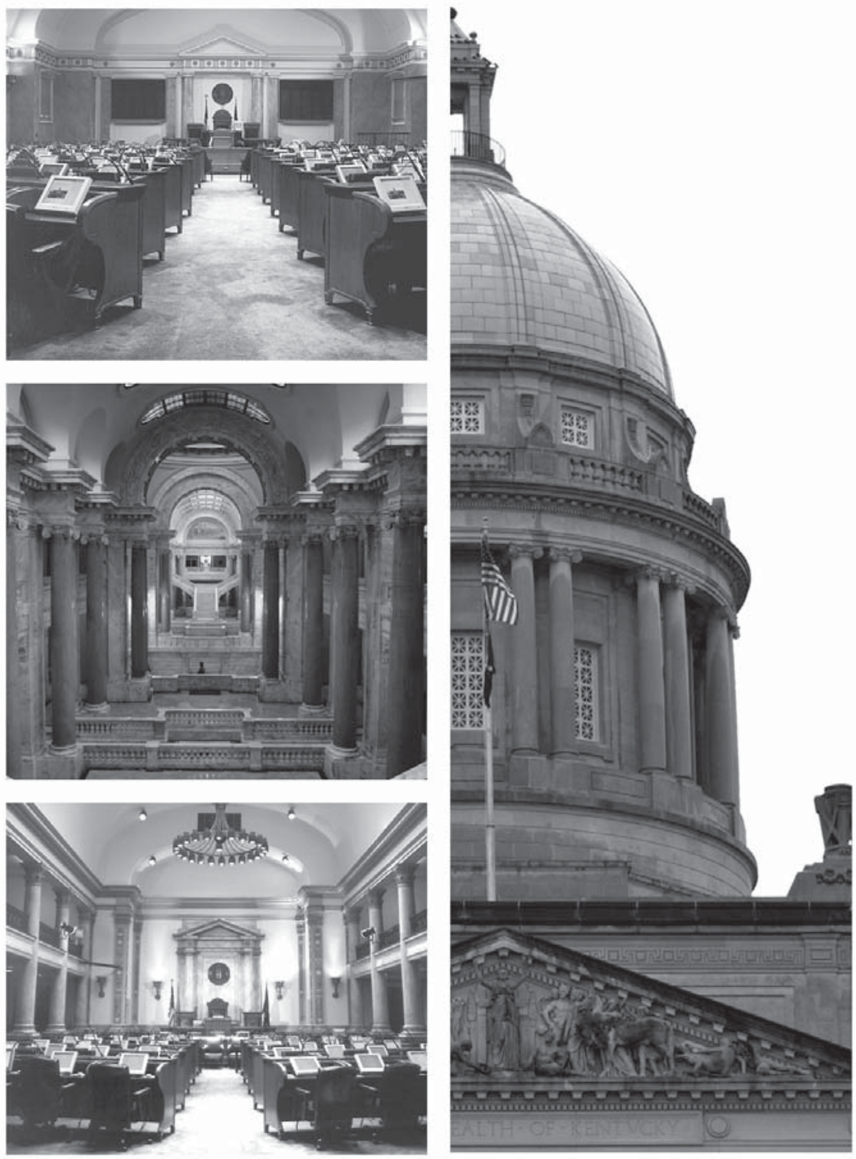
Final Reports of the Interim Joint, Special, and Statutory Committees 2013



Informational Bulletin No. 243

Legislative Research Commission
Frankfort, Kentucky
December 2013

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

2013

Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Informational Bulletin No. 243

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Foreword

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

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

During the 2013 Interim, all 15 interim joint committees held meetings. Two special committees met in 2013. Seven of the nine statutory committees met during the 2013 Interim.

LRC provides this informational booklet as a summary of the activity of the interim joint, special, and statutory committees since adjournment of the 2013 General Assembly. The reports were prepared separately by the committee staff.

