 2,667 participating Kentucky school bus operators reported on April 25, 2018, that there were 728 illegal passes. Those passes were on 27 percent of 2,667 buses, out of a total inventory of 9,854 buses in Kentucky. If all buses had participated, 2,689 illegal passes would have been expected to be seen on the survey date. Across 180 school days, there could be 484,020 illegal passes annually.

The proposed changes in the bill include adding a civil penalty option, as well as increasing the penalty fines. The first offense would now be $200, and the second offense within 3 years would be $500. A civil penalty must be issued within 30 days of the first offense, and a civil penalty must be paid within 30 days of the offense. Failure to pay results in immediate suspension of vehicle registration.

Representative Goforth added that the intention is to install stop-arm cameras by August 1, 2023. A district may contract with a third party and create procedures for submitting and processing. There will be a 90-day emergency window, and exceptions and extensions will be allowed. He stated the cost of installing these arms will vary depending on district size and purchases. A single stop-arm camera system could cost as much as $1,200; integrating a stop-arm camera into the current system, however, may cost only $300 to $500.

Representative Goforth added that projections suggest that stop-arm cameras could generate as much as $96,804,000 in penalty revenue annually. He added that 80 percent of funds collected shall be immediately forwarded to the school district in which the violation occurred, for the purchase or lease, installation, operation, and maintenance of the school stop-arm cameras. He said that many third-party contractors will lease equipment to the districts for a percentage of the citation, capped at 80 percent or $160. Of that, 10 percent is forwarded to the Kentucky Department of Education for inspection cost and promotion of school safety. Then, 10 percent is transferred to KYTC. Twelve counties already have stop-arm cameras installed on buses in their fleet.

Administrative Regulations

The committee considered administrative regulations 603 KAR 5:5150 and 601 KAR 9:130 at the September 9, 2019 meeting. Upon discussion, 603 KAR 5:5150 had no issues raised. The Fayette County Clerk spoke in opposition to 601 KAR 9:130. He raised concerns about new language in the regulation, which prohibited issuance of a Kentucky title to someone who was not a Kentucky resident. He cited examples of retirees who live in more than one state and individuals in other states who purchase vehicles for use of family members in Kentucky. After some discussion, KYTC requested to defer consideration of the regulation until the committee's next meeting so that KYTC staff could confer with interested parties and draft an amendment that would address their concerns.

Consideration Of Deferred Regulation With Amendment 601 KAR 09:130

At the committee's September 30, 2019, meeting, there were no objections raised to the amendment of 601 KAR 9:130 that had been deferred at the previous meeting. The amendment made an exception to the prohibition on issuing titles to nonresidents, to clarify that the prohibition does not apply to such transactions allowed by statute in limited instances. A motion was made by Co-chair Harris to adopt the amendment. The motion was seconded by Representative Lewis and was adopted by voice vote.

Prefiled Bills

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

Report Of The 2019 Interim Joint Committee On Veterans, Military Affairs, And Public Protection

Sen. Albert Robinson, Co-Chair
Rep. Walker Thomas, Co-Chair

Sen. Julian M. Carroll
Sen. Perry B. 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. Brandon Smith
Sen. Whitney Westerfield
Sen. Mike Wilson
Sen. Max Wise
Rep. John Blanton
Rep. Myron Dossett
Rep. Jim DuPlessis
Rep. Chris Fugate
Rep. Mark Hart
Rep. Matthew Koch
Rep. Scott Lewis
Rep. C. Ed Massey
Rep. Patti Minter
Rep. Tim Moore
Rep. Rob Rothenburger
Rep. Dean Schamore
Rep. Attica Scott
Rep. Susan Westrom
Rep. Buddy Wheatley
Rep. Rob Wiederstein
Rep. Lisa Willner
Rep. Les Yates

LRC Staff: Jessica Zeh, Jonathan Philpot, Elizabeth Hardy, and Jamie Scowcroft

Presented to the
Legislative Research Commission
and the
2020 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; 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; garbage and refuse disposal.

Committee Activity

Representative Walker Thomas was appointed as Co-chair after Representative Tim Moore's resignation.

Distinguished Veterans

During the Interim, the committee honored Gunnery Sergeant (Ret.) Samuel Deeds, as Distinguished Veteran.

Kentucky Department of Veterans Affairs

The commissioner of the Kentucky Department of Veterans Affairs (KDVA) discussed its budget requests for the upcoming years. These priorities include providing a competitive salary for nursing staff, providing field representatives with state vehicles, hiring 20 additional field representatives, funding veteran-centered programs, and increasing employee salaries.

The KDVA also presented its legislative goals. The commissioner believes tax exemptions for military retired pay and survivor benefits as well as property tax exemption for Veterans Service Organizations will further Kentucky's goal to be the most military-friendly state. The KDVA also requested clarification on the eligibility for military license plates and license plates for military spouses. Lastly, it wishes to amend KRS 132.810 to broaden the homestead exemption and amend KRS 40.317, which would remove the requirement for the KDVA to have no less than five Veteran Benefits Regional Administrators.

Kentucky Commission on Military Affairs

The executive director of the Kentucky Commission on Military Affairs went over its goals for the next several years: protect and grow military installations; expand the economic impact of the defense-related industry; implement a model for transitioning service members, veterans, and spouses; establish Kentucky as the most military-friendly state; and attain advocacy by commission membership and support through military installations, government agencies, the defense industry, the Chamber of Commerce, and the Association of Defense Communities.

Kentucky State Police

The secretary of the Justice and Public Safety Cabinet explained that state's lab technician employee numbers have decreased and have significant turnover because of low pay. Often, a technician will get a job in another state where pay is up to 30 percent more.

The commissioner of the Kentucky State Police also talked about the decline in state trooper numbers. Because of higher pay elsewhere, many officers leave the state police to work at local departments or to get civilian jobs. In 2006, state police numbers were at 1,079, but today there are only 794 troopers. The commissioner said that the goal is that starting salary be increased by $10,000, but explained that even a $4,000 increase would help retain and recruit troopers.

Kentucky National Guard

The adjutant general of the Kentucky National Guard reported that the Kentucky Army National Guard stands at 101 percent strength and that the Kentucky Air National Guard stands at 103 percent. Strategic lines of effort of the National Guard include obtaining qualified and physically fit people, preparing each unit if there is a need for a domestic response, and coordinating involvement in the community. There are also plans to construct a new Joint Force Headquarters in Frankfort and to modernize several armories.

The president of the National Guard Association of Kentucky spoke about the state-sponsored life insurance program. New recruits are automatically eligible for a $1,000 life insurance benefit. National Guard members can also purchase policies up to $50,000 for themselves and policies up to $10,000 for immediate family members. The association would like the adjutant general to be the official sponsor for the life insurance program. The executive director of the National Guard Association of Kentucky expressed that members also have the opportunity to receive a further $10,000 benefit for free. However, that opportunity is not well publicized because of an internal conflict, so many recruits are unaware about the free bonus.

Co-chair Robinson and Senator Embry were both presented the Patrick Henry Award for their dedication to veterans in Kentucky.

Epilepsy Foundation of Kentuckiana

The veterans outreach coordinator of the Epilepsy Foundation of Kentuckiana spoke about Operation Outreach, a program to increase awareness of epilepsy. The objective is to educate Kentucky veterans and their families that there is an increased risk of posttraumatic epilepsy in veterans who have been affected by traumatic brain injury or posttraumatic stress disorder.

Brain Injury Alliance of Kentucky

The military outreach coordinator of the Brain Injury Alliance of Kentucky talked about the group's current efforts. The alliance has aided over 500 veterans in the last 4 years. An updated resource journal has been distributed across the state, and the use of social media and Veteran Service Organizations has helped to connect with veterans and communities.

Dignified Disposition of Fetal Remains

Senator Westerfield explained that under Kentucky law, the remains of unborn children are considered medical waste. The state director of the Susan B. Anthony List, an Indiana native, stated a goal of disposing of fetal remains with dignity regardless of age. A representative of the Funeral Home Association and an owner of a crematorium expressed concern about issues that occur with families who have experienced a miscarriage. According to Indiana law, the choice of disposition is solely up to the mother. Protecting women's privacy regarding abortions and miscarriages was also a concern. This situation has resulted in a burial transit permit that allows the name to be left blank on a death certificate or redacted from public records. Under Indiana law, only one body can be cremated at a time, so a waiver was included that applies only to fetal remains, allowing all remains collected in a single day to be cremated together. Lastly, to implement this law, facilities such as hospitals and abortion clinics would have the responsibility to enforce it.

Kentucky Office of Homeland Security

The executive director of the Kentucky Office of Homeland Security (KOHS) noted that the commonwealth is safer now than in 2015. The KOHS ensured that each employee has a specific role and job tasks that promote the KOHS mission. It was also reported that over 99 percent of counties received KOHS resources.

The 911 Services Board is routinely audited and is no longer delinquent. It also received a $2.3 million Next Generation 911 federal grant. Next Generation 911 is IP based and will allow the public to call, text, and send pictures and videos to call centers.

Kentucky Habitat For Humanity Inc. State Office

The executive director of Habitat for Humanity of Hopkins County reported that in that county's district, three veterans projects were finished that provided affordable housing to disabled veterans. Soon, that district will expand to include Christian County and Madisonville.

The executive director of the Cave Run Area Habitat for Humanity expressed concern that southeastern Kentucky is impoverished, posing a problem to many veterans who are often neglected. To help remedy this, a program called The Appalachian Veterans Project was formed. It has made a difference in reaching out to veterans in that area.

The chair of the Kentucky Habitat for Humanity Board of Directors said that the group is always working with organizations to further aid struggling veterans. It will continue to advocate for more money and attention to the problem of affordable housing for veterans.

Report Of The 2019
Administrative Regulation Review Subcommittee

Sen. Stephen West, Co-Chair
Rep. David Hale, Co-Chair

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

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

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Administrative Regulation Review Subcommittee

Jurisdiction: Review and comment upon effective regulations and proposed regulations filed with the commission; make nonbinding determinations about a regulation's need or sufficiency; recommend the amendment, repeal, or enactment of statutes relating to regulations; conduct a continuous study of the regulations process and the needs of administrative bodies; 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 January 2019 and December 2019.

Subcommittee Statistics

Within the last year, ARRS reviewed 658 regulations, an increase of 48 percent over the yearly average of 447. The subcommittee found one regulation deficient during this time; however, the subcommittee subsequently removed this finding.

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	299	119	52	23	447

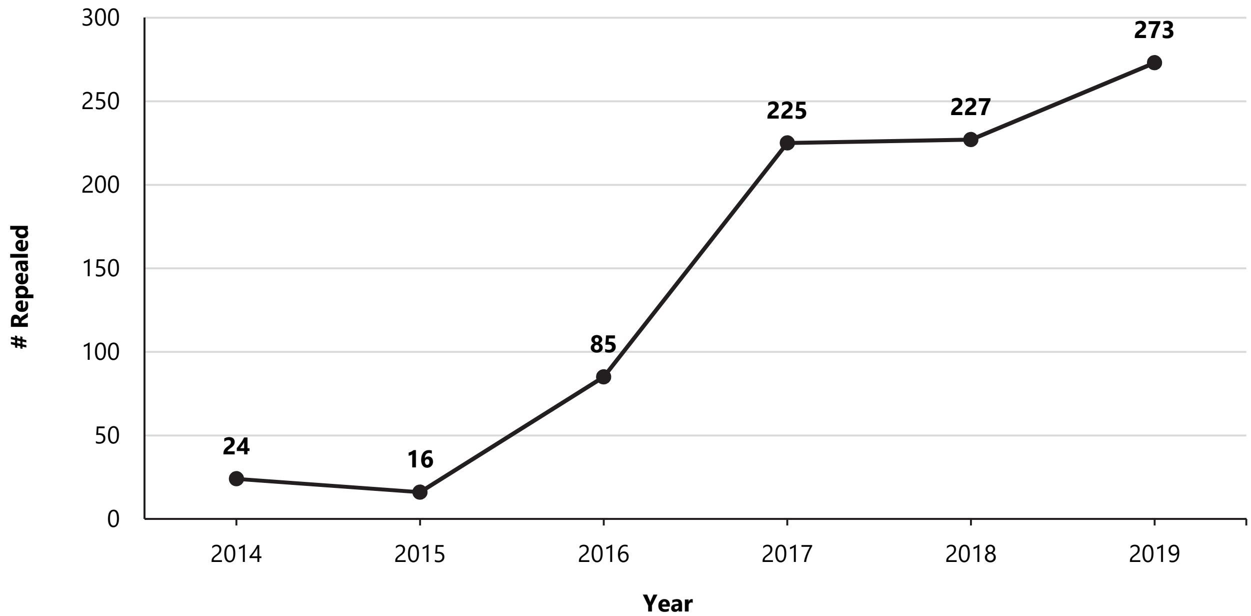
Regulations Reviewed By ARRS December 2018 To November 2019

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 2018	29	15	3	1	48
January 2019	19	9	1	0	29
February	54	18	1	0	73
March	49	14	8	2	73
April	63	21	2	1	87
May	17	8	2	0	27
June	5	18	6	2	31
July	43	20	2	2	67
August	38	25	6	4	73
September	36	20	1	18	75
October	5	2	1	0	8
November	32	23	12	0	67
Total	390	193	45	30	658

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 2019, the subcommittee reviewed 59 repealer regulations that repealed 273 regulations.

**Regulations Repealed By Year
2014 To 2019**



Certifications

Out of 732 certification letters filed between January 1, 2019, and November 19, 2019, agencies indicated that 141 regulations will be amended and 591 will remain in effect without amendment. Approximately 33 percent (1,387) of all effective regulations are set to expire on March 1, 2020, unless the applicable promulgating agencies take action prior to the deadline.

House Bill 4

House Bill 4 was enacted during the 2019 Regular Session of the General Assembly. This Act changed the regulatory process in several ways. First, an annual report will be prepared in December listing all regulations found deficient by ARRS from the past year. The report will provide information on the available legislative options for ratification of the findings of deficiency. Second, HB 4 clarified that a deficiency finding may be used by legislative committees on both existing regulations and proposed regulations going through the review process. Third, this Act extended timelines for the public comment period and the postreferral subject matter committee review. The public comment period is increased from 1 month to 2 months, and subject matter committees now have 90 days to review regulations instead of 30 days. Fourth, the review of proposed regulations will automatically transfer between interim joint committees and standing committees. Fifth, the expiration date of older regulations that was first established by House Bill 50 (2017 RS) is now March 1, 2020, an extension of 8 months, and the requirement to consider KRS Chapter 13A drafting rules during the agency review process was removed from certification provisions. Finally, notice procedures were established for agency-requested technical amendments.

Review Topics

The following are some of the topics that ARRS reviewed during 2019.

Crossbow Hunting (301 KAR 2:172). The subcommittee reviewed a regulation from the Department of Fish and Wildlife Resources that was being amended to expand Kentucky's crossbow season for deer hunting. The department provided testimony that the most common request from sportsmen was that Kentucky offer more crossbow opportunities, that surveys consistently demonstrated strong support for expanding Kentucky's crossbow season, and that biological studies indicated that a longer season would not negatively impact wildlife resources. The testimony further stated that there were numerous opportunities for all interested stakeholders to be involved in the development of the regulation.

Supporters of the regulation included the League of Kentucky Sportsmen, Kentucky Quality Deer Management, and the Kentucky Crossbow Federation. The reasons stated for support were that crossbow hunting is growing in popularity; crossbow hunting is easier for youth, smaller hunters, and those with less strength; and crossbow hunters currently had fewer hunting opportunities than other types of hunters.

Those who opposed the crossbow hunting regulation testified that extending the crossbow season to before the rutting season would be harmful to the buck population at a vulnerable time and that crossbows were inappropriate as a hunting method during the rutting season because a crossbow was advertised to shoot, and does shoot, like a rifle; that the crossbow season was too early because there would be fawns that were not yet weaned; and that the department should be making the doe population a priority because most vehicle collisions involve does.

The department stated that it would amend these requirements in the future if implementation of the regulation proved detrimental to wildlife resources. This regulation became effective on May 31, 2019.

Hunter Education (301 KAR 2:185). The subcommittee is reviewing a regulation from the Department of Fish and Wildlife Resources that proposes the removal of in-person hunter education requirements and allows hunters to qualify online for a hunting license. This regulation was deferred from the subcommittee in October and November to allow legislators, stakeholders, and the department to further discuss the proposed changes.

During the October ARRS meeting, the department stated that 22 other states have authorized hunter certification without an in-person course. The department reached out to those states, and the data from the responses indicated that the convenience of online certification had increased the number of certified hunters and decreased adverse hunting-related incidents. The in-person, live-fire training would remain optional.

A member of the subcommittee expressed several concerns including the following: the department might be taking away the one chance many youths would have to learn firearm safety through live-fire training; the department seemed to be suggesting that a hunter could be more acclimated to firearms through an online experience, rather than an in-person course or range day; it seemed almost superfluous to require hunter certification at all without the live-fire handling component; it was important for every youth to have as much training in hunter safety as possible; and it was inappropriate to have a policy that appeared to undermine youth hunter safety training, especially given the current debate on gun violence in America. As of November 2019, this regulation is still pending.

Black Bear Season Requirements (301 KAR 2:300). The subcommittee reviewed a regulation from the Department of Fish and Wildlife Resources that amended black bear season requirements. The department testified that the male bear quota had been removed and that bear zones had been adjusted. Reporting for the purposes of quota tracking is conducted via call-in after 9 p.m., and the quota system is updated daily. A representative for the department further testified that Kentucky was nearly reaching the quotas, and it is expected that bear harvesting will increase. This regulation became effective on August 20, 2019.

High School Graduation Requirements (704 KAR 3:305). The subcommittee reviewed a regulation from the Department of Education that amended minimum requirements for high school graduation. The department testified that this regulation represented a first step toward improvement by adding flexibility; requiring basic competence in reading and mathematics, as evidenced by a standardized test that students were already taking; and requiring that students meet at least one of eight qualifiers.

The Prichard Committee for Academic Excellence provided testimony in opposition to the regulation, stating that several components of the new minimum requirements raised concerns, such as the following: exit examination requirements, which the Prichard Committee indicated have little correlation with future success; the requirement that students meet graduation qualifiers, which would place responsibility on students rather than on schools; and the removal of Algebra II as part of the curriculum, especially because schools should be emphasizing higher levels of mathematics given that Kentucky students routinely score in the bottom 25 percent of nationwide mathematics assessments.

The department responded that approximately 15 states require Algebra II for all students as a graduation requirement. Sixty percent of Kentucky students required remedial work in mathematics at the postsecondary level, and it was unnecessarily burdensome to continue to include successful completion of Algebra II as a graduation requirement. Basic competence in reading and mathematics was both sufficient and necessary for future success. The department stated that the assessment examinations, which are the same as those already given for other purposes, would be an adequate measure for future success. This regulation became effective on April 5, 2019.

Academic Standards (704 KAR 8:020, 8:040, and 8:060). The subcommittee reviewed regulations from the Department of Education that were being amended to update the required academic standards for reading, writing, mathematics, and social studies. These regulations were part of a larger update to the minimum high school graduation requirements.

Representatives of the department, the Kentucky Council for Social Studies, and the Jefferson County Public School System testified that the requirement revisions for social studies were in accordance with Senate Bill 1 from the 2017 Regular Session of the General Assembly, which required that Kentucky's academic standards be revised by Kentucky teachers and other stakeholders. The social studies curriculum was developed at the school level through school-based decision-making councils, which were guided by the academic standards framework. For example, the framework divides social studies into four disciplines: geography, civics, economics, and history. In accordance with SB 1, these disciplines were to be inquiry-based with a balance between skills and content. The standards would provide flexibility for inclusive content and unique learning experiences, rather than an exhaustive list of content standards; serve as a framework constituting the goals for student learning outcomes; and provide students with the tools necessary to shape the future.

Opponents to 704 KAR 8:060, Required Academic Standards for Social Studies, testified against the regulation, claiming that the standards were incomplete, lacked clarifying detail, focused on process rather than sufficient content, and required more guidance than was provided in the framework. There was concern that important social studies components might not be taught.

A representative for the department responded that the issue about content details was misplaced because these details would develop inherently from the academic standards framework topics. 704 KAR 8:020 and 704 KAR 8:040 became effective on March 8, 2019. 704 KAR 8:060 became effective on July 5, 2019.

Horse Racing (KAR Titles 810 and 811). The subcommittee reviewed a package of regulations from the Kentucky Horse Racing Commission that revised and reorganized the regulatory scheme for horse racing in Kentucky, including requirements for licensing, pari-mutuel wagering, incentive and development funds, and medication guidelines.

Representatives for the commission testified that this package consolidated 112 regulations into 59 regulations as part of the Governor's Red Tape Reduction initiative. This consolidation made the regulations more user friendly and easier to update in the future.

Representatives for The Red Mile and the Kentucky Thoroughbred Association appeared in support of the proposed regulations and testified that they increased the safety of both horses and riders.