Marcia Seiler
Acting Director

Legislative Research Commission
Frankfort, Kentucky
December 2013

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Sen. David Givens
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Rep. Myron Dossett
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Rep. Wilson Stone
Rep. Tommy Turner
Rep. Susan Westrom

LRC Staff: Tanya Monsanto, Lowell Atchley, Kelly Ludwig, Kelly Blevins, and Susan Spoonamore

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2014 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Subcommittee on Horse Farming

Sen. Sara Beth Gregory, Co-Chair
Rep. Susan Westrom, Co-Chair

Sen. Carroll Gibson
Sen. Dennis Parrett
Sen. Damon Thayer
Sen. Robin Webb
Rep. Lynn Bechler
Rep. Derrick Graham
Rep. Richard Henderson
Rep. James Kay
Rep. Martha Jane King
Rep. Michael Meredith
Rep. David Osborne
Rep. Sannie Overly
Rep. Ryan Quarles
Rep. Tom Riner
Rep. Rita Smart
Rep. Wilson Stone

Sen. Paul Hornback, ex officio
Rep. Tom McKee, ex officio

LRC Staff: Lowell Atchley and Kelly Blevins

Subcommittee on Rural Issues

Sen. Stan Humphries, Co-Chair
Rep. Mike Denham, Co-Chair

Sen. David Givens
Sen. Dorsey Ridley
Sen. Whitney Westerfield
Rep. Johnny Bell
Rep. Will Coursey
Rep. Jim DeCesare
Rep. Myron Dossett
Rep. C.B. Embry
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Rep. Jonathan Shell
Rep. John Short
Rep. Tommy Turner

Sen. Paul Hornback, ex officio
Rep. Tom McKee, ex officio

LRC Staff: Kelly Ludwig and Susan Spoonamore

Interim Joint Committee on Agriculture

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

Committee Activity

The Interim Joint Committee on Agriculture held six meetings during the 2013 Interim. Several committee meetings were held outside Frankfort in order to visit sites engaged in agricultural operations. The committee reauthorized the Subcommittee on Horse Farming and the Subcommittee on Rural Issues, and each held two meetings during the Interim. Numerous topics were discussed, and several agencies and organizations updated committee members on projects and proposed legislative suggestions for the 2014 Regular Session.

The committee visited several venues outside Frankfort, including a meeting at God's Pantry Food Bank in Lexington, where members discussed statewide hunger issues. Members discussed the food donation tax credit for entities making donations to nonprofit food programs, as well as the results of a limited study on the use of food banks. The executive director of the Governor's Office of Agricultural Policy discussed the Agricultural Development Board's financial commitment to the Farms to Food Bank organization. Members discussed the potential status of industrial hemp production in Kentucky.

The committee met at the Webster County Extension Office and toured Tyson Foods Inc. facilities in Robards. Representatives of Tyson, Kentucky Poultry Federation, Kentucky Soybean Association, Kentucky Corn Growers Association, and Kentucky Farm Bureau discussed the impact of the poultry industry on Kentucky agriculture. Tyson representatives discussed transportation and truck weight issues relating to KRS 189.222(2)(b).

At the State Fair, in Louisville, the president of the State Fair Board discussed fair activities and projects. Members discussed efforts to entice more trade shows to use facilities.

The committee met at the E.S. Good Barn at the University of Kentucky. The dean of the College of Agriculture, Food and Environment discussed the college and enrollment and programs at the university. The committee heard about the university's equine science and management program and the seed and fertilizer regulatory program. Committee members discussed the economic outlook of Kentucky's tobacco industry and crop production. Committee members were invited to tour the agriculture engineering building.

In Frankfort, a representative from Kentucky Farm Bureau updated the committee on the Farm Bill. The state veterinarian gave a status report on Kentucky livestock care standards. The Community Farm Alliance testified about food policy.

Administrative Regulations

Seven administrative regulations relating to the University of Kentucky Agricultural Experiment Station's Kentucky Seed Law were referred to the committee during the 2013 Interim.

Legislative Proposals/Policy Positions Received from State Agencies

The Kentucky Department of Agriculture, Kentucky Farm Bureau, Governor's Office of Agricultural Policy, and AT&T presented legislative proposals and comments.

Governor's Office of Agricultural Policy

- Support and continue allocating 50% of Master Settlement Agreement funds to Agricultural Development Board.

Kentucky Department of Agriculture

- Support continued allocation of 50 percent Master Settlement Agreement funds to Agricultural Development Board.
- Amend SB 50 relating to industrial hemp to reflect minor changes to language pertaining to the Industrial Hemp Commission and licensure permit program.
- Update requirements for repackaging eggs in retail outlets. Include a training component for retail personnel involved in repackaging eggs.
- Create a new corporate entity that would engage the private business sector to solve public problems.
- Livestock care standards have been submitted and are being processed through administrative regulations.

Kentucky Farm Bureau

- Support continued allocation of 50 percent Master Settlement Agreement funds to Agricultural Development Board.
- Support additional funding for the Breathitt Veterinary Center at Murray State University.
- Support adequate funding for the Kentucky Department of Agriculture.
- Support sales tax exemption on agriculture products.