There was testimony opposing the proposed regulations from several stakeholders representing the National Horsemen's Benevolent and Protective Association, the Kentucky Horsemen's

Benevolent and Protective Association, and the North American Association of Racetrack Veterinarians. The stakeholders expressed concerns that the new claiming procedures would encourage predatory claims practices from outside interests, that the international medication protocol was an unconstitutional delegation of the commission's authority, and that the definition of *therapeutic anabolic steroid* should include stanozolol. They also testified that the prohibition on substances foreign to the horse was overly broad, that the ban on using compounded medications would adversely impact compounding pharmacies, and that the medication changes should have been reviewed by the Equine Drug Committee.

The stakeholders indicated that they would continue to work with the commission to avoid any unintended consequences that might result from implementation of the regulations. The reconsolidated regulations became effective on May 31, 2019.

Tattooing (902 KAR 45:065). The subcommittee reviewed a regulation from the Department for Public Health that, as originally filed, prohibited the tattooing of scarred skin. The department later removed that prohibition after receiving extensive public comments about the benefits of tattooing for cancer survivors and other individuals.

Representatives for the department acknowledged the impact the regulatory process had on this regulation and expressed appreciation for the input from constituents and the subcommittee members in developing the final version. They stated that the department remained focused throughout the process on the public's health, safety, and welfare.

The owner of Tattoo Charlie's of Kentucky appeared in support of the regulation but requested changes. He raised concerns about the impracticality of the requirements for nonporous ceilings and the inadequacy of the requirements for sterilization of metal or receiving tubes. He also requested revisions to the requirements on consent for minors, client medication and health issues, and protective attire for practitioners.

After referral to the Interim Joint Committee (IJC) on Health, Welfare, and Family Services, the IJC approved further revisions. The regulation became effective on September 9, 2019.

Certificate Of Need "Nonsubstantive" Review – Ambulance Providers (900 KAR 6:075). The subcommittee reviewed a regulation from the Cabinet for Health and Family Services that established an expedited review for a Class I ambulance provider applicant if the proposed service area was limited to a county with a population of 50,000 or more, and the county did not have an ambulance provider or only had one provider that was not publicly owned or operated. The regulation received a significant number of public comments and was also the subject of ongoing litigation in Warren County.

The office provided testimony that this proposed regulation was needed because it protected counties from the risk of a sole provider going out of business; it addressed a statewide health issue and was not limited to Warren County; and it encouraged competition among providers, helped control costs, and ensured patient choice.

A representative of the ambulance provider that was applying for a certificate of need testified in favor of the proposed regulation and stated that the cabinet was authorized by statute to establish additional categories of nonsubstantive review. The regulation was necessary because statistics demonstrated that most patients in the relevant provider area were being transported to the hospital with which the current ambulance provider was affiliated.

Representatives from Warren County and the Medical Center at Bowling Green testified in opposition to the proposed regulation. They expressed concerns about the need for the regulation, its potential negative impact on Warren County's citizens and businesses, and whether it was impermissible special legislation by the cabinet in favor of an individual provider. They also questioned the validity of the report by the Pegasus Institute, which the cabinet had used as a basis for the regulation. The opponents requested that the subcommittee find the regulation deficient.

A motion was made and seconded to find the regulation deficient. A roll call vote was taken. Five votes were required for passage of the motion. There were four votes to find the regulation deficient and three votes against finding the regulation deficient. The motion failed. This regulation became effective on May 31, 2019.

Curriculum Standards For Nursing Programs (201 KAR 20:320). The subcommittee reviewed a regulation from the Kentucky Board of Nursing that added provisions on the use of external examinations. An external examination is a standardized examination not produced by the program of nursing. The added provisions indicated that a program of nursing shall not require completion of an external examination as a determinate for a student's progression or graduation, but may use it to assist in the remediation of a student or as part of the final course grade. If used as part of the final course grade, it would not count for more than 10 percent of the grade.

Representatives from the Galen College of Nursing appeared in opposition to this regulation and testified that it is the largest educator of nursing students in Kentucky. The college requested that the subcommittee reject this regulation in favor of an amended version that would prohibit the use of a single standardized examination, post-program of study completion, which could prevent the release of a graduate's name to a board of nursing for purposes of sitting for the national licensure examination. They testified that this regulation undermined the role of faculty in the determination of the curricula, establishment of learning outcomes, and assessment of student learning through a variety of methods and sources. Additionally, the college raised concerns that external examinations were purchased from a vendor and not customized for individual schools or programs. As a result, an external standardized exam could contain content not covered by a nursing program or course.

The subcommittee requested that the board meet with the representatives from Galen College of Nursing as the regulation continued through the process. The board indicated that its purpose was to address the issue of examinations being used to require a student to obtain a specific score or benchmark to progress or graduate, rather than being used for the intended purpose of remediation. This regulation became effective on March 13, 2019.

Personal Care Homes (902 KAR 20:036). The subcommittee reviewed a regulation from the Cabinet for Health and Family Services that amended minimum licensure requirements for personal care homes (PCHs). This regulation was amended and deferred at the September meeting of the subcommittee. The cabinet then deferred the regulation from the October meeting to the November meeting.

At the September meeting, the cabinet asserted that the services in the proposed regulation were necessary for compliance with a settlement agreement. This agreement was intended to preempt threatened litigation for noncompliance with the Americans with Disabilities Act, as addressed by the US Supreme Court decision in *Olmstead v. L.C.,* 527 U.S. 581 (1999).

Representatives for PCHs that serve clients with serious mental illnesses testified in opposition to requirements that pertained to preparing clients who were transitioning to other settings for activities for daily living and instrumental activities for daily living. The PCH representatives said that the costs of compliance would be prohibitive. As of November 2019, this regulation is still pending.

Pharmaceutical Formulary (803 KAR 25:270). The subcommittee reviewed a regulation from the Labor Cabinet that established the pharmaceutical formulary mandated by KRS 342.035. This regulation also provided guidance for implementation of the adopted formulary and adopted a pharmaceutical formulary for medications prescribed for the cure and relief of work-related injuries or occupational diseases.

Representatives from Rx Development Associates and the Kentucky Workers Association testified in opposition to the regulation. They said that the department went beyond its jurisdiction and beyond the scope of the regulation by the requirement for prior authorization when drugs are dispensed by an entity other than a pharmacist. The stakeholders testified that boards of licensure had jurisdiction to establish who was authorized to dispense drugs and that this regulation should be revised to remove that requirement. Additionally, they testified that the regulation should be revised to provide notice to an injured worker of a prescription denial that was based on the prior authorization requirement.

The cabinet responded with testimony that an injured worker would know immediately if a prescription was denied based on the prior authorization requirement. The pharmacist would know prior to dispensing the prescription, and the prescriber would be notified of the denial and the reason for the denial. Additionally, a representative for the cabinet said that the formulary was internet-based and updated monthly, and notice was published if a drug on the formulary changed because the intent was to discourage prescription of nonpreferred drugs on the formulary and encourage prescription of therapeutically equivalent, preferred drugs. Representatives for the cabinet testified that the regulation does not establish who was authorized to prescribe certain drugs but required prior authorization for drugs listed as nonpreferred on the formulary. This was a cost-control measure and an effort to reduce conflicts of interest in situations in which there might be compensation to a provider for prescribing nonpreferred drugs. These requirements would not be overly burdensome for a prescriber who was also a dispenser.

A member of the subcommittee expressed concern that the process for addressing prior authorization was inefficient. A motion was made and seconded to find this regulation deficient. Prior to a roll call vote, the department requested deferral of this regulation to the June meeting of the subcommittee. The motion for a finding of deficiency was withdrawn.

At the June meeting of the subcommittee, the concerned stakeholders and the department testified that they had reached an agreement after discussing the issues. The department filed an agency amendment to make the agreed-upon changes, which the subcommittee approved. This regulation became effective on July 11, 2019.

Use Of State-Owned Facilities (200 KAR 3:020). The subcommittee reviewed a regulation from the Finance Cabinet pertaining to state-owned facilities and grounds, including the State Capitol. The regulation was amended to establish uniform rules and conditions of use, event application procedures, and enforcement provisions. It was filed by the Governor on an emergency basis to address health and safety concerns resulting from increased public interest in, and attendance at sessions of, the Kentucky General Assembly. The emergency regulation became effective immediately upon filing on January 4, 2019. The final regulation became effective on August 2, 2019.

Fuel Adjustment Clause (807 KAR 5:056). The subcommittee reviewed a regulation from the Public Service Commission (PSC) that was amended in response to House Resolution 144 from the 2019 Regular Session of the General Assembly. The resolution urged the PSC to consider all costs, including economic impacts related to fossil fuels, for the purposes of analyzing coal purchases. Amendments included the exemption of coal severance taxes from the determination of the reasonableness of fuel costs; changing hearings from mandatory to discretionary; and authorization of nonprofit regulated utilities to recover only actual fuel costs.

PSC's position is that the cost impact of the regulation was expected to be minimal and that the calculated estimates provided by opponents of the regulation were based on an unlikely, worst-case scenario. There could be a consumer cost increase, but it was expected to be very minimal, such as 75 cents per year. PSC's hope is that any increased costs would be offset by ratepayer base increases resulting from economic growth.

A representative of Louisville Gas and Electric Company (LG&E) and Kentucky Utilities (KU) testified in opposition to the regulation. He stated that, of the coal that LG&E and KU Energy purchased to generate electricity in 2018, approximately 60 percent came from Kentucky coal producers. Under the proposed revision, PSC would be required to review fuel procurement decisions based on the price paid minus any coal severance tax, instead of looking at the actual full cost of fuel. He argued that the customers would still pay the full cost of fuel, including the coal severance tax, so consumer costs could increase. Additionally, the regulation could result in lengthy and costly litigation because it might be challenged on constitutional grounds.

Representatives of the PSC responded that they had not done an independent economic analysis, but that the Economic Development Cabinet had data regarding job and wage impacts. Any increased costs should be offset by ratepayer base increases resulting from economic growth. This regulation became effective on August 20, 2019.

Advertising As A Real Estate Agent Or Broker (201 KAR Chapter 11). The subcommittee reviewed this package of regulations from the Real Estate Commission, which amended to consolidate several of the existing regulations, among other changes.

The commission provided testimony that a real estate agent or broker should identify himself or herself when advertising services as a licensee, such as offering to sell a house. The testimony further stated that there is a "one-click rule" for advertising, which requires that there be identifying information of the licensee within one click of the link. Unsolicited information would still come under the definition of *advertisement*. This requirement does not apply to private communications between a licensee and a client or prospective client. To be a prospective client, a person must share at least some confidential information.

A representative from First Nations Realty testified, raising concerns with 201 KAR 11:011 and 201 KAR 11:105, relating to information technology and Facebook. He was concerned with the exemption for "private communications" under the definition of *advertising* or *advertisement* in 201 KAR 11:011. He stated that the regulation should exclude from the definition of *advertisement* any private communications between a licensee and a prospective client only after a relationship for services is clearly established. He stated that people often receive unsolicited emails, and they should know who is sending them. For 201 KAR 11:105, he testified that he was concerned about where the identifiable information or link could or could not be displayed, such as in the required actual advertisement content itself or in a comment to a posting. This regulation will be referred to an IJC for further review on December 4, 2019.

Tentative ARRS Agenda for December 2019

Although December's meeting agenda has not been finalized, the ARRS could review as many as 68 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 the annual public employee health insurance handbook; the Tourism Marketing Incentive Program; hunter education; special commission hunting permits; pharmacist interns; real estate appraiser education; motorcycle safety education; ignition interlock; livestock carcass transport and composting; sampling and testing procedures for industrial hemp; personal care homes; prescribed pediatric extended care centers; ambulatory infusion agencies; child protective services; noncoal mining; surface and underground coal mining; oil and gas wells; sales and use tax; and selective excise tax.

Report Of The 2019
Capital Planning Advisory Board

Sen. Stan Humphries, Co-Chair
Rep. John Blanton, Co-Chair

Sen. Whitney Westerfield
Rep. Derek Lewis
Scott Brinkman
Charles Byers
John Chilton
Laurie Dudgeon
Carole Henderson
John Hodgson
Dr. Patsy Jackson
Stephen Knipper
William M. Landrum
Dan Markwell
Mark Overstreet
Katie Shepherd

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

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Capital Planning Advisory Board

Jurisdiction: The 1990 General Assembly established the Capital Planning Advisory Board of the Kentucky General Assembly, composed of members representing the executive, judicial, and legislative branches of government. Pursuant to KRS 7A.120, the board is charged with creating a 6-year comprehensive statewide capital improvements plan encompassing state agencies and universities. The plan is to be submitted 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.

Board Activity

Since adjournment of the 2019 Regular Session, the Capital Planning Advisory Board has held four meetings. The meetings focused primarily on the review of agency capital plans in preparation of the *2020-2026 Statewide Capital Improvements Plan.* At these meetings, the board received testimony from executive branch agencies, postsecondary institutions, and the judicial branch. The testimony included discussion of each agency's capital construction, information technology, and equipment needs. The agency capital plans reported the need for 1,300 projects totaling approximately $22 billion from all fund sources over the next 6 years. General fund dollars represent approximately $7 billion of the total need. Other funding sources include restricted, federal, and road funds; agency bonds; and cash or third-party financing arrangements. For the 6-year period, there is a need for approximately $8 billion for construction projects such as new facilities and expansions; $11 billion for maintenance and renovation of existing facilities; $156 million for equipment; $2.3 billion for information technology projects; and $996 million for the grant and loan programs that provide assistance to nonstate entities. Agencies that administer grant and loan programs include the Economic Development Cabinet, the Department for Local Government, the Kentucky Infrastructure Authority, and the School Facilities Construction Commission.

In addition to the review of agency capital plans, the meetings also included special reports provided by the Commonwealth Office of Technology (COT) and the Council on Postsecondary Education (CPE). At the June meeting, the COT chief information officer presented his report regarding COT's review of executive branch information technology projects. The COT review panel evaluated 22 qualifying projects for the 2020-2022 biennium with a value of $188 million. Eight projects, totaling $127 million, were identified as high in value, meaning they had the best return on investment for the commonwealth.

The August meeting included a report from CPE staff regarding the council's review and evaluation of capital construction and information technology projects submitted by the postsecondary institutions. CPE reviewed a total of 74 asset preservation projects valued at $1.8 billion, and 42 information technology projects valued at $742 million. UK Healthcare represented $565 million of the total cost of all information technology projects. Funding sources include agency bonds as well as general, restricted, and private sources.

At the October meeting, the board gave final approval to the *2020-2026 Statewide Capital Improvements Plan*. The plan included policy and project recommendations developed and approved by board members.

Relative to the policy recommendations, the following were adopted in conjunction with the capital plan:

- **Budget Reserve Trust Fund:** The board recommended that the governor and the General Assembly place a high priority on maintaining Budget Reserve Trust Fund balances and consider linkage of deposits directly to revenues and statutory withdrawal provisions.
- **Council on Postsecondary Education—Focus on Asset Preservation—Postsecondary Capital Projects:** The board endorsed CPE's multibiennium strategy for financing the capital needs of the postsecondary institutions. The board also recommended that the governor and the General Assembly endorse CPE's proposed asset preservation investment framework and provide funding in the 2020-2022 and subsequent state budgets. (Over the last several biennia, CPE has used a multibiennium, blended approach to address asset preservation and new construction needs simultaneously. This multibiennium funding approach provided a balanced investment as recommended by the VFA Inc. study. For the 2018-2020 budget period, CPE recommended state general fund support for asset preservation projects. For the 2020-2022 budget period, CPE is again recommending that any general fund appropriations for capital be used exclusively to address asset preservation projects. CPE will not request general-fund-supported bonds for new and expanded spaces, information technology, or equipment projects in its 2020-2022 budget request. CPE will request state funds to establish an asset preservation pool, and anticipates recommending a sufficient level of general-fund-supported bond debt that, when combined with some level of institutional matching funds, addresses nearly 10 percent of the identified asset preservation need, or $600 million, in 2020-2022.)
- **State Agency Maintenance Pools:** The board recommended that, in each biennium, sufficient funding be appropriated for agency miscellaneous maintenance pools to address maintenance projects that would protect the state's significant investment in its physical plant.

The *2020-2026 Statewide Capital Improvements Plan* also included the following recommendations regarding funding for state agency maintenance and equipment pools, housing state agencies, and funding for grant and loan programs.

State Agency Maintenance Pools For Construction Needs

The board recommended that maintenance pool appropriations for all agencies be significantly increased in the 2020-2022 biennium. In a separate policy recommendation, the board reiterated its belief in the importance of the state agency maintenance pools to finance minor planned and unanticipated construction project needs. In their 2020-2026 capital plans, the agencies identified the need for approximately $623 million for maintenance pools over the 6-year period. In the first biennium, the request for maintenance pool funding totaled $113 million. This is significantly more than has been appropriated for this purpose in past biennia.

State Agency Equipment Maintenance Pools And Replacement Schedules

The board recommended that funds be provided, as appropriate, for equipment and systems maintenance pools. Similar to the need to protect the state's investment in facilities, agencies that are responsible for major equipment assets of the state need the ability to address ongoing maintenance needs of those items, including aircraft and communications equipment. The board further recommended that funding be appropriated on a regular basis to allow agencies to establish and adhere to equipment replacement schedules so that replacement and upgrade needs can be addressed on a periodic basis, rather than accumulating until a major infusion of funds is required.

Long-Range Plan For Housing State Agencies In The Frankfort Area

The board commended the Department for Facilities and Support Services on its continuing progress toward implementing the plan developed in response to KRS 42.425 to reduce the amount of space leased to house state agencies in Franklin County. This progress was accomplished through a combination of approaches, including state-funded new construction, state-funded renovations, and long-term financing arrangements.

The board recommended that the department continue to address reducing the amount of space leased by state government in other locations around the state. This action is consistent with KRS 42.425(2)(b)2, which directs the development of long-range plans for housing state agencies in metropolitan areas.

Grant And Loan Programs

Various agencies proposed significant funding in 2020-2022 for programs that would provide assistance, through a competitive application process, to nonstate entities. Included are programs of the Cabinet for Economic Development, the Department for Local Government, the Kentucky Infrastructure Authority, and the School Facilities Construction Commission. Because of the limited resources available and the significant needs in other areas of government, the board urged decision-makers to carefully analyze existing fund balances/carryforwards prior to authorizing additional appropriations for these programs.

Relative to projects proposed to be financed from state general funds in the 2020-2022 executive budget, the board recommended a total of 45 projects in three areas: construction (maintenance/renovation), construction (new), and information technology. The following projects were recommended.

Construction (Maintenance/Renovation)

Capital Renewal and Deferred Maintenance Pool—Kentucky Community and Technical College System
Capitol Campus Upgrade—Finance and Administration Cabinet
Construct Morale Welfare and Recreation Facility at Wendell H. Ford Training Center—Department of Military Affairs

Design the Renovation of CHR Building—Finance and Administration Cabinet
East Kentucky Correctional Complex Various Roof Replacements—Department of Corrections
Facilities Renewal and Modernization—University of Kentucky
Install Solar Panels at Armories Statewide—Department of Military Affairs
Modernization Pool Kentucky National Guard—Department of Military Affairs
State Schools HVAC Pool—Department of Education
State Schools Roof Repair and Replacement Pool—Department of Education
State Schools Safety and Security Pool—Department of Education
Western State Hospital Electrical and Telecom Upgrade Phase 3—Cabinet for Health and Family Services

Construction (New)

Construct Armed Forces Readiness Center Somerset—Department of Military Affairs
Construct Bowling Green Veterans Center—Department of Veterans Affairs
Construct Butler County Court Facility—Court of Justice
Construct Science and Engineering Building—Morehead State University
Construct Two Medium Sized Box Hangars—Transportation Cabinet
Crittenden County Court Facility Renovation and Addition—Court of Justice
Expand Campground—Kentucky Horse Park
Facilities Renewal and Modernization—Murray State University
HVAC Replacement and Repairs Various Kentucky State Police-Owned Facilities—Kentucky State Police
Improve Whalen Building and Bay Facility—University of Kentucky
Install Emergency Generators Luther Luckett and Green River Correctional Complexes—Department of Corrections
Install Yard Fence for Seven Buildings Luther Luckett Correctional Complex—Department of Corrections
Kentucky Exposition Center Replace Gate Entrances—State Fair Board
New Posts Construction Harlan and Richmond—Kentucky State Police
Roof Repairs and Replacement Various Kentucky State Police-Owned Facilities—Kentucky State Police
State-Owned Dam Repair Pool—Department for Environmental Protection
State Superfund Sites Remediation—Department for Environmental Protection
Statewide Microwave Network (KEWS) Shelter Upgrade—Commonwealth Office of Technology

Information Technology

ATSC 3.0 Conversion Phase 2—Kentucky Educational Television (KET)
Cable Infrastructure Improvements—Department of Parks
Case Management System—Education and Workforce Development Cabinet
Child Support System (KASES III)—Cabinet for Health and Family Services
College to Career Pathways Portal—Council on Postsecondary Education
DAIL System Modernization—Cabinet for Health and Family Services
Digitization Project—Kentucky Heritage Council

Emergency Radio System Replacement—Kentucky State Police
Enhance and Upgrade Cyber Security System—Northern Kentucky University
Enterprise Content Management—Commonwealth Office of Technology
Health Immunization Information System—Department of Public Health
Kentucky All Schedule Prescription Electronic Reporting (KASPER) System—Cabinet for Health and Family Services
Online Permitting and Submittal (eForms)—Energy and Environment Cabinet
The Workers Information System (TWIST) Modernization—Cabinet for Health and Family Services
Upgrade Kentucky Regional Optical Network Infrastructure—Council on Postsecondary Education

The complete *2020-2026 Statewide Capital Improvements Plan*, as approved by the board, was transmitted to the heads of the three branches of government by the statutory due date of November 1.