AT&T

- Expand wireless and broadband service to counties not being serviced. Allow AT&T customers to keep basic services and landlines if they wish. Focus on changes to retail services rather than wholesale issues.

Reports Received

The committee received the following reports:

- Cabinet for Economic Development, Office of Compliance and Administrative Services: FY 12 Agricultural Warehousing Sites Cleanup Fund Annual Report.

- Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Department of Agriculture Spay and Neuter Programs.
- Kentucky Department of Agriculture, Office of State Veterinarian: 2012 Annual Report on the Cervid Chronic Wasting Disease Surveillance Identification Program.
- Department of Fish and Wildlife Resources: 2012 Status of Cervid Chronic Wasting Disease and Other Diseases.
- University of Kentucky, College of Agriculture: FY 12 Kentucky Tobacco Research and Development Center Annual Report.
- Kentucky Department of Agriculture: 2012 Kentucky Equine Health and Welfare Council Administrative, Programmatic, and Financial Activity Report.
- University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center, Quarterly Report for the period January 1 through March 31, 2013.
- Research Memorandum No. 513—Review of Kentucky-Based Nutrition Programs and Research.
- University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center, Quarterly Report for July 1 through September 30, 2013.

Subcommittee Activity

Subcommittee on Horse Farming

The Subcommittee on Horse Farming met twice during the 2013 Interim and heard testimony on issues related to horse racing and nonracing activities. Officials with the Kentucky Horse Racing Commission and Breeders Incentive Program discussed efforts to monitor pari-mutuel wagering, the status of the breeders' incentive fund, and the regulation of race horse medications. Representatives of the Kentucky Harness Horsemen's Association and Kentucky Quarter Horse Association updated members on the standardbred and quarter horse racing industry.

A representative of Keeneland Race Course discussed the state of the thoroughbred economy and Keeneland's future plans; representatives of the Kentucky Equine Education Project (KEEP) discussed the goals of the organization and its education outreach; and the equine programs manager of the office of the state veterinarian discussed equine disease outbreaks and the Equine Health and Welfare Council.

KEEP representatives urged legislation action to:

- Eliminate the sales and use tax on feed, supplies, and equipment purchased by horse farms;
- Lower the horse racing simulcast wager tax from 3 percent to 2 percent; and
- Repeal the 3.5 percent retroactive tax on live horse racing wagers.

Subcommittee on Rural Issues

The Subcommittee on Rural Issues met twice during the 2013 Interim. Representatives from the Kentucky Department of Agriculture discussed the impact of the Kentucky Proud program on rural Kentucky; representatives from the University of Louisville discussed

TeleHealth and TeleMedicine and its impact on rural Kentucky; and representatives from the University of Kentucky and Appalachian Regional Healthcare discussed the Heart Center partnership in eastern Kentucky.

Representatives of the Cabinet for Economic Development updated members on successful projects in rural communities over the past year and the launch of a new recruitment website, SelectKentucky. Members also discussed the Work-Ready Communities program, administered by Kentucky Workforce Investment. Representatives of the Kentucky Department of Agriculture discussed the County Fair Program and the County Fair Program Fund.

Report of the 2013
Interim Joint Committee on Appropriations and Revenue

Sen. Bob Leeper, Co-Chair
Rep. Rick Rand, Co-Chair

Sen. Walter Blevins Jr.
Sen. Tom Buford
Sen. David P. Givens
Sen. Sara Beth Gregory
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Stan Humphries
Sen. Ray S. Jones II
Sen. Alice Forgy Kerr
Sen. Christian McDaniel
Sen. Gerald A. Neal
Sen. Robert Stivers II
Sen. Robin Webb
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Rep. John Carney
Rep. Leslie Combs
Rep. Jesse Crenshaw
Rep. Ron Crimm
Rep. Robert Damron
Rep. Mike Denham
Rep. Bob M. DeWeese
Rep. Myron Dossett
Rep. Kelly Flood
Rep. Jim Glenn
Rep. Richard Henderson
Rep. Martha Jane King
Rep. Jimmie Lee
Rep. Reginald Meeks
Rep. Marie L. Rader
Rep. Jody Richards
Rep. Steven Rudy
Rep. Sal Santoro
Rep. Arnold Simpson
Rep. Rita Smart
Rep. John Will Stacy
Rep. Fitz Steele
Rep. Jim Stewart III
Rep. Tommy Turner
Rep. David Watkins
Rep. Jim Wayne
Rep. Susan Westrom
Rep. Addia Wuchner
Rep. Jill York