Report Of The 2019 Capital Projects And Bond Oversight Committee

Sen. Rick Girdler, Co-Chair
Rep. Walker Thomas, Co-Chair

Sen. Julian M. Carroll	Rep. Steven Rudy
Sen. Christian McDaniel	Rep. Steve Sheldon
Sen. Robby Mills	Rep. Maria Sorolis

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

Presented to the
Legislative Research Commission
and the
2020 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 January 1 and November 30, 2019, as well as transactions projected to be submitted in December 2019. The committee met monthly and approved all except two proposed transactions. For those two, the entity head proceeded with the transactions pursuant to KRS 45.800(3).

In addition to the committee's oversight of the commonwealth's capital construction (including public-private partnership agreements under KRS 45A.077, debt issuance, and real property leases), the committee approves Kentucky Infrastructure Authority (KIA) loans and Cabinet for Economic Development (CED) economic development fund (EDF) program grants pursuant to KRS 224A.100 and KRS 154.12-100(5). For this reporting period, only executive branch agencies, primarily through the Finance and Administration Cabinet, and postsecondary institutions executed transactions that needed committee approval.

Approval Items Submitted From January 2019 To December 2019

Projects And Associated Agreements, 2019

Month	P3 Project Authorizations, KRS 45.763(3)	P3 Contracts, KRS 45A.077(6) And 45A.077(10)(a)	Interim Project Authorizations, KRS 45.760(7) And 164A.575(15)	Interim Project Appropriation Increases, KRS 45.760(6)	KCNA Financing Agreement, KRS 154.15-020(4)(c)	Total
Jan	0	0	0	0	0	0
Feb	0	0	2	0	0	2
Mar	0	0	1	0	0	1
Apr	0	0	0	0	0	0
May	0	1	0	1	0	2
Jun	0	0	0	0	1	1
Jul	0	0	2	1	0	3
Aug	0	0	2	2	0	4
Sep	0	0	2	1	0	3
Oct	0	0	3	0	0	3
Nov	0	0	0	1	0	1
Dec*	0	0	2	0	0	2
Total	0	1	14	6	1	22

Note: P3 = public-private partnership; KCNA = Kentucky Communications Network Authority.
* Projected numbers.

Lease Arrangements, 2019

Month	Tenant Improvement Fund Requests/300 And Mayo-Underwood Buildings, KRS 56.823(12)(d)	Lease Auth., KRS 45.811(6)(b)	New Leases And Renewals, KRS 56.823(2)(4) And 164A.575 (7)(c)	Lease-Purchases, KRS 56.823 (3)(7)(9)	Built-To-Suit Leases, KRS 56.823 (6)	Lease Mod. Of At Least $50,000, KRS 56.823 (11)(a)	Total
Jan	0	0	1	0	0	1	2
Feb	0	0	1	0	0	1	2
Mar	0	0	0	0	0	0	0
Apr	0	0	3	0	0	0	3
May	0	0	2	0	0	0	2
Jun	0	0	0	0	0	0	0
Jul	0	0	2	0	0	0	2
Aug	0	0	2	0	0	0	2
Sep	0	0	5	0	0	0	5
Oct	0	0	1	0	0	0	1
Nov	0	0	3	0	0	0	3
Dec*	0	0	1	0	0	0	1
Total	0	0	21	0	0	2	23

Note: Auth. = authorizations; Mod. = modifications.
* Projected numbers.

Transactions Submitted Through The Office Of Financial Management, 2019

Month	KIA Assistance Agreements*, KRS 224A.100	EDF Projects, KRS 154.12-100(5)	Appropriation-Supported Debt Issues, Excludes SFCC, KRS 45.810	Non-Appropriation-Supported Debt Issues, KRS 45.810	Conduit Debt Issues, KRS 45.810	School District Debt Issues With SFCC Debt Service Participation, KRS 45.810	Total
Jan	10	0	0	1	0	2	13
Feb	6	0	1	0	0	7	14
Mar	3	0	1	0	0	7	11
Apr	3	1	0	0	1	17	22
May	4	0	1	0	2	6	13
Jun	4	0	1	1	0	1	7
Jul	10	0	0	0	1	4	15
Aug	4	0	0	0	4	7	15
Sep	0	0	2	0	0	1	3
Oct	3	0	0	0	2	6	11
Nov	2	0	0	0	0	10	12
Dec**	6	0	1	0	1	5	13
Total	55	1	7	2	11	73	149

Note: KIA = Kentucky Infrastructure Authority; EDF = economic development fund; SFCC = School Facilities Construction Commission.
* Loans, loan assumptions, and loan increases.
** Projected numbers.

Projects And Associated Agreements

The Finance and Administration Cabinet, through the Office of State Budget Director, submits and reports projects and associated agreements for executive branch agencies, the Kentucky Community and Technical College System, and Kentucky State University. The other postsecondary institutions submit and report individually.

The committee approved the first public-private partnership submitted under KRS 45A.077(6): construction of the University of Kentucky's mixed-use parking structure on the corner of South Limestone and Winslow Streets in Lexington, financed through the issuance of $32.485 million in certificates of participation. The majority of the interim project authorizations and appropriation increases were for Department of Military Affairs projects with at least 50 percent federal funding. In addition to the above, the committee reviewed the following, reported for informational purposes only: allocations for capital projects from specific program areas as allowed by Part II (4) of the executive branch appropriations bill; a project authorizations consolidation; KRS 45.760(9) annual and KRS 26A.168(1), 45.793, and 45.818 quarterly capital projects status reports; KRS 45.760(5) medical and research equipment purchases; and KRS 45A.180(2) notices of intent to use alternative construction project delivery methods. The majority of postsecondary institutions report Part II (4) allocations through the quarterly capital projects status reports.

Lease Arrangements

The Finance and Administration Cabinet, through the Department for Facilities and Support Services, Division of Real Properties, submits and reports lease arrangements for executive branch agencies. All postsecondary institutions submit and report lease arrangements individually.

The last tenant improvement fund request for the 300 Building was submitted to the committee in June 2018. The Department for Facilities and Support Services does not anticipate tenant improvement fund requests for the Mayo-Underwood Building in the near future. The majority of the submitted leases were renewals for executive branch agencies, expected to remain steady as lessors are often renewing for only 1 year. In addition to the above, the committee reviewed the following, reported for informational purposes only: KRS 43.050(2)(e) lease law compliance reports, KRS 48.111(6)(b) notices of advertisement for leased space, a KRS 56.823(5) emergency lease, and KRS 56.823(11)(a) lease modifications under $50,000.

Transactions Submitted Through The Office Of Financial Management

KIA Loans, Loan Assumptions, And Loan Increases. The committee approved KIA loans, loan assumptions, and loan increases to local government entities for public infrastructure projects from the Fund A (federally assisted wastewater/clean water state revolving loan fund), Fund B (infrastructure revolving fund), Fund C (governmental agencies program loan fund), and Fund F (federally assisted drinking water/drinking water state revolving loan fund) programs.

The loans included financing of multiphased projects, projects to eliminate package treatment plants, and a gas transmission project. With the passage of 2018 RS HB 513, allowing sewer districts to acquire assets outside of their jurisdictional boundaries, the Louisville and Jefferson County Metropolitan Sewer District assumed the City of Crestwood's and the Oldham County Environmental Authority's debt, including KIA Fund A loans. Loan increases were due either to increases in project scope or to increased bids due to unavailability of contractors. In addition to the above, the committee heard testimony regarding KIA's Water Resource Information System dashboards, for which KIA received an Environmental Systems Research Institute Significant Achievement in GIS award.

KEDFA EDF Program. The committee approved a $750,000 economic development fund grant to Novelis for its 400,000-square-foot facility in Guthrie. The EDF Program of the Kentucky Economic Development Finance Authority (KEDFA), along with its High-Tech Construction/Investment and Loan Pools, is funded as needed from general-fund-supported State Properties and Buildings Commission (SPBC) bond proceeds. The Cabinet for Economic Development may allocate EDF grant funds either up front (all or a portion to be repaid to the grantee if the beneficiary does not meet annual compliance benchmarks) or as the beneficiary meets annual compliance benchmarks. To avoid providing collateral, most beneficiaries opt for the latter. However, Novelis chose to receive the $750,000 up front and provided either a letter of credit or another form of collateral to CED. Todd County may use any repaid funds for other economic development projects authorized by CED.

Debt Issues. KRS 45.810 requires submittal of the commonwealth's debt-issuing entities' proposed debt issues. The commonwealth's debt-issuing entities are public postsecondary institutions, SPBC, the Kentucky Asset/Liability Commission (ALCo), the School Facilities Construction Commission (SFCC) (local school districts issue the debt and SFCC funds a portion of the debt service), the Turnpike Authority of Kentucky (TAK), KIA, the Kentucky Higher Education Student Loan Corporation (KHESLC), the Kentucky Public Transportation Infrastructure Authority (KPTIA), the Kentucky Housing Corporation (KHC), and KEDFA. KRS 45.810(1) and 56.866(3) are the respective statutes that exempt all TAK debt and ALCo tax and revenue anticipation notes issuance from committee approval. KRS 175B.020 has separate provisions for KPTIA debt submittal.

In addition to the above, the committee reviewed the following reports, submitted for informational purposes only: the Office of Financial Management's (OFM's) KRS 45.810(6) annual report of debt principal outstanding transmitted on behalf of the commonwealth's debt-issuing entities; KRS 45.812(1) school district debt without SFCC funding; KRS 45.816 previous debt issue reports; the Office of the Auditor of Public Accounts' KRS 45A.860(3) reports certifying procedural compliance with KRS 45A.840 to 45A.879 in the procurement of underwriter and bond counsel services (KRS 45A.840(7) includes financial advisers in its definition of *underwriter*); ALCo's KRS 56.863(11) semiannual reports; an ALCo KRS 56.866 transaction; and the Louisville Arena Authority (LAA) report (required by KRS 65.4931(3) and Section 8.22 of the Loan Agreement for the Series 2017 bond issue) about its operations and financial condition and about its compliance with KRS 65.4931(2), which requires LAA either to apply all excess revenues to redeem a portion of its outstanding bonds or to present an alternative payment plan.

Appropriation-Supported And Non-Appropriation-Supported Debt Issues. Appropriation-supported debt issues included SPBC as well as postsecondary debt to finance new projects and refinance existing debt. Postsecondary debt, irrespective of state intercept provisions, is excluded from rating agencies' net tax-supported debt statistics. A notable transaction was the $318.8 million SPBC Revenue and Revenue Refunding Bonds, Project No. 122, debt issue as two of the four series were structured as a result of the 2017 Tax Cuts and Jobs Act, which disallowed the tax exemption for advance refundings (closing before 90 days of the prior debt's earliest redemption date). One series advance refunded debt for approximately $10.3 million, or 11.3 percent net present value savings on a taxable basis; another series, a tax-exempt forward delivery closing in 2020, refunded debt for approximately $1.7 million, or 2.6 percent net present value savings. Although the forward delivery transaction involved the commonwealth's payment of a slight premium, all of OFM's financial models showed savings, even if interest rates were to decline further. OFM last executed a forward delivery transaction over 10 years ago, ALCo's general fund floating rate project notes (2007 Series A). The other SPBC transaction (Revenue Refunding Bonds, Project No. 121) was notable as well: Use of a Kentucky firm as the managing underwriter was allowed under KRS 45A.850(4) because of the $13.195 million transaction's small size.

KHESLC executed the only non-appropriation-supported debt issues. The committee approved a student loan revenue bond issue and student-loan-backed note issues. The $95.335 million KHESLC Student Loan Revenue Bonds, Series 2019 issue funded the Advantage Loan Program.

Also, the committee authorized KHESLC to issue up to $325 million in Student Loan Backed Notes on various dates through June 30, 2020, to finance or refinance federally guaranteed loan acquisitions under the Federal Family Education Loan Program (FFELP), eliminated in 2010 prospectively for new originations. KHESLC used approximately $105 million to permanently finance Kentucky Higher Education Assistance Authority and Vermont Student Assistance Corporation FFELP loans, primarily rehabilitated, that KHESLC acquired either through commercial bank lines of credit or through its operating funds. KHESLC will use the remaining authorization to purchase FFELP loan portfolios, if available, from banks or other states. Those portfolios may consist of nonrehabilitated, rehabilitated, or a combination of nonrehabilitated and rehabilitated FFELP loans.

Conduit Debt Issues (KEDFA And KHC). With KEDFA 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. There are only two such debt issues outstanding, and there have not been any such debt issues in this reporting period.

In this reporting period, CommonSpirit Health, formed after the February merger of Dignity Health and Catholic Health Initiatives (CHI), was the only conduit borrower. KEDFA’s portion—$176.195 million to refinance CHI’s debt to fund Saint Joseph Health System projects around Bardstown, Lexington, London, Mount Sterling, and Nicholasville—was a small component of the overall $6.5 billion debt restructuring transaction, which won The Bond Buyer’s 18th annual Deal of the Year award.

KHC issued the remaining 10 conduit issues. KHC issues multifamily tax-exempt conduit debt, with no legal or moral obligation for the repayment of the debt, on behalf of housing developers who will then receive a 4 percent credit, which does not count against the state’s annual low-income housing tax credit allocation, under certain thresholds. Multifamily tax-exempt conduit debt is best for projects of at least 100 units, some of which will have up to 500 units. In rural areas, developers often combine small projects to make the debt issuance financially feasible.

SFCC. SFCC’s debt issuance was also a combination of new projects and refinancings. Pursuant to KRS 157.622(6) and 750 KAR 1:010(10), school districts realize the savings from refinancing of debt with SFCC debt service participation

Report Of The 2019
Child Welfare Oversight And Advisory Committee

Sen. Tom Buford, Co-Chair
Rep. David Meade, Co-Chair

Sen. Julie Raque Adams	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, Dana Simmons, and Becky Lancaster

Presented to the
Legislative Research Commission
and the
2020 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 2019. The committee heard testimony on a wide range of topics related to child welfare in the commonwealth.

Performance-Based Contracting And Privatization Of Child Welfare Services

Representatives of the Department for Community Based Services (DCBS), Cabinet for Health and Family Services (CHFS), reported that House Bill 1 from the 2018 Regular Session required that the cabinet designate a study group to make recommendations regarding the creation and implementation of performance-based contracting for licensed child-caring facilities and child-placing agencies and the feasibility and implementation of the privatization of all foster care services. The cabinet worked with representatives from Chapin Hill at the University of Chicago to facilitate both of the studies. The study group looked at previous efforts to explore performance-based contracting conducted by the Kentucky Child Welfare Performance and Accountability Partnership and learned from other states' information about recommendations related to performance-based contracting. The study group reviewed the literature and best practices associated with performance-based contracting, reexamined the research and findings of past experiences, and applied discussions to Kentucky's system and current transformation. The report was submitted on November 30, 2018, to the Governor; the Interim Joint Committee on Appropriations and Revenue; the Interim Joint Committee on Health, Welfare, and Family Services; and the Child Welfare Oversight and Advisory Committee.

The DCBS representatives told the committee that the study group organized its recommendations relating to performance-based contracting for licensed child-caring facilities and child-placing agencies within four categories:

- A focus on the performance-based model and fiscal design
- Performance monitoring and quality improvement
- Resource and infrastructure needs
- Partnerships and collaboration between public and private partners

The study group determined that implementing performance-based contracting is a promising fiscal strategy to aid in Kentucky's child welfare transformation and to achieve the cabinet's priority outcomes to safely reduce entries into foster care, improve timeliness to appropriate permanency, and reduce caseloads for the child welfare workforce. The committee learned that performance-based contracting aligns well with the implementation of the federal Family First Prevention Services Act by investing more in family preservation services and ensuring that children and youth in care are placed with families in the least restrictive settings possible.

In January 2019, the privatization study group convened to make recommendations relating to the feasibility of the full privatization of child welfare services. The committee learned that the study group reviewed the literature on the privatization of child welfare services, heard from two expert panels of public and private child welfare agency leaders, and applied the findings to the child welfare system and the transformation it is undergoing. As is the case with most child welfare systems nationally, Kentucky has already privatized a substantial amount of foster care services. Over half of children and youth in out-of-home care in Kentucky are placed in private agency homes or facilities. It is common for child welfare agencies, including those in Kentucky, to privatize a substantial portion of child welfare services, including placement, support to resource families, and clinical service provisions. In a majority of states, including Kentucky, the public child welfare agency retains case management responsibility and oversight of day-to-day activities of child welfare cases. There are different payment structures that carry their own risks and rewards. One of these is performance-based contracting, designed to improve child and family outcomes by integrating performance standards into contracts with providers and linking financial incentives or disincentives with providers' performance on identified targets.

On June 28, 2019, the study group submitted its report to the Governor; the Interim Joint Committee on Appropriations and Revenue; the Interim Joint Committee on Health, Welfare, and Family Services; and the Child Welfare Oversight and Advisory Committee. The report included four recommendations:

- Expanding privatization to all foster care services in Kentucky is not feasible at this time given the capacities that need to be built within both the public and the private sector in order to be successful.
- Future efforts to expand privatization should include a readiness assessment, a cost study, and a legal review prior to implementation.
- Significant investments of resources are needed in the child welfare system to effectively prepare for privatization, which is not a cost-saving measure.
- A modular approach should be considered to expanded privatization, a phased-in implementation plan, and preliminary consideration of specific dimensions of the child welfare continuum of care to privatize.

Child Welfare Court Case Process And Procedures

Representatives from the Administrative Office of the Courts (AOC) said a main focus is education on the changes that came about from 2018 RS HB 1. The AOC provided webinars for judges, attorneys, and CHFS employees. The AOC education effort included staff of judicial colleges with sessions for Circuit Court judges, District Court judges, and family court judges; a family law conference for family court judges and staff; and guardian ad litem and court-appointed counsel training curriculum. The Kentucky Bar Association included HB 1 curriculum in the Kentucky law updates around the state. The HB 1 procedure changes included family court rules, court forms, and appellate court rules to expedite briefing and scheduling for involuntary termination of parental rights (TPR) cases. The committee learned that performance improvements from HB 1 consist of case management enhancements to data collection and quality, refinement of new reports for judges that will assist with caseload management and tracking, and pilot programs to update processes. Judicial data reports are delivered monthly to judges with lists of pending dependence, neglect, or abuse (DNA) and adoption cases. The reports show past and future events and aid in the ability to track and manage cases. The Court of Appeals has begun a pilot project for scanning all the files necessary to TPR cases. In Kentucky, there was an increase in the number of child DNA cases filed from 2015 to 2018. For 2019, the number of child DNA cases filed is trending downward.

A representative from the Kentucky Citizens Foster Care Review Board (CFCRB) told the committee that the CFCRB action areas consist of training, community forums, and recommendations that lead to suggested changes in laws and processes. Themes from the community forums were frustrations with the lack of communication, training, agency processes, court processes, available services, and accessible supports. Children, parents, and caregivers involved with foster care need timely, complete, and accurate information about agency and court processes. Foster parents reported a lack of information about available services, education, court dates, visitation schedules, and strategies to help the child.

The committee learned that foster parents have requested more communication and specific training on the court process, using monetary resources, and accessible support. The court-appointed special advocate volunteers requested specialized training for medically fragile children. Youth placed in foster care are frustrated when placed outside their home counties and into different schools. The CFCRB reported that lack of family courts in each county continues to be an issue. The forums provided information on agency and court process concerns. Workers are troubled because out-of-state placements, TPR cases, and adoptions take too long to be processed. The CFCRB state board vice chair said there should be more reunification services for parents who are incarcerated for a short term. Other needed services and supports include transportation services, interpreter services, financial support, and counseling for children.

Review Of The First-Year Implementation Of 2018 RS HB 1 And New 2019 Legislative Child Welfare Implementations

Representatives from DCBS testified about the current implementations of 2018 HB 1 and 2019 enacted child welfare legislation. HB 1 focused on foster care adoptions, prioritized keeping children close to their communities, required consistency within public and private foster homes, and focused on services for relatives and fictive kin caregivers. DCBS was charged with formulating a formal management structure to focus on the child welfare continuum. The committee learned that DCBS is striving to safely reduce the number of children entering foster care, to improve the timeliness to appropriate permanency, and to reduce caseloads. HB 1 required uniform home studies and authorized CHFS to establish monetary provisions, guardianship assistance program, and other services for relative and fictive kin caregivers. In HB 1, there were changes to the diligent recruitment standards. DCBS has launched the Kentucky Faces Portal, a resource and a recruitment tool for potential foster and adoptive parents.

The division director, Division of Protection and Permanency, DCBS, testified that from August 2014 to August 2019 the number of foster homes in Kentucky rose from 4,372 to 5,455. In implementing HB 1, there have been significant changes to expedite the adoption process, including the creation of a putative father registry. DCBS has implemented a new federal-level requirement of the Family First Prevention Services Act, which is the implementation of the National Electronic Interstate Compact Enterprise (NEICE). NEICE will help to expedite out-of-state placements because forms and documents can be submitted electronically.

The DCBS legislative liaison said that 2019 RS HB 2 focused on relative and fictive kin caregivers. The 2019 RS HB 158 required fingerprint-based background checks for child care facilities, created the Foster Youth Bill of Rights, and reduced the time for involuntary TPR cases to become final. The 2019 RS HB 446 required a list of relatives or fictive kin when a child is removed from a home, gave foster parents standing as a party in a voluntary TPR case, and made foster parent licensure effective for a minimum of 3 years.

Fingerprint And Reevaluation Processes For Foster And Adoptive Parent Applicants

The committee heard a discussion about the fingerprinting process for foster and adoptive parent applicants. The chief strategy officer of Necco, a private foster and adoptive services company, testified that it would be beneficial to applicants if portable fingerprint machines were able to be used at locations other than a DCBS office. The process could be quicker and more accurate. Training for potential foster and adoptive families can start earlier if fingerprint checks can come back more quickly.

The chief information officer, technical services division, Kentucky State Police (KSP), said KSP receives the request for a background check for many reasons including the adoption and foster process. KSP receives fingerprint submissions electronically or on paper through the mail. Electronic fingerprints are submitted to the Federal Bureau of Investigation, and KSP retains a digital image of the submission. The paper fingerprint cards require data entry. The average time for this process at KSP is 1 to 4 days. The chief information officer said several factors can affect the processing time. The biggest reason for a delay in the results is the quality of the fingerprints submitted. The fingerprint-based background checks do not have a backlog. Typically, the background check results are completed within 24 to 36 hours.

The deputy commissioner of DCBS said requirements are placed on potential foster parents because children in foster care are particularly vulnerable for repeat victimization. DCBS must make sure that foster parents are capable of dealing with the trauma and healing that needs to occur. The DCBS legislative liaison stated that 2019 RS HB 446 was passed and that amendments were made to remove annual reevaluation requirements. The reevaluations are now required every 3 years. DCBS has advised the Office of the Inspector General and held statewide meetings that included private providers, recruitment, and certification of supervisors, advising them of the changes. With the implementation of HB 446, the reevaluation requirements are to include a home visit, an interview with the foster parents, and paperwork. DCBS is working toward a solution that would allow background checks to be conducted less frequently.

Child Advocacy Group 2020 Legislative Priorities

The Children's Alliance of Kentucky presented its legislative priorities for the 2020 session. It recommends that the General Assembly reimburse residential and shelter providers to cover the cost of care, room, board, watchful oversight, treatment, and school expenses. It suggests supporting the funding for the creation of a reimbursement method that promotes positive outcomes, covers the cost of care, and reimburses for needed services. The Children's Alliance advocates for an increase in the established Medicaid rates for behavioral health services to cover the cost of care, an increase in the number of children and families served through Family Preservation Services, and an increase in the overall DCBS budget to ensure reasonable caseload and workload for DCBS investigators and other workers.

Kentucky Youth Advocates presented its legislative priorities for the 2020 session. It recommends that the General Assembly increase the amount and availability of the relative placement support benefit and respite care, and that it standardize kinship care practices to prioritize quality and accessibility.

Kentucky Hunger Initiative

The commissioner of the Kentucky Department of Agriculture (KDA) said the department is addressing food insecurity across the commonwealth. KDA wants to make sure that all Kentuckians have access to high-quality, nutritious food—preferably locally grown. The Kentucky Hunger Initiative is an umbrella effort of KDA to bring together all parts of the food chain to reduce hunger. In Kentucky, 40 percent of all prepared food is thrown away. According to the 2017 Feeding America study, one in seven Kentuckians are food insecure, meaning there is doubt as to where the next meal will come from. Hunger adversely affects children and senior populations at higher rates. Kentucky is estimated to have 186,000 children who are food insecure, and half of Kentucky's counties have a food insecurity rate higher than 20 percent. Of those 60 counties, all but 5 are in rural areas. The committee heard testimony that a recent study showed that food insecurity costs the health care system $78 billion a year in the United States. Children who are food insecure have smaller gains in reading and math courses, are more likely to miss school, are more likely to repeat a grade, and are less likely to graduate from high school on time.

KDA held sessions across Kentucky to gain feedback on what programs work well in each region. There is a lack of communication among hunger groups. The logistics of moving donated food are always challenging. KDA found that because the law is unclear, some grocery stores were less likely to donate, for fear of being sued by someone who gets sick from a donated item. In 2017, the General Assembly passed HB 237, providing the strongest legal protections in the nation for individuals and businesses seeking to donate to food pantries. Food donations from grocery stores have increased because of this law. When KDA realized there was a lack of cold storage in food pantries, it received a donation of 150 chest freezers to distribute across Kentucky.

KDA has many programs that improve Kentuckians' access to healthier foods. The food insecurity rates have decreased by 1 percent in Kentucky in the past 3 years. KDA is reviewing labeling laws. Shellfish and dairy products are the only donated food items that are required to have labels. KDA is researching ways to clarify labels so that items may have a longer shelf life and can be donated. KDA has commodity and livestock groups donating, such as the Kentucky Cattlemen's Association, the Poultry Federation, and the dairy industry.

Report Of The 2019
Education Assessment And Accountability Review Subcommittee

Sen. Max Wise, Co-Chair
Rep. Brandon Reed, Co-Chair

Sen. Alice Forgy Kerr	Rep. Tina Bojanowski
Sen. Gerald Neal	Rep. Regina Huff
Sen. Mike Wilson	Rep. Steve Riley

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

Presented to the
Legislative Research Commission
and the
2020 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 OEA, the subcommittee received and accepted OEA's *2018 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 2018.

In 2018, OEA received a total of 584 written complaints. From these complaints, 53 cases were opened: 40 investigative cases and 13 school-based decision-making council cases. OEA closed 32 cases in 2018; 65 cases remain pending.

The subcommittee received and accepted four OEA study reports. The first report, *Kentucky District Data Profiles School Year 2018*, is an annual compilation of data collected from various sources 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.

Revenues And Expenditures For Career And Technical Education In Kentucky focuses on state-approved revenues and expenditure allocation for the 53 area technology centers and the 42 local area vocation education centers used by students across the commonwealth. The report provides an analysis of state-appropriated funds to these two types of centers and how these funds have been used during school years 2009 to 2018. A more detailed analysis of state-level revenues and expenditures is provided for the 2018 school year.

The *Teacher Shortages And Supports For New Teachers* report reviews teacher certificates as direct and indirect indicators of teacher shortages, both overall and by subject and level between school years 2010 and 2019, and concludes that a relatively small percentage of teachers held emergency certificates and alternative certificates. However, reports from principals reveal that teacher shortages are occurring not only in the number of available teachers but in the quality of teachers. Principals reported addressing teacher shortages by eliminating classes; combining classes; increasing class sizes; offering online courses; renewing nontenured, noneffective teachers; and paying teachers to teach during their planning period. In addition, principals reported hiring lower-quality applicants rather than having unfilled positions. These strategies would not appear in the data as an indicator of shortages because they do not involve a teacher with an emergency certificate or an alternative certificate.

The fourth report, *Career And Technical Enrollment And Subsequent Employment By Sector*, uses data from the Kentucky Center for Education Statistics to follow high school graduates from the graduating classes of 2013, 2015, and 2017, who have completed career and technical education pathways in specific program areas, into postsecondary education and the workforce. It looks for relationships between pathway completion and attainment of industry certification in high school, continuing postsecondary education, and wages in different workforce sectors.

The subcommittee also heard a report from the commissioner of education providing an update on the school accountability results during the 2018-2019 school year. These results included the first use of a five-star system for school performance ratings and an updated method for measuring rating student growth. Performance across the board generally remained unchanged with persisting achievement gaps between different populations. Fifty schools have been identified for comprehensive support and improvement as the lowest-performing schools. Eleven schools have been identified for additional targeted support and improvement for persistently low performance of a student population.

The subcommittee approved the proposed 2020 OEA Study Agenda.

Report Of The 2019
Government Contract Review Committee

Sen. Stephen Meredith, Co-Chair
Rep. Stan Lee, Co-Chair

Sen. Julian Carroll	Rep. Charles Booker
Sen. Paul Hornback	Rep. Chris Fugate
Sen. Phillip Wheeler	Rep. Mark Hart

LRC Staff: Kim Eisner, Jarrod Schmidt, and Kim Smith

Presented to the
Legislative Research Commission
and the
2020 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; 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 2019 beginning July 1, 2018, and ending June 30, 2019, the committee reviewed 1,190 personal service contracts and 480 amendments to personal service contracts. The committee also reviewed 268 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

During FY 2019, the committee reviewed 1,489 memoranda of agreement and 454 memoranda of agreement amendments. The committee also reviewed 932 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only.

During FY 2019, the committee reviewed 1,938 personal service contract items, 2,875 memoranda of agreement items, 35 film tax incentive agreements, and two film tax incentive amendments for a total of 4,850 items.

Since the start of FY 2020 through November 13, 2019, the committee has reviewed 431 personal service contracts and 278 amendments to personal service contracts. The committee has also reviewed 107 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

Since the start of FY 2020 through November 13, 2019, the committee has reviewed 561 memoranda of agreement and 188 memoranda of agreement amendments. The committee also reviewed 456 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only. In addition, the committee reviewed 11 film tax incentive agreements.

Note: The totals reflect all personal service contracts, memoranda of agreement, 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 2019
Medicaid Oversight And Advisory Committee

Sen. Stephen Meredith, Co-Chair
Rep. Daniel Elliott, Co-Chair

Sen. Ralph Alvarado	Rep. Jim Gooch
Sen. Danny Carroll	Rep. Melinda Gibbons Prunty
Sen. Jimmy Higdon	Rep. Steve Sheldon
Sen. Morgan McGarvey	Rep. Lisa Willner

LRC Staff: DeeAnn Wenk, Dana Simmons, Chris Joffrion, Sean Maloney, Becky Lancaster, Hillary McGoodwin

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Medicaid Oversight And Advisory Committee

Jurisdiction: The Medicaid Oversight and Advisory Committee is required to meet at least four times 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 seven times during the 2019 Interim.

Health Facility Citations And Recoupments

The inspector general, Office of Inspector General (OIG), gave an overview of the Division of Certificate of Need (CON), under the OIG. He also discussed the OIG's Division of Health Care as the State Survey Agency, responsible for verifying how well federally certified health care facilities comply with the federal requirements for participation in the Medicare and Medicaid programs as well as licensure oversight. The Centers for Medicare and Medicaid Services is responsible for issuing and collecting civil monetary penalties imposed on nursing facilities that do not meet the federal requirements. Proposed legislation for the 2020 Regular Session will clean up the current CON statutes.

Hospitals And Medicaid Services

The vice president, financial services, Owensboro Health, and chair, Hospital Medicaid Technical Advisory Committee, Kentucky Hospital Association (KHA), stated that 28 percent of hospital patients are covered by Medicaid, but Medicaid reimbursements to hospitals are inadequate to cover costs of high-quality care including a trained workforce, updates to equipment, and facility improvements. House Bill 320 of the 2019 Regular Session will establish a new program to backfill losses incurred by recent Medicaid losses under the federal Affordable Care Act, at no cost to the state.

KHA uses a biweekly forum with managed care organizations (MCOs) to address issues facing hospitals. There has been a reduction in outstanding issues due to Aetna and Anthem not having any issues.

Independent Pharmacy Reimbursements

The president, Kentucky Pharmacists Association, discussed the importance of the passage and implementation of 2018 SB 5 along with a $2 dispensing fee increase for pharmacies. An independent pharmacist discussed the National Average Drug Acquisition Cost, effective rate contracting, spread pricing, a possible Medicaid pharmacy carve-out, and reimbursement issues with pharmacy benefit managers. The new request for proposals for the MCOs' contracts contains improvements such as mandating pass-through contracts, prohibiting postadjudication fees, including effective rate contracts, and providing an increased dispensing fee.

Kentucky Children's Health Insurance Program

The commissioner, Department of Medicaid Services, Cabinet for Health and Family Services (CHFS), discussed eligibility and enrollment for the Kentucky Children's Health Insurance Program (KCHIP). Aggressive outreach campaigns in schools, health fairs, the state fair, and mailings are helping to capture uninsured children across the state who are eligible for KCHIP.

Kentucky Health Departments Association

The executive director, Kentucky Health Departments Association, reviewed the makeup of the association and its goal to realign state resources with the mandates and good policy. The association's president stated that the goals of public health departments are to prevent disease, promote wellness, and protect people's health, which requires the individual health departments to work together for a comprehensive public health system. The director, Kentucky River District Health Department, said that having the ability to use resources most efficiently for each individual community is helpful. The presenters discussed the need for statutory changes in public health laws.

Kentucky HEALTH Section 1115 Waiver Legal Status Update

The commissioner, Department of Medicaid Services (DMS), CHFS, stated that no course of action to implement the waiver will be taken until July 1, 2020. The substance use disorder component of the Section 1115 Waiver went live July 1, 2019.

Maternal Health And Wellness For New Mothers And Their Children

The DMS commissioner stated that there were 56,000 live births in Kentucky in 2018. Medicaid paid for 46 percent of them, which is lower than the national average of 55 percent. In 2018, there were 27,542 Medicaid-covered babies and 24,839 covered mothers.

The DMS medical director discussed the relatively high number of caesarean section births, preterm births, maternal deaths, and infant mortality compared to the national average. DMS is working with the Department of Public Health and MCOs to educate mothers and families.

Medicaid Advisory Council

The chair of the Medicaid Advisory Council discussed its statutory charge to advise the legislative and executive branches on services provided by CHFS, development of Medicaid policy, and participation in programming.

Passport Update

Senator Meredith addressed the absence of planned presenter Passport CEO due to advice from counsel that coming before the committee would violate the blackout period for the Medicaid managed care request for proposals. Passport was called before the committee to follow up on the declaration from January that it was preparing to file for bankruptcy based on a reimbursement rate decrease recommended by a cabinet-funded actuarial analysis.

Prescription Recycling/Legend Drug Repository Program

The executive director of the Kentucky Board of Pharmacy gave an overview of the Legend Drug Repository Program. He stated that the complexity of the program and issues of higher priority have prevented the program from being implemented, in spite of the savings the program would ensure. He estimated at least 6 months for completion of administrative regulations to implement the program and agreed to come before the committee after the 2020 Regular Session with an update.

Provider Tax For Long-Term Care

Representatives from the Kentucky Association of Health Care Facilities and the Kentucky Center for Assisted Living discussed issues facing nursing facility providers, including professional liability costs, obtaining a qualified workforce, the high facility acuity rate, the aging population, and inadequate reimbursement rates. One solution discussed was to increase the provider tax for skilled nursing facilities from 4.2 percent to 6 percent, which would result in $20 million in additional reimbursements.

The DMS commissioner stated that DMS will work with the long-term care industry on increasing the provider tax to provide more of a federal match and will review the use of intergovernmental transfers for rural and county hospitals.

Rural Hospitals

The KHA president discussed financial pressures for rural hospitals. Among the pressures is the high proportion of the rural population covered by Medicaid and Medicare, which pay below actual hospital cost. Rural hospitals serve fewer patients covered by commercial insurance and more Medicare and Medicaid patients than urban hospitals. Also, the Medicare Disproportionate Share Hospital payments do not take into consideration cuts under the Affordable Care Act, which will increase the loss in funding to rural hospitals. The 2018 passing of HB 289 and the 2019 passing of HB 320 have helped to improve payments to hospitals, and the association continues to work with CHFS and legislators to procure supplemental payments. She also made suggestions about additional actions that could be taken to help rural hospitals.

The chief executive officer of Barbourville Appalachian Regional Healthcare added that many in rural areas do not have standard transportation; therefore the closing of local hospitals would increase health issues by decreasing access to facilities. He also confirmed that the Affordable Care Act mandating electronic medical recording created issues for physicians, requiring more of their time and funding to be spent on computers and leaving less time to see patients, which increases the loss in care and payments.

State Medicaid Plan

The DMS commissioner discussed the Kentucky State Medicaid Plan and waiver programs.

Trauma Care Systems

KHA's trauma and emergency preparedness coordinator discussed the development of the statewide trauma care system. In 2008, KRS 211.499 to 211.486 were enacted to create the Trauma Advisory Committee, which developed criteria for in-state verification of Level II-IV trauma centers. There was no provision for state funding. The long-range goals for the trauma care system are to decrease the death rate from injury, decrease morbidity and disability, and decrease the overall health care impact of trauma. The system's short-term goal is to secure funding to support its growth and operation. The funding would help with employing a full-time program manager, employing a full-time trauma educator, adding software support for the registry, increasing basic operating costs, and facilitating more educational programming.

University Of Louisville/Kentucky One Health

The chief executive officer of University of Louisville Hospital discussed the acquisition of the Kentucky One Health hospital system with a loan of $50 million from the state effective November 1, 2019, securing access to care for the one in four Medicaid patients at Kentucky One Health hospitals and over 2,000 jobs in the system.

2018 RS SB 5 Implementation

The DMS pharmacy director discussed the requirements of 2018 SB 5 for all MCOs and pharmacy benefit managers (PBMs) to give the cumulative spread data to DMS.

The DMS commissioner said DMS is working on replicating the West Virginia study with state data. DMS is working to create a level and fair playing field for independent pharmacies. The new MCO contracts will begin on July 1, 2020.

DMS provided testimony on the analysis of data collected from PBMs as a result of 2018 SB 5.

2020 Prefiled Bills

Senator Meredith said 2020 RS BR 275 is a prefiled bill designed to give the legislature more oversight over provider reimbursements from MCOs to ensure fair and equitable payment for rural providers. He said that with the current lack of accountable oversight of the MCOs' reimbursement to providers, rural hospitals are less able than urban hospitals to be competitive with contracts, which lowers the rural hospital reimbursement rate.

Senator Meredith said 2020 RS BR 315 is a prefiled bill to eliminate Medicaid co-pays. He said MCOs are at fault for not educating recipients on co-pays. The inability to collect co-pays creates a financial burden on providers.

Senator Meredith said 2020 RS BR 278 is a prefiled bill that limits the number of MCOs to three to ease the credentialing burden that many providers are having. He cited 2018 RS HB 69, which created single-source credentialing as another mechanism to help providers more easily get credentialed with the MCOs. However, the problem will not be solved until there is a limit on the number of MCOs a provider must work with.

Report Of The 2019
Program Review And Investigations Committee

Sen. Danny Carroll, Co-Chair
Rep. Rob Rothenburger, Co-Chair

Sen. Tom Buford	Rep. Lynn Bechler
Sen. Perry B. Clark	Rep. Chris Fugate
Sen. Dan "Malano" Seum	Rep. Al Gentry
Sen. Reginald Thomas	Rep. Adam Koenig
Sen. Steve West	Rep. Ruth Ann Palumbo
Sen. Whitney Westerfield	Rep. Steve Riley
Sen. Phillip Wheeler	Rep. Walker Thomas

LRC Staff: Greg Hager, Greg Daly, Christopher T. Hall, Van Knowles, Catherine Moran, Jean Ann Myatt, Jeremy Skinner, William Spears, Shane Stevens, Joel Thomas, and Christy Young

Presented to the
Legislative Research Commission
and the
2020 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 seven meetings in 2019. It elected the House co-chair. Five staff reports were presented at committee meetings, of which four were adopted. The committee heard testimony on the status of recommendations from a previously adopted report. Staff provided a status report on an ongoing study. The committee heard outside testimony on one topic related to an ongoing study and on five topics unrelated to staff reports or ongoing studies.

The committee adopted the report *Surplus Real Property In Kentucky*. The Finance and Administration Cabinet maintains oversight of state-owned real property assets, but state agencies are responsible for managing their properties and determining surplus status. The state does not use a centralized process to identify or manage surplus property. As of June 2017, there were 7,929 state real property assets. Nearly 60 percent of state properties are classified as storage, residence (mostly for university students), education, recreation, office, or park lodging facilities. Statute authorizes the cabinet to sell, trade, or otherwise dispose of surplus real property. In the past 5 years, state surplus properties have consistently been sold for less than appraised values, which seems to violate the Model Procurement Code. The report has three recommendations related to the information the cabinet compiles about state properties. The acting commissioner of the Department for Facilities and Support and director of the Division of Real Properties responded to the report.

The committee adopted the report *Tuition, Fees, And Other Costs at Kentucky Public Universities*. Statute authorizes the Council on Postsecondary Education (CPE) 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 change. In academic year 2014-2015, the total cost of attendance, which does account for financial assistance, 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 price, which does take financial assistance into account, 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 Kentucky universities but decreased at three. The average net price for Kentucky universities in 2015 was lower than the average for universities in four of seven surrounding states and in 9 of 15 other southern states. Net price as a percentage of state median household income increased at seven of eight universities since 2007. More than 90 percent of students at Kentucky universities received some type of financial aid in academic year 2014-2015, including 68 percent who received state grant aid. Kentucky's university graduates had a median debt of nearly $24,000 in fiscal year 2015; the average student's 3-year default rate was 11 percent. The president of CPE responded to the report.

The committee adopted the report *Child Fatality And Near Fatality External Review Panel.* The committee is required by statute to monitor annually the operations, procedures, and recommendations of the panel, which reviews child fatalities and near fatalities resulting from abuse or neglect. Statute establishes requirements related to membership, meeting schedule and attendance, posting updates, issuing summary reports of meetings, retention and destruction of records, and publication of an annual report each December 1. The panel is in compliance with all requirements except that its 2018 report was issued February 1, 2019. The Program Review report also covers referral of cases to the panel, recommendations made by the panel, reporting requirements and fatality statistics of other states, and child fatality and near fatality review teams in selected states. The report has three recommendations: two directed to the panel regarding its procedures and one directed to the General Assembly regarding the due date of the panel's annual report. The chair of the panel responded to the report.

The committee adopted the report *Nonacademic Barriers Facing Kentucky Community And Technical College Students*. The report identifies five nonacademic barriers that Kentucky Community and Technical College System (KCTCS) students face: inability to navigate college, financial instability, competing time constraints, personal health issues, and disengagement. Compared to students in Kentucky public universities, KCTCS students are more likely to be the first in their family to attend college, be academically unprepared, have dependents, come from a low-income household, and be older. Reliable data were not available regarding the prevalence of nonacademic barriers at KCTCS colleges. KCTCS colleges reported having more than 140 programs addressing nonacademic barriers. Each school had at least three such programs; 11 schools had at least eight. Better understanding the relationship between a program, its effectiveness, and changes in retention would allow KCTCS to better manage its programs and resources. The report has three recommendations related to determining the prevalence of nonacademic barriers and evaluating programs designed to address them. The president of KCTCS responded to the report.

Staff gave an update on the KentuckyWired study and, at a later meeting, presented the report *Procurement And Financing Of KentuckyWired*. KentuckyWired proposes to bring high-capacity fiber optic connections from the internet backbone to state agencies, local telecoms, and other interested parties. The project has been significantly delayed and is likely to face funding shortfalls over the next 25 years that will require more state appropriations than planned. Executive branch officials committed state appropriations to cover approximately $646 million in debt service out of a $1.2 billion total cost. The state accepted certain risks to lower construction costs but paid at least that much in resulting reimbursement claims from the contractor. Some risks were handled poorly. Causes of the shortfalls in planned funding include the loss of funds from the K-12 education network and questionable assumptions about increases in broadband market prices. Wholesale leasing of fiber was proposed as a way to cover shortfalls but is based on the same questionable assumptions and seems unlikely to provide the funding needed. The president and corporate attorney of the Center for Rural Development and state director of Americans for Prosperity responded to the report.

The committee heard testimony on the implementation of House Bill 1, enacted in 2018, and responses to recommendations in the committee's 2018 report *Kentucky's Foster Care System* by four officials from the Department for Community Based Services: its deputy commissioner, chief of staff, and staff assistant, and the director of its Division of Protection and Permanency.

The executive director of the Finance and Administration Cabinet's Office of Administrative Services provided an overview of state motor vehicles, the subject of an ongoing Program Review study.

The state fire marshal, the secretary of the Public Protection Cabinet, and the commissioner and the deputy commissioner of the cabinet's Department of Housing, Buildings, and Construction briefed the committee on the State Fire Marshal's Office. The executive director of the Transportation Cabinet's Office of Transportation Delivery and the manager of the Department for Medicaid Services' Benefit Policy Branch testified about Medicaid transportation. The associate state director of AARP Kentucky, a senior fellow of the Pegasus Institute, the deputy state treasurer, and the executive director of the Kentucky Insurance Institute gave an overview of retirement savings options for private sector employees. The president of the Kentucky Lottery Corporation briefed the committee on the state lottery. The commissioner of the Department of Revenue and the executive director of its Office of Field Operations testified on the department's audit process.

Report Of The 2019 Public Pension Oversight Board

Sen. Jimmy Higdon, Co-Chair
Rep. Jim DuPlessis, Co-Chair

Sen. Christian McDaniel	Rep. Russell Webber
Sen. Gerald A. Neal	Rep. Buddy Wheatley
Sen. Dennis Parrett	J. Michael Brown
Sen. Wil Schroder	John Chilton
Sen. Mike Wilson	Timothy Fyffe
Rep. Joe Graviss	Mike Harmon
Rep. Jerry T. Miller	James M. "Mac" Jefferson
Rep. Phillip Pratt	Sharon Mattingly

LRC Staff: Brad Gross, Jennifer Black Hans, Bo Cracraft, and Angela Rhodes

Presented to the
Legislative Research Commission
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2020 Regular Session of the
Kentucky General Assembly

2019 Interim Subcommittee Organization And Membership

Kentucky Retirement Systems Administrative Subcommittee

Sen. Wil Schroder, Co-Chair
Rep. Russell Webber, Co-Chair

Sen. Jimmy Higdon	Rep. Phillip Pratt
Sen. Dennis Parrett	John Chilton
Rep. Jim DuPlessis	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 nine meetings from January to November 2019 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 February, June, August, and November 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 actuarial experience study results, legislative proposals, alternative methods for prorating employer liabilities and contributions, asset allocations, actuarial assumptions, SB 2 compliance, trustee election updates, and actuarial/financial updates from the retirement systems.

Pension Audits

The state auditor of public accounts provided testimony on the examination of certain policies, procedures, controls, and transparency compliance activities of the retirement systems in Kentucky in September 2019 with responses from the retirement systems.

Deferred Compensation Authority

The PPOB invited the Kentucky Public Employees' Deferred Compensation Authority to give testimony regarding auto-enrollment for all new state employees hired after July 1, 2019.

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 2019 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 (CERS) 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 2019.

Subcommittee Activity

The board held two meetings from January to November 2019 and heard testimony relating to the separation of the County Employees Retirement System from the Kentucky Retirement Systems or restructuring the administration of the systems administered by the Kentucky Retirement Systems.

CERS Separation Testimony

In March, the subcommittee invited interest groups to give testimony, observations, and recommendations regarding CERS separation and/or the restructuring of the systems administered by the Kentucky Retirement Systems. The groups that presented include the Kentucky League of Cities, the Kentucky School Boards Association, and the Kentucky Professional Firefighters. The Kentucky Retirement Systems also provided testimony.

Composition Studies

In October, the subcommittee heard testimony from the Center for Retirement Research at Boston College regarding its study of the composition of public pension boards and the resulting impact on returns.

See www.lrc.ky.gov/committee/statutory/KRS%20Admin/home.htm, the subcommittee's web page, for more detail and copies of the minutes and meeting materials.

Report Of The 2019
Tobacco Settlement Agreement Fund Oversight Committee

Sen. C.B. Embry Jr., Co-Chair
Rep. Myron Dossett, Co-Chair

Sen. Matt Castlen	Rep. Kim King
Sen. Paul Hornback	Rep. Phillip Pratt
Sen. Dennis Parrett	Rep. Rick Rand
Sen. Robin L. Webb	Rep. Brandon Reed
Sen. Whitney Westerfield	Rep. Dean Schamore

LRC Staff: Stefan Kasacavage, Kelly Ludwig, Tanya Monsanto, Nathan Smith, Rachel Hartley, and Susan Spoonamore

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Tobacco Settlement Agreement Fund Oversight Committee

Jurisdiction: Matters pertaining to the Kentucky 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; review of the use of Tobacco Master Settlement Agreement (MSA) funds.

Committee Activity

The Tobacco Master Settlement Agreement Fund Oversight Committee met eight times during the 2019 calendar year. A ninth 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 various organizations that benefited from the availability of tobacco settlement funds.

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.

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.

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.

During several meetings, officials from the state agencies that administer early childhood development programs and environmental conservation programs, as well as 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 Feeding Kentucky and the Community Farm Alliance to elaborate on how funds were spent to alleviate hunger across the commonwealth, particularly among children. Additionally, the committee received updates from the Kentucky Beef Network and the Kentucky Cattlemen's Association.

Of particular interest to the committee was the money spent on tobacco prevention and cessation efforts. Although use of traditional cigarettes has declined in recent years, use of electronic cigarettes and other vaping devices has risen dramatically, leading to questions about unknown health and safety impacts of these devices. The program manager for the Tobacco Prevention and Cessation Program testified that funding is being directed toward the e-cigarette trend to better inform users of the potential risks and to discourage usage, particularly among children and teenagers.

Another topic of interest to the committee is the lack of in-state large-animal veterinarians, particularly in rural areas where their services are needed most. GOAP staff suggested future use of MSA funds to draw more large-animal veterinarians to Kentucky. Although Kentucky does not have any veterinary medicine programs, students can receive in-state rates for the programs at Auburn University and Tuskegee University in Alabama. One idea presented is to use MSA funds to help pay veterinary school debts of students who agree to return to Kentucky and to practice large animal veterinary medicine for a certain number of years.

Hemp was a recurring topic, as hemp production, in-state and nationwide, has surged dramatically from 2018 to 2019. Committee members expressed concern about hemp farmers not being paid by processors, and they questioned GOAP staff about KADF policies related to hemp. GOAP staff stated that MSA funds have been distributed to only three hemp-related ventures on a trial basis until state and federal lawmakers make further policy clarifications.

Reports Received

- 2018 Kentucky Office of Drug Control Policy Annual Report
- 2018 Kentucky Agency for Substance Abuse Policy Annual Report

Report Of The 2019 Alzheimer's And Dementia Workforce Assessment Task Force

Sen. Robby Mills, Co-Chair
Rep. Deanna Frazier, Co-Chair

Sen. Stephen Meredith
Sen. Reginald Thomas
Rep. Danny Bentley
Rep. Lisa Willner
Melissa Aguilar
Bill Cooper
Steven Davis
Buddy Hoskinson
Mackenzie Longoria
Devon McFadden
Andrea Renfrow
Mary Romelfanger
Philip Travis
Kelly Upchurch
Stacey Watkins
Denise Wells

LRC Staff: Dana Simmons and Becky Lancaster

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Alzheimer's And Dementia Workforce Assessment Task Force

Jurisdiction: The Legislative Research Commission authorized the Alzheimer's and Dementia Workforce Assessment Task Force through memorandum to convene during the 2019 Interim. The charge of the task force was to study the state's health care workforce needs as well as the state's long-term care services and supports infrastructure, including long-term care facilities that are used to provide care to individuals diagnosed with Alzheimer's or dementia. The task force was directed to submit findings and strategies to the Legislative Research Commission for referral to the appropriate committee or committees.

Task Force Activity

The task force met six times during the 2019 Interim.

The State Of Long-Term Care Services And Supports Infrastructure

The public policy director of the Greater Kentucky and Southern Indiana Chapter of the Alzheimer's Association provided an overview of the current state of long-term care services and supports infrastructure in Kentucky and reviewed the 2017 update of the state Alzheimer's plan.

The inspector general of the Cabinet for Health and Family Services explained that there are different areas in which long-term care is provided to individuals with Alzheimer's disease and dementia. Long-term care typically starts at home with the assistance of family or an informal caregiver. The next level of long-term care consists of a home health agency and private nursing services, including provider types that do not provide skilled nursing, which assist individuals in their homes or other residential settings. A residential care community will generally provide assistance with supervision and limited supports. The next level is a nursing facility or a skilled nursing facility that provides intermediate care such as an Alzheimer's-focused nursing home. The final level of long-term care is a hospice provider. Medicare covers all hospice costs except room and board. Kentucky Medicaid covers room, board, and other services.

Effective on July 14, 2000, the Kentucky legislature amended the assisted living law by replacing voluntary certification with mandatory certification, developing additional standards, and moving away from a purely social model to a quasi-medical model. The current law still prohibits delivery of health services; however, some assisted living facilities have dedicated units for dementia. Some facilities provide nearly continuous supervision as well as assistance with medication administration, activities of daily living (ADL), and instrumental activities of daily living. Assisted living facilities no longer have the appearance of a purely social model. The course of illness is such that Alzheimer's and dementia clients will eventually need supervision, ADL assistance, and other supports because of the decline in cognition. Kentucky law does not fully embrace the provision of health care in an assisted living facility, although many other states do. Some states have moved past the purely private pay model to include covered services but not room and board. Kentucky is one of three states that do not provide any Medicaid funding for residential care.

The inspector general stated that Kentucky's assisted living standards do not adequately address the need for residential care for individuals who require limited health care supports but do not need high-intensity nursing care, have an unstable medical condition, or require skilled care. Kentucky should modernize its residential community standards to enable individuals who enter care with nearly full cognition to age in place in a setting that meets their nonskilled needs. The focus should be on the continuum of care and should enable residents to avoid discharge until they are clinically unstable or in need of high-intensity nursing services. An option for change would be to combine current concepts in personal care homes and assisted living to create a single congregate care model that is tiered and focused on the provider's ability to manage care as the client ages in place.

Another option of care would be the extended congregate care model, which could include a continued stay with exceptions to admissions criteria. The newly designed assisted living provider type would share similarities with the existing assisted living and personal care home models but would also include the provision of housing, meals, and one or more personal care services. Admission criteria would still require the resident to perform ADL with supervision if needed, be able to transfer with assistance if needed, be capable of taking medication unless the facility employs a trained nurse, not be bedridden, not be a danger, and not have any special needs that the facility cannot meet. There would need to be statutory and regulatory adjustments to have these changes implemented.

The Kentucky long-term care ombudsman of the Nursing Home Ombudsman Agency of the Bluegrass testified that 50 percent of patients in long-term care in Kentucky have Alzheimer's disease or a memory disorder. The Alzheimer's Association states that, nationwide, 70 percent of people with Alzheimer's or dementia have behaviors that are difficult to manage such as hitting, spitting, wandering, and cursing. Ombudsmen have a responsibility to act as the residents' voices. In 2018, care was the most widely cited complaint from residents. Failure to respond to requests for assistance represented 8 percent of all complaints. The shortage of staff in a facility represented 3 percent of the complaints. Residents expressed that the nurse aides did not have enough training to provide adequate care.

The ombudsman further testified that it does not matter what laws and regulations are in place, if the care is from a for-profit or a not-for-profit organization, if the amount of money being paid is from an individual or paid by Medicaid; the experience of the older adult patient is determined by interactions with the direct care worker. Nursing home residents throughout the country explained that the most important elements of quality in their day-to-day lives were the accessibility, attitude, and training of the direct care worker. The direct care workforce totaled 4.3 million workers in 2017. Home care worker is among the fastest growing occupations, with 1 million jobs added between 2016 and 2017, six times more than any other single occupation. However, wages for home care workers have remained stagnant in the last decade. One in four direct care workers is an immigrant, accounting for 1 million workers nationwide. Immigrants are a valuable part of the direct care workforce. Men make up roughly half of the US labor force, but they make up only 14 percent of workers who provide long-term care. Direct care workers are a key segment of the eldercare workforce and would benefit from improved geriatrics training. In May, the Geriatrics Workforce Improvement Act was introduced in the US Senate, paving the way for strengthening the health care sector's ability to support older Americans. The

US House of Representatives passed the Educating Medical Professionals and Optimizing Workforce Efficiency and Readiness Act, which would continue funding for geriatric workforce enhancement programs in home- and community-based settings and nursing homes. There should be more employment support, peer-to-peer support, and effective supervision for nurse aides and other workers who work in long-term care.

Identifying Current Or Anticipated Shortages In The Health Care Workforce

The executive director of the Kentucky Workforce Innovation Board (KWIB) testified that the workforce participation rate varies from 72.59 percent in Northern Kentucky to 38.93 percent in the Eastern Kentucky Concentrated Employment Program area. The state workforce participation rate average is 61.81 percent. The national workforce participation rate average is 66.48 percent. Among all occupations in the state, 107,488 jobs are expected to be available between 2018 and 2022. In regard to jobs in health care, approximately 9,458 jobs will be available between 2018 and 2022 in Kentucky. The main causes of high turnover rates in health care jobs are lack of experience, retirements, voluntarily leaving, competing states, and injuries that lead to a disability. Across all industries in Kentucky, approximately 175,303 open positions are available. In the state workforce system, approximately 26,000 job seekers are registered. The executive director shared a graph that listed the number of job openings in each of 10 areas in the state.

The executive director further testified that from 2012 to 2016, 15,000 licensed practical nurse (LPN) training certifications were given, 6,800 registered nurse (RN) associate degrees were given, and 7,000 RN bachelor degrees were given. The supply of health care workers does not equal the demand. KWIB is working to recruit more individuals into health care. She stated that high-paying health care positions require a higher level of training. KWIB is working on the side of the public and private employers as well as the education and economic development side. The national average RN hourly wage is $29.17, and Kentucky's average RN hourly wage is $26.58. The Kentucky Center for Statistics provides data and allows KWIB to analyze and evaluate the data to pose solutions for a better workforce. The executive director said that KWIB had employers to map out staff positions from the lowest to the highest positions in each industry and to list greatest areas of need. In the 2012/2013 career and technical education graduating classes, only 12.6 percent of students had careers in health sciences. KWIB is continuing to support work-based learning, but there are not enough employer clinical sites for students. There are many apprenticeship opportunities in health care. The process for KWIB is to analyze the demand, analyze the supply, create career pathways, and provide work-based learning experiences. KWIB is working to educate training providers. KWIB recommends that the task force research best practices from other states such as Illinois, New Hampshire, Oklahoma, Oregon, and Virginia. Those states have completed studies relating to how Alzheimer's and dementia clients affect the workforce. KWIB suggests having a roundtable discussion with employers to help document the best practices that are in process and the supports that need to be added to assist employees who care for Alzheimer's and dementia clients. The executive director gave a list of references that KWIB will be reviewing when working on the issue.

The president and CEO of American Health Management Inc. testified that the health care workforce is in need of RNs, LPNs, nurse aides, health care associates, and transportation associates. Some of the challenges of retaining the workforce are the lack of skilled workers, lack of mentoring, lack of training, lack of raises in the cost of living provision, and a poor organizational culture. There are some creative ways to recruit and retain qualified team members that include flexibility of schedules, opportunities for advancement, competitive pay, full health benefits, life insurance, a 401(k) with an employer match, and paid time off. Often locations in rural areas cannot offer higher wages, but the president and CEO of Horizon Adult Health Care said that Horizon can work with the staff member on other incentives.

Improving Recruitment And Retention Of Professional Caregivers

The director of the Social Work Program of the Department of Anthropology, Sociology and Social Work at Eastern Kentucky University (EKU) testified that the program has 420 students at the Richmond location and online pursuing a bachelor of social work (BSW) degree. Approximately 80 percent of EKU BSW graduates are employed and/or accepted into a master of social work program within 3 months of graduation. A significant number of graduates remain in the region and work in fields including health care, aging, and disability services. All BSW students must complete two practicums or internships before graduating. These programs give students an opportunity to work in a field of interest with a safety net. EKU is working with the Department for Aging and Independent Living (DAIL) on a workforce development project. The project will place social work practicum students in a DAIL provider agency and allow students to receive a stipend of up to $8,500 for practicum hours. EKU offers gerontology certificates at the undergraduate and graduate levels. EKU's senior vice president for operations testified that EKU has been working with the Cabinet for Health and Family Services and the Kentucky Housing Cooperation to provide a transitional type of care for individuals who are still ambulatory, have good quality of life, and do not require a nursing home or medical facility. EKU is proposing an assisted living facility to be located on the south campus with approximately 120 beds. The facility would be a living laboratory space for EKU students specializing in various fields. EKU is moving forward on the request for proposal process and has selected a developer and operator. A barrier for the project is the necessity to have a 1915(c) Home and Community Based Services waiver. The waiver would allow Medicaid funds to pay for the room and board for the individual. EKU believes this project would be a great opportunity for cost savings for Kentucky.

The president of the Kentucky Community and Technical College System (KCTCS) testified that the KCTCS Allied Healthcare program coordinators, along with college recruiters, spend time in high schools and with social organizations recruiting students into the field through educational opportunities. Work Ready Kentucky Scholarships were awarded to 623 students toward tuition leading to credentials in health care in the 2018-2019 school year. KCTCS and the Kentucky Department of Education have developed dual-credit pathway models for emergency medical services (EMS) paramedic, medical assisting, medical information technology, nursing, and pharmacy technology programs. KCTCS offers testing for students to qualify for prior learning credits. KCTCS staff is working to increase and expedite the attainment of state occupational licenses by veterans. KCTCS offers online and accelerated programs to get individuals into the health care talent pipeline. Some KCTCS locations offer an accelerated EMS technology (paramedic) certificate that can be completed in 12 months. KCTCS is ahead of many states in how it meets health care talent pipeline needs.

A professor of neurology at the University of Kentucky (UK) testified that over 2,000 people have taken a web-based course titled Telemedicine-Based Assessment of Cognition in Kentucky. Among the program participants, 41 percent are nurses. The Kentucky Enduring Education Network for Collaborative Dementia Care had 400 trainees with oversight by the Office of the Inspector General. The University of Kentucky is working in four areas for innovative solutions:

- development of a NIH-funded Pepper Center for Training in Aging and Dementia;
- focus on recruitment and retention;
- the hub-and-spoke training model; and
- the Extension for Community Healthcare Outcomes (ECHO) project.

The Pepper Center is designed to address the needs of the aging population. The Beeson Career Training Grants would bring in millions of dollars a year to Kentucky for training the workforce.

An associate professor in the Department of Health Management and Policy in UK's College of Public Health testified to the necessity for recruitment in careers that support families who have a loved one with Alzheimer's or dementia. Transportation is a key barrier for people who want to access programs at UK. Online programs help promote access. Kentucky could leverage online access in public libraries and schools without creating a large capital investment by state government. The recruitment for workers in nontraditional audiences such as veterans is important to grow the health care workforce. Kentucky should also consider recruiting family and informal caregivers such as clergy and neighbors to enter or assist the health care workforce. The associate professor said that in order to retain staff there are incentives such as care "enterprise zones" that work toward student loan forgiveness, scholarships, and tax credits for employers and employees.

The professor of neurology further testified that the hub-and-spoke training model was based on a successful Indiana program where there was a central Alzheimer's disease center or a hub that excelled in research and clinical care provision. The model is designed to allow training in disparate areas so that each local spoke would become a hub to reach more areas. The ECHO Model connects groups of community providers with specialists at centers of excellence in regular real-time collaborative sessions. This is an action item in the Kentucky Alzheimer's workforce development plan, which will have a 2020 update. Another action item is to elevate and drive training expectations for the Pepper Center. Kentucky should also incentivize recruitment, retention, and distribution. The professors further testified that every field of medicine is touched by the shadow of dementia and that Kentucky needs a broad-based policy to ensure that the basics are understood and retained in every provider in the state.

The Talent Pipeline system leader of the Kentucky Chamber Workforce Center testified that the center's role is to serve as a resource for all businesses across the state in all things related to education and the workforce. To address the workforce challenges that Kentucky is facing, employers and industry have to drive the discussion. The Talent Pipeline Model was developed by the US Chamber of Commerce Foundation. The secret to workforce development is in industry leadership. The supply chain model provides a framework for employers to come together to address shared workforce challenges. The system leader described a six-step strategy for employers to transfer the relationship with educational workforce partners to be performance driven. Employers and educators are coming together to coengineer solutions while understanding what key performance indicators are necessary.

The system leader further testified that the talent pipeline is divided into four regions, with each project manager creating and coordinating collaborative work within Kentucky's five key sectors, including health care. There are approximately 20 collaboratives engaging nearly 160 employers in all five key sectors. He shared a graph that depicted how many nursing positions will be created because of new positions created, retirements, and voluntary or involuntary turnover over the next 2 years within each specialty. He stated that the critical care RN group would have a 93 percent voluntary or involuntary turnover rate. The operating room and procedural RN group would have a 31 percent retirement turnover rate, and the skilled nursing and rehabilitation RN group would have a 52 percent new position demand rate. He stated that six of the eight surveyed schools did not graduate the maximum number of RN students. The largest barriers for educators increasing program capacity are

- lack of qualified faculty and clinical instructors,
- scarcity of clinical rotation sites,
- increased number of students and costs, and
- student retention.

The system leader said that the demand projection breakdowns are based on new, retirement, and voluntary positions. Over the next 2 years, 249 RNs are projected to retire. The workforce is working to see whether those RN retirees could become teaching faculty for nursing programs. The Kentucky Chamber Workforce Center has eight health care collaboratives up and running across Kentucky. In the Maysville area, 74 percent of RNs are coming from Maysville Community and Technical College, which produces an average of 41 RNs a year—more than double the 2-year demand. The Kentucky Chamber Workforce Center has found that the need is completely different; the community is not building capacity. The students are graduating and then leaving the area. The solution is to work to retain the graduates in the area and to develop a model so that when there people in entry-level positions who are rooted in the community, they can work to advance in those positions.

Improving Career Health Care Workers' Mobility And Retention

The executive director of the Office of Kentucky Veterans Centers within the Kentucky Department of Veterans Affairs (KDVA) testified that KDVA faces challenges similar to those of other providers with respect to the lack of workforce. KDVA works to train and maintain employees. It is making a commitment of time and programming for nursing assistants on staff. KDVA believes that the Apprenticeship Program will provide the best opportunities for success. The program is in high schools, but KDVA would like to expand it to existing staff. The program helps to create a career ladder. The registered apprenticeship program is coordinated by the Kentucky Education and Workforce Development Cabinet. There are several levels in the certified nursing assistant apprenticeship program. The third level is a certified nursing assistant specializing in dementia care. The total approximate number of hours to complete the third-level certified nursing assistant program is 825 to 1,125 hours. Inflexibility in the state merit system is a challenge for KDVA. Flexibility is a must with the health care workforce. KDVA believes that it is good to empower and train workers if the workers provide 3 to 4 years of high-quality service to KDVA.

The administrator of Wellington Parc testified that staffing challenges include employee turnover and associated costs, facilities that are competing for the same workers, and the competitive wage needed versus the reimbursement rates given to employers. He stated that finding new and different ways to retain staff is difficult. Wellington Parc completes Kentucky Applicant Registry and Employment Screening (KARES) background checks on potential employees. KARES is a thorough, fingerprint-based background executed by the Federal Bureau of Investigation. He stated that some retention strategies for employees are flexible scheduling, wage reviews, benefits, employee recognition, and a tuition assistance program. The Wellington Parc Association has partnered with the program Fostering Success. That program works to provide job opportunities for foster youth. He stated that Wellington Parc had an approximately 37 percent turnover rate for nurse aides last year. The national rate of nurse aide turnover can average over 100 percent.

The executive director of the Post-Acute Care Facilities of Bluegrass Care Navigators testified that Bluegrass Care Navigators recently received a $1 million grant from the Administration for Community Living and the Administration on Aging to address gaps in services for those living with Alzheimer's disease and age-related dementia and their caregivers. The executive director said that Bluegrass Care Navigators hires and trains the employees with a purpose. He stated that training needs to be scenario-based, interactive, and tailored to each community. Bluegrass Care Navigators uses programs of Teepa Snow and Virtual Dementia Training. He said that every day with every shift there is an opportunity for employees to learn from an experience, and he noted that many recommendations for retaining employees involve paying the staff more, providing better training, requiring certifications, and improving the work environment. In Kentucky, however, many facilities are barely making payroll or maintaining their buildings, because of low reimbursements. The Virtual Dementia Tour is a hands-on program that allows employees to briefly experience what their patients go through every day. He suggested subsidies for training and provision of incentives for the training.

The executive director further testified that Kentucky should make care more attainable and allow all people, no matter their level of income, to have the appropriate care setting at the appropriate time. He stated that Kentuckians are living in skilled nursing facilities when inappropriate, because Medicaid will not pay for assisted living. People are staying at home in dangerous conditions because they cannot afford the high costs of assisted living communities. Memory care patients are not the same as other patients who are served in the community. He said that Kentucky needs regulations that would encourage more providers to provide memory care without the fear of punitive regulations when dealing with patients with associated behaviors.

Report Of The 2019
Area Development District Working Group

Sen. Christian McDaniel, Co-Chair
Rep. Suzanne Miles, Co-Chair

Sen. Dennis Parrett	Rep. Jim DuPlessis
Sen. Brandon Smith	Rep. Susan Westrom

LRC Staff: Jennifer Hays, Mark Mitchell, and Chase O'Dell

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Area Development District Working Group

Jurisdiction: Analyze data related to area development districts (ADDs), including applicable laws, funding, level of long-term debt, spending trends, and growth and reductions in staffing patterns.

Committee Activity

During the 2019 Interim, the Area Development District Working Group held six meetings. The committee received information from staff and testimony from stakeholders related to the topics within the working group's jurisdiction.

Information From Staff

A memo from the President of the Senate and Speaker of the House created the Area Development District Working Group to review the operations and funding of ADDs. According to the memo, the review should be conducted based on an analysis of data to be collected from the ADDs and the Department of Local Government (DLG), to be analyzed by LRC nonpartisan staff and the working group members. The memo states that the issues or records to be analyzed shall include, but are not limited to the following:

- State statutes and administrative … and federal regulations outlining or setting forth the relational roles that exist between the Department for Local Government, in their role as the cognizant state agency for Area Development Districts, and the Districts themselves.
- The amount of funds transferred or granted to each Area Development District on an annual and historical basis for a period of five (5) years, and the processes by which those funds are expended or transferred to units of local government and the measurable benefits or deliverables for said funds.
- The state or federal funds held in reserve by each area development district as well as statutory or regulatory processes by which those funds can be expended.
- Level of long-term debt incurred by each Area Development District.
- Historic spending trends of funds granted through the Joint Funding plan.
- Growth/reductions in staffing patterns in the execution of the planning functions versus the direct service provider roles as managed by the Area Development Districts.

The working group's findings must be presented to LRC by November 29, 2019.

Overview Of Area Development Districts

There are 15 ADDs, and the statutes that authorize them appear in KRS Chapter 147A. The ADD boundaries are statutorily created along county lines. Changes to the boundaries, to the number of districts, or to the names of the districts must be accomplished through an act of the General Assembly.

Each ADD is governed by a board of directors. Membership of each board includes the county judge/executive of each county within the district; the respective mayors of each city in the district that would be a 1^{st}-, 2^{nd}-, and 3^{rd}-class city under the city classification system formerly in use; the mayors of any incorporated city below the 3^{rd} class under that system; and citizen members.

DLG is created in the same KRS chapter as ADDs. DLG is required to administer the distribution of certain funds to ADDs and is authorized to promulgate administrative regulations. The department is charged with the responsibility of ensuring that compliance reports are submitted. The department is the coordinator of the planning, funding, and operations performed by the ADDs. DLG is responsible for the Joint Funding Administration (JFA).

The JFA program is responsible for receiving federal funds, matching state funds or other funds, combining the funds together, and then distributing the total funds to ADDs. There are three major grant programs within the JFA program:

- The Economic Development Administration, housed within the US Department of Commerce, provides grants and technical assistance to economically distressed communities to generate new employment, help retain existing jobs, and help stimulate industrial and commercial growth through a variety of investment programs.
- The Community Development Block Grant (CDBG) program is one of the longest-running programs of the US Department of Housing and Urban Development. The goals of the program include providing affordable housing, anti-poverty programs, and infrastructure development. Federal CDBG funds are matched with state funds on a dollar-for-dollar basis.
- The Appalachian Regional Commission (ARC) is the third program. Nine ADDs have agreements ongoing directly related to ARC funding.

Through administrative regulation, each board of directors is required to prioritize capital projects for the allocation of funds. Each board is also encouraged to propose joint capital projects where two or more ADDs can work together on a project.

Year to year from 2013 to 2016, each ADD received approximately the same amount of money through the JFA formula. From 2017 to 2018, every ADD experienced changes in the amount of money received through the JFA distribution process. The 2018 executive branch budget bill, House Bill 200, provided approximately $2 million in the DLG budget to support ADDs. A formula was also provided for funding, stating that 70 percent of funds will be equally distributed among all ADDs, with 20 percent of funds distributed based on a population factor, and 10 percent of funds distributed based on incorporated cities and counties within the districts. The bill also states that the funding formula can be changed upon unanimous written direction from all ADDs in order to maximize federal awards.

Information was presented to address questions from the members of the working group. The questions regarded statistics relevant to the creation of, boundaries for, and number of ADDs. The average number of counties per ADD is eight. It does not appear that the number of counties in an ADD was the deciding factor in where to set boundaries. It also does not appear that ADD boundaries were determined by population. Since 1970, population has increased in every ADD except the Kentucky River ADD. The number of square miles also does not appear to have been a factor in ADD creation. It does not look like per capita income was a measure used to define ADD boundaries. The boundaries of the ADDs correlate to geographic areas of the state. For example, the Bluegrass ADD is located in the Bluegrass Region of the state. The boundaries may be a result of a combination of mobility, as well as who had already started working together and cooperating before the boundaries were set.

Information was presented related to the ADD reports required under KRS 147A.115. These reports are not submitted in a uniform electronic format. The reports are also full of lingo that does not allow someone outside of the daily operations to fully understand the information within the report. The various financial reports detail the total dollars awarded in grants to the ADDs. Information was also relayed to members regarding the amounts and percentages of administrative costs, direct expenditures, and indirect expenditures. Though only a small part of the total funding to ADDs, the JFA dollars provide life-saving funds to Kentucky's communities through services performed and administered by the ADDs. To ensure transparency, each ADD is required to provide annual audited financial statements, publicly available through the DLG website.

Cabinet For Health And Family Services Relationships With ADDs

The agency discussed the relationship between ADDs and the Cabinet for Health and Family Services. Testimony included that the Older Americans Act, enacted by Congress in 1965, provides the majority of the funding for the Department for Aging and Independent Living. The department provides monitoring oversight and technical assistance. The responsibility of ADDs to the department is to fulfill contracts for services provided through that funding.

DLG Relationship With ADDs

DLG provided testimony regarding its administration of the JFA program. The program delivers both state and federal funds to the ADDs through a contractual agreement. Included in the agreement are federal funds from the Economic Development Administration and from Housing and Urban Development as a part of DLG's CDBG program. The state funds are used to match the federal programs, as well as to match the ARC funds for some of the ADDs.

DLG requires two types of reports from the ADDs; a financial report and an activity report. DLG is a repository rather than a regulatory agency for cost allocation plans. Past fluctuations in JFA distributions have been corrected with current budgetary language. Economic development funds are dispersed evenly among the 15 ADDs. CDBG has a different allocation process.

Education And Workforce Development Cabinet Relationships With ADDs

The Education and Workforce Development Cabinet provided testimony that there is no natural or direct relationship with the ADDs. The relationship is a result of the structure of workforce as defined by federal law. The Workforce Innovation and Opportunity Act drives the structure of workforce at the state and local level. There are 10 local workforce boards in Kentucky. Each board establishes strategies and local oversight of the delivery of federal funds. The agency will have a relationship with an ADD if a local workforce board procures the ADD to serve as a fiscal agent or a service provider.

The cabinet provides oversight, technical assistance, and monitoring functions to make sure that funds are being procured as the law allows. If the cabinet finds a concern during a monitoring visit, it proceeds with corrective action. Federal law dictates common measures that local workforce areas must focus on when delivering services. Much of the cabinet's relationship with the ADDs is determined by decisions that take place at the local workforce board level.

Overview Of Community Action Agencies

Representatives from the Community Action Kentucky explained that there are 23 community action agencies (CAAs) in Kentucky. All are private 501(c)(3) organizations, except for the one in Jefferson County. The agencies are a part of the city governments. There are 23 agencies because different communities have different needs, and the agencies are localized to meet the needs of and participation by the communities served. There are agency offices in all 120 counties. All CAAs came together to form a statewide association called Community Action Kentucky. There are over 1,000 CAAs across the United States.

CAAs offer a variety of programs and services. The services provided vary depending on the agency. The programs cover a wide range of topics, including workforce development, senior support, family advocacy, asset building, financial literacy classes, and youth enrichment.

CAAs grew from the antipoverty movement of the 1960s. The Economic Opportunity Act of 1964 focused on building community resources in areas such as economic development, education, health care, youth development, and senior care. The most recent change affecting CAAs came from President Reagan's administration. In 1981, the Community Services Block Grant (CSBG) was created.

The CSBG is the foundation of the services provided by CAAs today. CAAs, through the CSBG, help people become self-sufficient by reducing each person's need for government assistance. Kentucky's allocation in FY 2019 totaled $12 million, which was the 18th highest allocation in the country. The bulk of people served by CAAs are well below the federal poverty line. The poverty rate in Kentucky is 17.2 percent. In the statewide Community Needs Assessment survey, 80 percent of respondents stated that they needed employment. Over 300,000 individuals participated in a community action program or service from FY 2017 to FY 2018. Thirty-three percent of families served in Kentucky were in severe poverty. Over 100,000 people served were children.

Improving Financial Reports To LRC

Representatives from the ADDs discussed improving financial reports that ADDs submit to LRC. Most ADDs have audits currently being performed. Going forward, all of the ADDs will be reporting in the governmental format for audits. The ADDs recommended possible statutory language to clarify the reporting requirements found in KRS 147A.115 to include an online portal operational by July 1, 2020.

Procedures For Grant Awards, Grant Amounts By County In Each ADD, And Facilities Owned Or Leased By ADDs

Representatives from the ADDs informed the working group that the state general fund has allocated $1.98 million to DLG through the JFA for FY 2020. Of that total, $1,050,000 will be allocated through the Economic Development Administration. Over $22 million will be distributed through the CDBG program. Nine ADDs fall within the Appalachian region; in FY 2020, $806,158 will come to them through the ARC program.

The US Department of Labor provides over $32 million directly to Kentucky for workforce development, which will flow through the Education and Workforce Development Cabinet to the ADDs.

The aging services program contains a blend of federal and state funds. The federal funds come from the US Department of Health and Human Services Administration for Community Living. The federal and state dollars both come to the Department for Aging and Independent Living before being divided among the ADDs.

Report Of The Area Development District Working Group

The report of the working group provides several findings to be presented to the General Assembly for appropriate action as desired. The findings of the report comprised staff observations, comments from outside parties, and information that staff had received from members of the working group. The findings were concentrated in six categories:

- Area Development District boundaries
- Tenure of board members
- Financial reports
- Reporting methodology
- Management or performance audits
- The Joint Funding Administration

Report Of The 2019 Task Force On Electronic Recording Of Official Documents By County Clerks

Sen. Julie Raque Adams, Co-Chair
Rep. Joseph M. Fischer, Co-Chair

Sen. Morgan McGarvey
Sen. Stephen West
Rep. Angie Hatton
Rep. Brandon Reed
Don Blevins
Michael Chodos
Debbie Donnelly
Brent Eisele
Russell Ford
Erica Galyon
Branden Gross
Mark Ladd
John McGarvey
Stephanie Schumacher
Debra Stamper
Gabrielle Summe
Pam Thompson
Barry Tuemler
Tim Vaughan

LRC Staff: Dale Hardy and Yvonne Beghtol

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Task Force On Electronic Recording Of Official Documents By County Clerks

Jurisdiction: Investigate the electronic recording process, review studies and legislative actions by other states, identify policy options to improve the recording and notarization process, and study issues relating to the implementation of electronic recording, fees, or functions of the county clerk involved in the recording of documents, issues concerning notaries public, and possible further legislation required in any of the aforementioned areas.

Task Force Activity

The Task Force on Electronic Recording of Official Documents by County Clerks met four times during the 2019 Interim. The task force received testimony from many of the groups whose constituencies are represented in the task force membership.

Revised Uniform Law On Notarial Acts

The Revised Uniform Law on Notarial Acts (RULONA) was the basis for Senate Bill 114, which was passed in 2019. Representatives from the Uniform Law Commission provided testimony on the implementation of RULONA in other states, as well as how RULONA interacted with other uniform acts. Document storage reform was recommended to better implement electronic recording. A representative from Quicken Loans reviewed business operations in states with RULONA. This discussion included an explanation of the use of technology to effect a remote online notarization. The three types of electronic closings were detailed.

Industry Interactions With RULONA

Representatives from the Kentucky Bankers Association, the Mortgage Bankers Association of Kentucky, and the Kentucky Land Title Association all presented the need for uniform practices regarding notarization and recording of electronic documents. These practices are governed by regulations allowed under SB 114. The same group of associations also stated the need for uniform practices by each of Kentucky’s 120 county clerks. The Kentucky Bankers Association detailed the future benefits of e-filings and e-recordings that SB 114 allows.

A representative from the Property Industry Records Association (PRIA) presented on the standards governing electronic recording that are used by over 2,000 counties in the United States. The uniformity of standards allows businesses to know in advance the processes required regardless of where the transaction is occurring.

Regulations Under SB 114

The assistant secretary of state provided an overview of the changes made by SB 114 and the current state of notaries in Kentucky. The assistant secretary of state updated the task force on the state of the regulations being promulgated pursuant to SB 114. The topics to be covered by future regulations included disqualifications for notaries, tamper-evident technology for electronic notarizations, identity verification, and records retention.

Possible Future Legislation

The county clerk members of the task force presented items that need to be addressed and fixed following the passage of SB 114. These items include the filing fee structure, a document recording manual, the definition of *signature*, power of attorney requirements, and records retention. The task force was informed that the Kentucky County Clerk's Association adopted the standards for electronic recording established by the PRIA.

The task force also discussed the need for a centralized body to oversee electronic recording in Kentucky. The secretary of state's office provided testimony that there is no state agency with the power or task to oversee electronic recording. The possibility of establishing a commission or tasking an existing agency with the responsibility to oversee electronic recording was discussed.

Report Of The 2019
Kentucky Career And Technical Education Task Force

Sen. Mike Wilson, Co-Chair
Rep. Bobby McCool, Co-Chair

Sen. David P. Givens
Sen. Jimmy Higdon
Sen. Johnny Ray Turner
Rep. Kevin D. Bratcher
Rep. C. Ed Massey
Rep. Reginald Meeks
Steven Thomas

LRC Staff: Jo Carole Ellis, Lauren Busch, Joshua A.J. Collins, Yvette Perry, Seth Dawson, Chuck Truesdell, Maurya Allen, and Christal White

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Kentucky Career And Technical Education Task Force

Jurisdiction: Study the existing delivery, organizational structure, and funding mechanisms of career and technical education.

Task Force Activity

The task force was charged to discuss issues and strategies regarding Kentucky's career and technical education system. The task force convened five times during the 2019 Interim.

Upon completion of the task force's work, the co-chairs presented the group's findings and strategies to the Interim Joint Committee on Education at its November 20, 2019, meeting. No action was taken to adopt the findings and strategies.

Report Of The 2019
Mileage Based Transportation Funding Task Force

Sen. Jimmy Higdon, Co-Chair
Rep. Ken Upchurch, Co-Chair

Sen. Albert Robinson	Jim Oliver
Rep. Terri Branham-Clark	Jason Siwula
Rep. Sal Santoro	Bryan Sunderland

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

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Mileage Based Transportation Funding Task Force

Jurisdiction: Study transitioning to a mileage-based transportation funding mechanism to replace the current system of taxing highway use through motor vehicle fuel taxes.

Task Force Activity

The Mileage Based Transportation Funding Task Force met four times during the 2019 Interim.

Road Use Charges

The committee staff administrator (CSA) of the Transportation Committee, Legislative Research Commission, presented an overview of road use charges. A road use charge (RUC)—sometimes called a mileage-based user fee (MBUF) or vehicle miles traveled fee—is a transportation funding mechanism that attempts to tie transportation taxes more closely to the actual use of a vehicle, as compared to motor fuel taxes. Most state transportation funding comes from motor fuel taxes. Kentucky's current gasoline tax rate of 26 cents per gallon is at the statutory minimum and has not changed since 2015. There are 21 states that impose a registration fee on electric or hybrid vehicles to replace the lost motor fuel tax revenue on these vehicles. Such a fee has been proposed in Kentucky but not adopted. Theoretically a RUC system would eliminate the need for a fuel tax. However, in practice, only one state (Oregon) has a permanent RUC program, which is limited in enrollment. The most recent federal highway funding bill created the Surface Transportation System Funding Alternatives (STSFA), which gives grants to states to explore alternative funding mechanisms to the traditional funding method of fuel taxes. A RUC system brings numerous questions as to how the system will be designed and implemented.

Variable-Rate Fuel Taxes

The CSA stated that according to 2019 data from the Institute on Taxation and Economic Policy, Kentucky is one of 22 states that levy a variable tax on motor fuels. Other states, as well the federal government, employ a fixed per-gallon tax. Kentucky's current gasoline tax of 26 cents per gallon consists of three parts:

- There is a supplemental highway user fee of 5 cents per gallon (cpg).
- A variable portion is based on 9 percent of the average wholesale price (AWP) of gasoline for the previous year. By statute (KRS 138.210), the minimum AWP for gasoline is $2.177 per gallon, and 9 percent of that price amounts to 19.6 cpg.
- A separate 1.4 cpg user fee is charged on each gallon of fuel sold in the state, with the proceeds earmarked for the Petroleum Storage Tank Environmental Assistance Fund (KRS 224.60-140).

Electric And Hybrid Vehicle Fees

The CSA said that, according to data from the National Conference of State Legislatures, 21 states imposed registration fees on some combination of electric or hybrid vehicles to replace tax revenue not captured on these vehicles by a traditional fuel tax. The annual fees range from

$50 to $200. Although Kentucky does not charge a fee for electric or hybrid vehicles, several bills have been introduced over the past several sessions that would establish such a fee; the most recent was 2019 RS HB 517, which would have established a base fee of $175, to be adjusted in conjunction with any increases in the motor fuels tax.

Road User Charges—A Different Approach

The CSA explained that unlike adjustable fuel taxes (which attempt to allow a cents-per-gallon fuel tax to keep up with inflation) or an electric vehicle fee (which attempts to replace the fuel tax revenue that would ordinarily be garnered from a vehicle's use), RUCs go one step further. RUCs have the potential to eliminate the need for a gas tax altogether by charging drivers per mile driven. Proponents see this approach as a way to increase transportation revenues even as the move to more fuel-efficient vehicles portends a future where traditional motor fuel purchases decrease and vehicle miles traveled increase. The CSA said that, for all its promise, a RUC program has not seen much in the way of actual implementation, beyond pilot programs. The lone exception is Oregon, which has established the voluntary, permanent, OReGO program—the only program in the country to implement actual financial transactions. The OReGO program is limited to 5,000 participants but has fewer than 2,000 registered users. Information provided by the Oregon Department of Transportation cites three states that have completed pilot programs (California, Colorado, and Minnesota) and four states where pilots are being planned (Missouri, Pennsylvania, Utah, and Washington). In addition, two multistate coalitions have been developed to explore interoperability of a RUC system among states: the I-95 Corridor Coalition, which includes 16 states and the District of Columbia along the eastern seaboard, and RUC West, which covers 13 states west of the Mississippi River stretching from Texas to Washington.

Federal Initiatives

The CSA explained that the 2015 federal Fixing America's Surface Transportation (FAST) Act created the Surface Transportation System Funding Alternatives program, a new state-based pilot program that allows a state or group of states to receive federal funding to demonstrate alternative funding mechanisms that employ user fees to maintain the solvency of the highway trust fund. Money is to be used to test the design, acceptance, and implementation of such an alternative as well as for outreach to increase public awareness on the need for alternative funding. The program was funded annually at $15 million in 2016 and $20 million thereafter through 2020. The most recent round of funding awarded was for FY 2018, for which the award winners were announced in February 2019. The FY 2019 and FY 2020 awards have not been announced.

The program provides funding to states to help them develop alternatives to the gas tax that use a user fee structure to help fund the nation's systems of highways, roads, bridges, and mass transit through the Federal Highway Trust Fund. To date, 22 grants have been awarded to either states or groups of states for projects that include implementing a mileage fee or road user fee, registration fees for alternative fuel vehicles, and security and privacy issues concerning the collection of data through a road user fee. Both Oregon (OReGO) and California (California Road Charge Pilot Program) have received federal funds every cycle to further develop their RUC programs, which charge drivers based upon the number of miles driven. For those states that receive an award, the Federal Highway Administration anticipates substantial federal involvement with STSFA recipients during the course of these projects, which will include oversight, technical assistance, and guidance to the awardee.

Questions, Challenges, And Testimony And Data Sources

The CSA outlined questions and challenges that the task force may wish to incorporate as a part of its work plan. He also stated that the task force may consider hearing from a member from Oregon's OReGO program, other states that have implemented pilot programs, and multistate coalitions.

OReGO Program

The OReGO program manager, Office of Innovation Manager, Oregon Department of Transportation, discussed Oregon's Road User Fee Task Force. It was created in 2001 when a legislative mandate required development of a design for revenue collection for Oregon's roads and highways to replace the then-current system for revenue collection. By 2012, two Oregon RUC pilots had been established. In 2013, the first RUC bill passed in Oregon. In 2015, Oregon launched a fully operational OReGO Program. In 2017 Oregon allowed electric vehicles (EVs) the option of using a RUC or paying fees.

The program manager explained the RUC concept. Oregon collects fuels tax as a prepayment of the RUC. The miles are counted and multiplied by the RUC rate. Then the net tax is collected, or the overage paid is refunded.

The program manager said that the fuel tax rate is $0.34 and the RUC rate is 5 percent of the fuel tax rate (1.7 cents per mile), based on the average efficiency of the fleet at the time of adoption. The registration surcharge is waived for efficient vehicles enrolled in OReGO. The program manager said that the need for a RUC was due to more efficient vehicles and increasing construction costs, which made fuel tax revenues unsustainable. Also, because pavement degradation is the same for all vehicles regardless of fuel type, a need for a RUC was expressed. A flat-fee registration cost pays for access, and a RUC pays for actual usage of the road. The program manager added that a fuel tax is unsustainable and a road usage charge is fair, and she noted that a RUC offers additional benefits.

While discussing the public opinion issues, the program manager stated that some citizens feel that the adoption of a RUC is unfair because it discourages the adoption of electric vehicles due to the disproportionate road mileage usage. She said that good roads are good for all vehicles and that there are other ways to encourage the purchase of electric vehicles, such as rebate programs. She said higher registration fees on electric vehicles result in disparate treatment of those who drive many miles and those who only drive a few. She added that a RUC is only as unfair as fuel taxes are; if a driver pays either fuel tax or a RUC, but not both, then a RUC is actually less regressive than increasing the fuel tax. She noted one public opinion that a RUC penalizes rural drivers. She said studies have shown that rural drivers might benefit from a RUC because they tend to drive less efficient vehicles, so with a gas tax they are already paying more per mile to use the roads than urban drivers pay.

The program manager said Oregon has joined the national discussion on RUCs by being a part of the Mileage Based User Fee Alliance, which developed a framework for a national pilot program. She added that a significant amount of time has been spent discussing the I-95 Corridor Coalition concerning an intersection of RUC and tolling and interoperability. Also she discussed that Oregon is a member of RUC West, which focuses on interoperability between states and testing clearinghouse requirements. She said Oregon also likes to stay current with the states that are receiving FAST Act grants.

The program manager stated that OReGO is a voluntary program with a participation rate of approximately 1,600 people. Oregon uses two third-party vendors for tracking mileage and for billing. The program manager said that 40 percent of revenue collected from the program goes to the third-party vendors. When more vehicles join the program, that percentage should decrease.

Utah

The research director, Utah Department of Transportation (UDOT), discussed RUC systems. He stated that they work by having an in-vehicle mileage counter that transmits miles driven to a private-sector account manager. Then mileage fees are deducted from a prepaid wallet managed by an account manager. A vehicle owner adds funds to the wallet when the balance gets low. The account manager sends RUC collections to the state of Utah, which contracts with (and oversees) the account manager.

Some RUC challenges include enforcement, technology issues and advancements, accuracy of data collected, out-of-state driving issues, privacy protection, administrative costs, and citizens' limited understanding of transportation funding. The research director stated that 14 states are members of RUC West, 17 states are members of the I-95 Corridor Coalition, 7 states have completed RUC pilot programs, and only 2 states have ongoing RUC programs. Interoperability and integration between states will be a key policy consideration. Rural and low-income households benefit from a RUC, adding that 94 percent of Utah households are urban and 6 percent are rural. The average daily number of miles driven is 47.7 for an urban household and 52.6 for a rural household. The average fuel efficiency is 22.8 miles per gallon for an urban household and 21.1 miles per gallon for a rural household. He also presented a calculation estimating that the average urban driver would pay $1 more a year with a RUC, but the average rural driver would pay $19 less.

The research director said that owners of different types of vehicles pay a wide range of state and federal gas taxes each year. Electric vehicles do not pay any gas tax. A semitruck driving the average number of miles pays $1,409 annually in gas taxes. The average Utah sedan owner pays approximately $300 per year in state and federal fuel taxes.

In 2018, Utah enacted Senate Bill 136, which set basic direction for UDOT to study and provide recommendations for an alternative fuel vehicle RUC system. The RUC study recommendations included setting up a RUC Advisory Committee and providing a RUC alternative to payment of flat fees for electric vehicles, plug-in hybrid electric vehicles, and gas hybrid vehicles. The study recommended implementing the initial system by January 1, 2020; submitting annual reports of findings; and allowing room for future pilot projects.

Senate Bill 72, passed in 2019, gave basic structure and direction to UDOT for how to implement the alternative fuel vehicle RUC program. The bill includes privacy protections, security protections, and information sharing for UDOT and the Division of Motor Vehicles (DMV).

Beginning in January 2020, owners of alternative fuel vehicles in Utah will have a choice of how to pay for their contribution to road funding. They may pay a flat fee independent of how much they drive, or they may enroll in the RUC program and pay by the mile. The flat fees are specific to vehicle type. They are lower for the vehicles that already purchase the most gasoline (and are therefore already paying fuel tax) and higher for EVs that do not require gasoline at all. The per-mile RUC fees are capped annually at the flat-fee amount applicable to each vehicle type. The annual flat fee will be $120 for EVs, $52 for plug-in hybrid EVs, and $20 for gas hybrid vehicles. The usage-based fee will be 1.5 cents per mile.

The research director summarized the range of RUC elements being incorporated into Utah's initial RUC system beginning in January 2020. Privacy will be protected in several ways. The first is that joining the RUC program is completely optional. Anyone uncomfortable with even a minimal level of data collection can simply pay the flat fee. The default length of time that the Commercial Account Manager (CAM) will store location data is 30 days after the end of each month. Raw location data will never be shared with the state, except in narrowly defined cases related to dispute resolution or system audits. The data may at a future time be anonymized, aggregated, and shared with the state and potentially other entities, but Utah is still developing standards for data protection. It is vital that robust protocols be put into place in order to protect data privacy. When participants enroll in the program, they fill out a user agreement that will clearly describe privacy components.

Utah's initial RUC system is open only to electric, plug-in hybrid, and gas hybrid vehicles, and the enrollment process will occur online. A participant will be required to enter a vehicle identification number so that the CAM can verify through the DMV interface that the vehicle is eligible for the program. A participant will also be required to submit an odometer photo through the smartphone app in order to provide a starting odometer value and benchmark initial mileage. The DMV interface will also be used as an enforcement mechanism of last resort. If a participant is violating program terms or not paying RUC fees, the CAM will be able to request that a registration hold be placed on the subject vehicle.

Enrolling in a RUC system may lead enrollees to save money, relative to the annual fee, if they do not drive many miles per year. Enrollees may pay as they go instead of paying the annual fee. Enrollees may be curious about the RUC program and want to try it out.

I-95 Corridor

The task force heard from a senior policy analyst to the secretary, Pennsylvania Department of Transportation. He gave a brief presentation regarding interstate interoperability as well as the mileage-based user fee pilot project that is being conducted by the I-95 Corridor Coalition. The purchasing power of the federal gas tax has declined by over 40 percent since it was last increased in 1993. In 2013, the Pennsylvania Legislature passed Act 89, which greatly increased the state's motor fuels tax, giving Pennsylvania the highest motor fuels tax rate until California recently surpassed it. Even with the increased motor fuels tax in Pennsylvania, a buying power erosion of up to $100 million was realized annually since the enactment of Act 89.

The analyst said that another reason the motor fuels tax has become inadequate is the increased fuel economy of the fleet. With increased fuel economy comes decreased fuel consumption, leading to a decline in motor fuels tax collected. Vehicle electrification has also become a main reason motor fuels tax is becoming an insufficient way of funding transportation infrastructure. Revenues from gas taxes have been on the decline, particularly relative to gross domestic product.

The analyst said that the MBUF pilot's purpose is research, not policy making. Most MBUF research has been conducted in the westernmost states. California, Colorado, Minnesota, and Washington have conducted MBUF pilot programs. Oregon has an ongoing MBUF program. A total of 14 states have taken part in MBUF studies through RUC West membership.

The I-95 Corridor Coalition was formed to conduct a MBUF study that brings in the east coast perspective. The goals of the study include identifying technical issues and the feasibility of technology needed and used, identifying challenges of multistate travel patterns, and studying interoperability with toll collection systems. The study is also meant to research public awareness of motor-fuels tax insufficiency and road user fee alternatives. Finally, the study is to research freight impacts, and user acceptance and concerns.

The analyst said that a plug-in tracking device called Azuga has been used to complete various studies in the MBUF pilot. Participants of the pilot program plug in the Azuga under their steering column. A mileage rate was established that was roughly equivalent to the fuel tax rate per state. At the end of each month, the mileage was tracked and the participant would receive a simulated bill in the mail that would reflect the vehicle miles traveled.

Phase one of the pilot project took place in Delaware and Pennsylvania in 2018. There were 155 participants with 459,000 miles logged over 3 months' time. One-fifth of those miles were traveled out of state. Key findings from phase one included that privacy concerns were reduced by almost half, 31 percent of participants overestimate the fuel tax load, users like the battery and car health features that the Azuga device provides, and 94 percent of participants stated that they would continue participating in the research.

Phase two of the pilot project included a multistate truck pilot. Partners of the truck pilot include the American Truckers Association; American Automobile Association; US Chamber of Commerce; International Bridge, Tunnel, and Turnpike Association; National Governors Association on governmental agencies; and the Port Authority of New York and New Jersey. The project included 55 vehicles that over the course of the first 6 months of the program have traveled in 27 states and logged 1.4 million miles. The preliminary finding is that the technology may work with the tracking devices already used in trucks that integrate with the International Fuel Tax Agreement as well as the International Registration Plan reporting. The fuel efficiency penalty is amplified by the intensity of use. There were 880 participants from 15 states overall in phase two. The majority of participants were from Pennsylvania and Delaware. Monthly statements from phase two were adjusted and used for education purposes.

Conclusions

At its final meeting, the Mileage Based Transportation Funding Task Force adopted a memorandum of findings and recommendations, including the following.

- A RUC program is not ideal for Kentucky at this time. While Kentucky's current model of taxation at the pump is not an actual model to determine vehicle miles traveled, it does provide for payment of gasoline taxes to be spread out and not in a lump-sum fee. The technological challenges of a creating and administering a RUC program may be beyond Kentucky's current capacity.
- Both the Oregon and Utah models are theoretical applications and are not yet ready for widespread use. There is a need for a federal model to address both RUC programs and state interoperability. The public also has a number of privacy concerns regarding mileage tracking with RUC programs. Therefore, public buy-in of RUC programs is currently not at a sustainable level.
- The major concern that the task force has identified with current RUC programs is the administrative costs. Kentucky currently gives up only 2.25 percent of net gasoline tax. That 2.25 percent covers gasoline evaporation shrinkage, or unaccountable losses while in storage. Oregon estimates that to administer its OReGO program, the state pays approximately 40 percent of program revenues to third-party vendors.
- None of the testimony demonstrated a RUC system that is viable at this time. The task force may be open to a RUC program at a future date when economy of scale, technology, and cost-benefit will allow for an affordable and dependable system.

Although the task force members chose not to pursue a RUC system, the task force recommends that the General Assembly explore assessing an electric vehicle fee at the time of registration and upon annual renewal to ensure that operators of such vehicles pay for the use of highways.

Report Of The 2019
Public Assistance Reform Task Force

Sen. Stan Humphries, Co-Chair
Rep. David Meade, Co-Chair

Sen. Whitney Westerfield
Sen. Max Wise
Rep. Nima Kulkarni
Rep. Russell Webber
Elizabeth Caywood
Lisa Langford
Bill Wagner

LRC Staff: Chris Joffrion, Sean Maloney, Hillary McGoodwin, and Christy Young

Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Public Assistance Reform Task Force

Jurisdiction: The Legislative Research Commission established the Public Assistance Reform Task Force in a memorandum dated May 9, 2019. The task force was established to

- examine the effectiveness of establishing work and community engagement requirements for the Supplemental Nutrition Assistance Program (SNAP) and Medicaid beneficiaries and recommend protocol for implementation,
- examine the effectiveness of a substance abuse screening program for applicants and recipients of public assistance who have a felony or misdemeanor history of substance abuse, and
- examine the effectiveness of requiring all welfare benefit cards to include photo identification.

In the memorandum dated May 9, 2019, the task force was further charged with providing methods for improving these public assistance reform methods and providing evidence of the effectiveness of these methods in getting more Kentuckians engaged in their communities, working stable jobs, and being free from substance abuse.

Task Force Activity

The Public Assistance Reform Task Force met five times during the 2019 Interim.

Work And Community Engagement Requirements

The director of the Division of Family Support in the Department for Community Based Services (DCBS) provided an overview of Kentucky HEALTH, the 1115 waiver which would establish a work or community engagement requirement for Medicaid recipients. He explained that under Kentucky HEALTH, recipients would be required to complete 80 hours per month of work or community engagement. In reference to SNAP, the director explained two sets of work requirements for SNAP beneficiaries. The general work requirement mandates that most SNAP beneficiaries ages 16 to 59 must agree to register for work, take a suitable job if offered, and not voluntarily quit a job or reduce hours if the beneficiary is currently employed. He further explained that SNAP beneficiaries who are classified able-bodied adults without dependents (ABAWDs) must meet additional work requirements. ABAWDs must work or volunteer at least 80 hours per month; participate in a work program such as a SNAP Employment or Training program at least 80 hours per month; or participate in a combination of work, volunteer, and work program hours for a total of at least 80 hours per month. A senior fellow at the Pegasus Institute explained that codifying work and community engagement requirements into law would lead to better health, increased civic engagement, improved employability, and self-sustainability.

The Gatton Endowed Chair in Microeconomics, who is also director of the Center for Poverty Research at the University of Kentucky, discussed what data on other work requirement programs might suggest for work and community engagement requirements for SNAP and Medicaid in Kentucky. The director testified that work requirements in the Temporary Assistance for Needy Families (TANF) program have led to significant reductions in program participation, only modest increases in employment, and no change overall financial security. He also discussed a study published in *The New England Journal Of Medicine* that showed Arkansas's work requirements for nondisabled adults on Medicaid resulted in substantial reductions in coverage but no statistical increase in employment or community engagement.

A resident fellow at the American Enterprise Institute discussed the importance of work and community engagement requirements. Promoting work and community engagement in SNAP and Medicaid would send a clear message to recipients and would-be recipients that the goal of these programs is to assist while the recipient transitions to work that provides higher earnings and other important benefits including health coverage. Those who can work or at least better prepare for work should be expected to do so; however, he also acknowledged that an analysis of work and community engagement policies in other states suggests that a significant number of current recipients may decide against continuing to receive benefits if they come with work requirements.

A policy analyst with Kentucky Voices for Health discussed the potential effects of work and community engagement requirements for Kentucky. He explained that in 2018 Kentucky voluntarily reinstated work requirements for some SNAP beneficiaries. Since that time, he said, more than 20,000 Kentuckians have lost access to SNAP benefits, representing $30 million in lost benefits per year. He also discussed a study conducted by the Kaiser Family Foundation that found that nearly all Medicaid beneficiaries currently work or would be exempt from new work and community engagement requirements. The study, published in 2016, found that nationally roughly 67 percent of beneficiaries worked at least part time or were enrolled in school, over 20 percent would be exempt due to their medical condition or status as a caretaker, and only 6 percent were unemployed and would not be automatically exempt from requirements. He provided an overview of analysis conducted by researchers at the Milken Institute of the School for Public Health at George Washington University. According to this analysis, the Kentucky HEALTH waiver may result in 86,000 to 136,000 Medicaid beneficiaries losing coverage in the first year, which would lead to a loss of $23 million to $37 million in Medicaid revenue for community health centers in Kentucky.

Substance Abuse Screening

The director of the Center for Poverty Research discussed substance use and substance use screening among public assistance beneficiaries. He said that substance use is not disproportionately prevalent among recipients of public assistance, that the administrative costs of substance use screening outweighs the benefits, and that substance use is not significantly related to participation in public assistance programs or the length of time on assistance.

The director of the Division for Family Support and another representative from DCBS provided additional information on substance abuse screening among public assistance beneficiaries. The DCBS representative discussed limitation on assistance to individuals with certain drug-related convictions. She explained that federal regulations state that an individual convicted of a drug felony shall not be eligible for TANF or SNAP benefits unless states act to exempt such individuals from the federal prohibition on assistance. She further explained that KRS 205.2005 states that a recipient convicted of a drug felony may remain eligible for TANF and SNAP benefits if the recipient has been assessed as chemically dependent and is participating in or has successfully completed a chemical dependency treatment program or is pregnant. According to the representative, less than 4 percent of the nearly 250,000 SNAP and Kentucky Transitional Assistance Program (K-TAP) recipients have a history of a drug-related felony conviction.

The director of the Division for Family Support discussed the administrative costs and effectiveness of other states' efforts to implement substance abuse screening programs. Based on this data, he explained that there is likely no benefit to substance abuse screening programs for public assistance recipients and that administrative costs of such programs outweigh any possible benefit. He also reviewed numerous legal challenges that other states have faced when attempting to implement substance abuse screening programs for public assistance beneficiaries. As examples of these challenges, the director referred to similar programs in Michigan and Florida that have been determined to be unconstitutional.

Photo Identification Electronic Benefit Transfer Cards

The senior fellow at the Pegasus Institute explained that under federal law, Kentucky may require electronic benefit transfer (EBT) cards to include photo identification, but she discussed how the results of efforts in other states indicate that such a requirement would be of limited, if any, value. Specifically, she explained that including photo identification would not stop the most common type of benefit fraud: trading false transactions for cash.

The resident fellow at the American Enterprise Institute said that a study of Massachusetts's implementation of photo identification EBT cards has cast doubt on the efficacy of this reform.

The director of the Center for Poverty Research said that since the implementation of EBT cards in the 1990s, fraudulent redemptions have fallen by approximately 66 percent to roughly 1 percent of total benefits.

The Benefits Cliff

A senior policy specialist with the National Conference of State Legislatures (NCSL) explained how the interplay of public benefit policies across agencies and between levels of government can have the unintended consequence of limiting economic opportunity and disincentivizing work. She stated that these unintended consequences are known as the "benefits cliff" or "cliff effect." She discussed how the benefits cliff can create an anchor into, rather than a ladder out of, poverty because families lose more than they gain when a beneficiary takes a job or receives a raise and public assistance benefits are simultaneously reduced or eliminated. She added that NCSL and the Administration for Children and Families (ACF) have developed an initiative called A Whole Family Approach to Jobs: Helping Parents Work and Children Thrive, which includes a variety of policy options for states and agencies to consider when seeking to address the benefits cliff.

The director of the Division for Family Support discussed efforts undertaken in Kentucky to address the benefits cliff. He explained that Kentucky has created a 2-month earned income exclusion where each adult in a K-TAP case is allowed a one-time exclusion of wages as an incentive to become employed or to improve his or her employment situation, and that the Division of Family Support has created a Work Incentive Program (WIN) where employed adults of a K-TAP case with discontinued benefits may be eligible for WIN reimbursement payments of $130 per month for up to 9 consecutive months.

Findings

Allocation Of TANF Funds

K-TAP is a public assistance program financed through the federal TANF block grant and state TANF maintenance of effort (MOE) funds. The program offers assistance to needy families and helps recipients secure stable employment or acquire the skills necessary to secure stable employment; however, an analysis of TANF spending suggests that funds are not allocated in a manner that prioritizes assisting recipients in transitioning off of public assistance by finding and maintaining employment.

In FY 2017, FY 2018, and FY 2019, an average of less than 10 percent of all TANF spending supported programs and services to assist recipients in securing employment or gaining the skills necessary to secure employment. Specifically, less than 5 percent of TANF funds were used for work, education, and training services, and only 4 percent of funds were used for transportation assistance and other work support programs. In addition to these programs and services, approximately 5 percent of all TANF funds were allocated for child care assistance.

During the same 3-year period, approximately 55 percent of all TANF funds were allocated to the Cabinet for Health and Family Services, Division of Protection and Permanency, for child welfare programs and services, including kinship care payments, family care initiatives, family preservation program services, and payments to private child-placing and child-caring agencies for children in out-of-home care. For the 3 years for which data was provided, total TANF funding averaged nearly $240 million per year, of which more than $132 million was annually allocated to child welfare programs and services. Specifically, an average of nearly 40 percent of all TANF funds were used for kinship care payments and payments to private child-placing and child-caring agencies, and an average of roughly 16 percent of funds were allocated to the Division of Protection and Permanency for family-based services staff salaries and family preservation program services. From FY 2017 to FY 2019, payments to private child-placing and child-caring agencies alone totaled more than $220 million. Payments to these agencies comprised the single largest TANF expenditure in each of the 3 years examined.

For the past decade, a series of short-term TANF reauthorizations approved by Congress have preserved the ability of states to exercise broad discretion in the allocation of federal TANF funds. This discretion has allowed Kentucky to prioritize child welfare programs and services when allocating federal TANF funds, but there is growing speculation that Congress may seek to significantly curtail such discretion in future reauthorization efforts. In May 2018, the US House Committee on Ways and Means approved a long-term reauthorization measure that, if passed by Congress, would have increased the share of adult TANF recipients required to engage in work, education, or training programs and would have held states more accountable for long-term success in helping recipients find and maintain stable employment.

Federal Guidelines Reflect The Importance Of Work And Responsibility

Currently, there are two sets of work requirements for SNAP beneficiaries. The general work requirement mandates that most SNAP beneficiaries ages 16 to 59 must agree to register for work, take a suitable job if offered, and not voluntarily quit a job or reduce hours if employed. To fulfill the requirement to register for work, Kentucky SNAP beneficiaries of those ages agree during the SNAP application process to complete Work Registration with the Kentucky Career Center.

SNAP beneficiaries ages 16 to 59 are exempt from the general work requirement if they work at least 30 hours per week, meet work requirements for another program such as TANF, are unable to work due to physical or mental limitations, are caregivers for a child under age 6 or an incapacitated person, are participating in an alcohol or drug treatment program, or are enrolled in school or a training program at least half time.

SNAP beneficiaries who are classified as able-bodied adults without dependents must meet additional work requirements. ABAWDs are beneficiaries, ages 18 to 49, who have no children under age 18 in the home. ABAWDs must work or volunteer at least 80 hours per month, participate in a work program such as a SNAP Employment or Training program at least 80 hours per month, or participate in a combination of work, volunteer, and work program hours for a total of at least 80 hours per month.

If a beneficiary subject to the ABAWD work requirements does not meet the requirements during any 3 months in a 36-month period, the beneficiary will become ineligible for SNAP benefits and can regain eligibility only by complying with the ABAWD work requirements for 30 days.

The Benefits Cliff

The benefits cliff, or cliff effect, is a significant barrier to employment, financial stability, and growth for many individuals who receive public assistance benefits. The benefits cliff refers to the sudden, dramatic, and often unexpected decrease in public assistance benefits that can occur with even a small increase in earnings. According to NCSL, the cliff effect can create an anchor into, rather than a ladder out of, poverty. Families often lose more than they gain when a beneficiary takes a job or receives a raise, because public assistance benefits are simultaneously reduced or eliminated. NCSL, in coordination with the ACF, has developed an initiative called A Whole Family Approach to Jobs: Helping Parents Work and Children Thrive. The whole-family approach includes a variety of policy options for states and agencies to consider when seeking to address the benefits cliff.

Recommendations

The task force recommends that the Kentucky General Assembly take the following actions during the 2020 Regular Session.

Funding For Child Welfare Programs And Services

Through the adoption of a joint resolution, instruct the Cabinet for Health and Family Services to study alternative sources of funding for child welfare programs and services currently funded by the federal TANF block grant and state MOE dollars, including strategies for securing additional Title IV-E funds, so that future K-TAP expenditures may be allocated in a manner that prioritizes assisting recipients in transitioning off of public assistance by finding and maintaining stable employment.

Electronic Benefit Transfer Cards

Through the adoption of a joint resolution, instruct the Cabinet for Health and Family Services to study options for using a singular benefit card for all public assistance benefits; this may include consideration of driver's licenses as an appropriate instrument for delivering public assistance benefits.

The Benefits Cliff

Through the adoption of a concurrent resolution, direct the Program Review and Investigations Committee to conduct an in-depth analysis of the benefits cliff in Kentucky and make recommendations for addressing barriers to employment for individuals who receive public assistance benefits. In making recommendations, the Program Review and Investigations Committee should consider policy options for addressing the benefits cliff identified by NCSL and ACF as part of their whole-family approach initiative.

Substance Use Screening

Through the adoption of a concurrent resolution, encourage the Cabinet for Health and Family Services, Department for Community Based Services to develop, update, or identify a substance use disorder screening tool for use during the application and recertification process for the various public assistance programs administered by the department. The concurrent resolution should also encourage DCBS to provide, for applicants and beneficiaries whose responses to the screening tool suggest a possible substance use disorder, information on treatment and support services available in their community and, where appropriate, refer for assessment.

Report Of The 2019
Public Water And Wastewater System Infrastructure Task Force

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Presented to the
Legislative Research Commission
and the
2020 Regular Session of the
Kentucky General Assembly

Public Water And Wastewater System Infrastructure Task Force

The Legislative Research Commission created and authorized the Public Water and Wastewater System Infrastructure Task Force on May 9, 2019. The task force was directed to study and develop public policy and legislative options to address Kentucky's public water and wastewater infrastructure and to submit findings, legislative strategy, and/or a memorandum to the LRC no later than November 29, 2019. The final recommendations of the task force were submitted to the LRC by memorandum date November 14, 2019.

Task Force Activity

From July through November 2019, the task force held five meetings and received testimony from state agencies including the Division of Water (DOW), the Kentucky Infrastructure Authority (KIA), the Public Service Commission (PSC), and the Tennessee Comptroller of the Treasury (TCOT). National and state water utility associations, private water companies, and various experts in the field of drinking and wastewater management and planning provided testimony about Kentucky's water infrastructure challenges and recommendations on how to address the issues of Kentucky's at-risk drinking water and wastewater infrastructure. On November 14, 2019, the task force reviewed and approved final recommendations to be submitted to the LRC.

Overview Of Issues Facing Challenged Water And Wastewater Utilities

Several themes emerged during the work of the task force. First, Kentucky, like other states, is facing a serious infrastructure funding gap. National experts have given Kentucky's drinking and waste water infrastructure quality a letter grade of D. Roughly $14 billion in total will be needed over the next 20 years to replace pipes, plants, reservoirs, and provide for treatment plant upgrades. Kentucky will need more than $8 billion for drinking water and $6 billion for wastewater improvements and upgrades.

Second, Kentucky's water infrastructure problems are too complex to be resolved in the short-term period set by the LRC memorandum for the task force to meet and report its findings and recommendations. Several issues—such as developing best management practices, conditioning funding for infrastructure borrowers, and requiring training for utility commissioners and board members—need further study by a stakeholder work group or by a reauthorized task force.

Third, enhanced communication and information among state agencies such as the PSC, DOW, and KIA—whether through the Water Resources Information System or another mechanism—needs further study. State agencies and various water utility stakeholders also need robust channels of communication, because resolving water and wastewater infrastructure problems will require coordination at multiple levels.

Finally, the Martin County Water District served as a concrete example of how the convergence of numerous factors—including infrastructure decay, rate affordability, and poor governance of a water and wastewater utility—can lead to a utility's near failure. While the Martin County Water

District is an extreme example of a water utility facing financial collapse and multiple service delivery issues, it helped the task force members understand some of the challenges faced by many water and wastewater systems throughout the commonwealth.

Significant Findings From Testimony To The Task Force

Utility Projections Of Increased Water Consumption Prove To Be Faulty Bases For Raising Revenues. According to DOW, many of Kentucky's utility revenue models were based on the assumption that water consumption would constantly rise. However, innovations in water-saving devices have led to the opposite result. Water consumption has declined, constraining revenues and creating a funding gap for a highly capital-intensive utility service. While consolidation of existing utilities somewhat eased revenue constraints, the practice of deferring maintenance and rate increases has left some of Kentucky's smaller water utilities in a difficult place. According to the PSC, local government officials are opposed to considering unpopular rate increases, and there is no statutory or regulatory mechanism in Kentucky to force automatic rate review. In fact, the PSC, which is the only state-level authority that could compel rate adjustment, does not have jurisdiction over many of the at-risk, small water systems, according to one expert who has worked with the Martin County Water District. The PSC cannot force a utility to open a rate case, which is why many of the water and sewer adjustments have been large. KIA provided testimony that an automatic rate adjustment clause based on the Consumer Price Index could be a way to deal with the reluctance of local utility board members to enact rate increases.

Regionalization And Consolidation May Be Instrumental For Asset Management By Small Water Systems. The Martin County Water District is just one of 180 entities identified by DOW as priority candidates for regionalization. Several factors, including the lack of technical, managerial, and financial capacities, are important determinants of whether a utility should merge or consolidate with other water systems. According to the PSC and KIA, consolidation and regionalization are important mechanisms to increase efficiency and economize resources. The PSC encouraged regionalizing essential technical resources and staff, which are too expensive for a single, small water utility to afford alone. Some experts think regionalization and consolidation should occur through public-private partnerships. The National Association of Water Companies and Central States Water Resources have bought underperforming water utilities from municipalities and private sellers. These investor-owned water companies claim that acquisitions would be easier and streamlined by adopting "Fair Market Value" legislation, which they contend would more fairly value an acquired utility's assets.

High Water Loss, Lack Of Audits, No Training, And Little State Oversight Over The Governance Of Water Utilities Are A Few Indicators Of An At-Risk Water Utility. Representatives from the Kentucky Rural Water Association (KRWA) and the Kentucky Municipal Utility Association (KMUA) asserted that there should be some uniform method for identifying water utilities that lack technical, managerial, and financial expertise. Drinking and wastewater utilities are very specialized systems that require skilled, certified operators, engineers, maintenance, and financial personnel. Representatives from the PSC and TCOT explained that consistent, excessive water loss is a good way to identify at-risk water utilities. In Tennessee, a utility's water loss above 20 percent of operating costs automatically triggers a review by TCOT's Water and Wastewater Financing Board or the Utility Management Review Board. A recent water loss study conducted by the PSC showed that high water loss correlates with a water utility's higher risk for insolvency. Water loss is money lost to a water utility.

Annual financial review is critical for a utility to determine whether costs and revenues are in balance. Failing to perform an annual audit is indicative of mismanagement and often leads to other performance issues. KIA provided testimony that it looks at 3 years of audits before making a loan, but some utilities do not have audits. DOW's argument is that not all systems are taking advantage of available funding options, because they have insufficient borrowing capacity. Without proper audits, the utility does not have a basis for determining cost of service, and local utility boards and the PSC have little information upon which to review and set utility rates. A representative of KMUA stated that Kentucky should protect local control but identify distressed systems. Annual audits, best management practices, and uniform ratemaking practices are needed. Tennessee requires annual audits of water and wastewater utilities because Tennessee law requires all utilities to be self-supporting. Giving money to a poorly run system does not help it. Failure to perform the required audit will trigger a review in Tennessee. A KRWA representative said the problem with requiring annual audits is that there is no regulatory accountability and follow-up.

Governance Of A Water And Wastewater Utility's Operations Is Different From State Regulation. Drinking and wastewater utilities are highly regulated entities and must conform to federal and state requirements for water quality, reporting, service areas, engineering and construction of infrastructure. Unlike Tennessee, Kentucky does not require its utilities to be self-sustaining entities, and there is no state-level entity that oversees or regulate rates and service for all drinking water and wastewater utilities. The exception is the 112 water districts, water associations, and investor-owned water utilities regulated by the PSC. The PSC does not regulate municipal utilities except when there is a wholesale service contract between a municipal and a regulated utility, but in those instances, the PSC regulates only the rates and terms of service in the contract.

In fact, most drinking water and wastewater utilities are governed by local water boards, commissions, or local legislative bodies. These local level governing bodies set the rates, terms of service, and guidelines for the utility. Given that there are over 600 drinking and wastewater systems in Kentucky, local governments essentially run the majority of water and wastewater utilities in the state. This is why the operations, rates, and services can vary considerably from one water utility to the next across the state and why critical decisions about rates are filtered through local government entities. Training local board and commission members is considered one way of enhancing accountability. There are no state or local requirements regarding individuals who serve as board or commission members for a water utility. However, board members must understand highly technical concepts such as cost of service, asset management and planning, and rate setting. Training requirements may help mitigate political influence on water systems in need of adherence to proper fiscal and accounting practices.

Affordability And Water Loss Are Explicitly Linked To Distressed Water Utilities. The Martin County Water District, according to one water consultant, demonstrates how the process of rectifying the problems of an at-risk utility will create affordability problems for ratepayers.

Kentucky has a poverty rate of over 18 percent, considerably higher than the national average, and many poorer citizens are in rural areas served by smaller, distressed water and wastewater systems. For example, the poverty rate in Martin County is 29 percent, and the Martin County Water District has a water loss rate of approximately 70 percent, one of the highest in the state. Because Kentucky statutes prohibit rate recovery for water losses above 15 percent, the PSC authorized use of surcharges to direct funds for fixing degraded, leaky infrastructure. A newly appointed Martin County Water Board member cautioned that Martin County residents are concerned about the prospect of the PSC imposing substantial rate increases when many Martin County residents live in poverty.

Greater Accountability Is Realized When Best Management Practices And Financial Assistance Are Linked. Most loan programs do not cover management or rate studies. Most loans and grants focus on tangible plants and assets as the bases for the loan, but tangible infrastructure and operational capacities are mutually reinforcing. Infrastructure has been compromised because of a lack of technical and managerial expertise in the utility. Many states have adopted operational permits and use permit fees to enhance the technical and managerial capacities of the borrower. Also, grants and loans can be conditioned to create mechanisms of accountability. KMUA and KRWA support measures such as principal forgiveness to induce utilities to enact best management practices, undergo audits, and perform annual rate adjustments. A KIA representative asserted that developing a loan or grant program for improving operational capacities would aid struggling water and wastewater utilities. KIA's suggestion is that seeding the Infrastructure State Revolving Loan Program ("Fund B"), which is not subject to the Davis Bacon Act or environmental review, would create lending flexibility and economize funds.