LRC Staff: Pam Thomas, Jennifer Hays, Eric Kennedy, Charlotte Quarles, John Scott, and Sheri Mahan

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Legislative Research Commission
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Kentucky General Assembly

Subcommittee Organization and Membership

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

Sen. Chris Girdler, Co-Chair
Rep. Fitz Steele, Co-Chair

Sen. Ray S. Jones II
Sen. Alice Forgy Kerr
Sen. Jerry Rhoads
Rep. Terry Mills
Rep. Marie Rader
Rep. Susan Westrom

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Rep. Jim Gooch, Jr., nonvoting ex officio
Rep. Keith Hall, nonvoting ex officio
Rep. Ruth Ann Palumbo, nonvoting ex officio

LRC Staff: Kem Delaney-Ellis, Zach Ireland, Justin Perry, and Benjamin Thompson

Budget Review Subcommittee on General Government, Finance, and Public Protection

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Sen. Jimmy Higdon
Sen. Johnny Ray Turner
Rep. Dwight Butler
Rep. Mike Denham
Rep. Adam Koenig
Rep. Brad Montell
Rep. Tanya Pullin
Rep. Tom Riner
Rep. Wilson Stone

Rep. Brent Yonts, ex officio
Rep. Thomas M. McKee, nonvoting ex officio
Rep. Steve Riggs, nonvoting ex officio

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Sen. Denise Harper Angel
Rep. Bob M. DeWeese
Rep. Kelly Flood
Rep. Joni Jenkins
Rep. Mary Lou Marzian
Rep. Donna Mayfield
Rep. Darryl T. Owens
Rep. David Watkins
Rep. Jim Wayne
Rep. Addia Wuchner

Rep. Tom Burch, nonvoting ex officio

LRC Staff: Cindy Murray, Frank Willey, and Benjamin Thompson

Budget Review Subcommittee on Justice and Judiciary

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Sen. Jerry Rhoads
Sen. Robin Webb
Sen. Whitney Westerfield
Rep. Johnny Bell
Rep. Denver Butler
Rep. Ron Crimm
Rep. Martha Jane King
Rep. Brent Yonts

Rep. John Tilley, nonvoting ex officio

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Sen. Johnny Ray Turner
Sen. Mike Wilson
Rep. Julie Raque Adams
Rep. Jim DeCesare
Rep. Jim Glenn
Rep. Reginald Meeks
Rep. Jody Richards
Rep. Kevin Sinnette
Rep. Rita Smart
Rep. Gerald Watkins

Rep. Carl Rollins, ex officio

LRC Staff: Perry Papka and Amie Elam

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Sen. Johnny Ray Turner
Sen. Mike Wilson
Rep. John Carney
Rep. Will Coursey
Rep. Jeffery Donohue
Rep. Dennis Horlander
Rep. Charles Miller
Rep. Rick Nelson
Rep. Steve Rudy

Rep. Derrick Graham, ex officio

LRC Staff: Tom Willis and Amie Elam

Budget Review Subcommittee on Transportation

Sen. Jimmy Higdon, Co-Chair
Rep. Leslie Combs, Co-Chair

Sen. Ernie Harris
Sen. Paul Hornback
Sen. Ray S. Jones II
Sen. R.J. Palmer
Rep. Tim Couch
Rep. Robert Damron
Rep. Jim Gooch Jr.
Rep. Jeff Greer
Rep. Keith Hall
Rep. Richard Henderson
Rep. Dennis Keene
Rep. Sal Santoro
Rep. John Short
Rep. Jim Stewart

Rep. Hubert Collins, nonvoting ex officio

LRC Staff: Jenny Anglin, Chuck Truesdell, and Spring Emerson

Ex Officio Members for all subcommittees:
Sen. Bob Leeper
Sen. David P. Givens
Rep. Rick Rand

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; veterans' bonus; claims upon the treasury; accounting of state funds by local officers; audit for state purposes; budget and financial administration; payment, collection, and refund of taxes; distribution and budgeting of state lottery proceeds.

Committee Activity

During the 2013 Interim, the Interim Joint Committee on Appropriations and Revenue held seven meetings. The committee received testimony regarding a wide range of topics.

Year End Report for FY 2012–2013 for the General Fund and Road Fund

The state budget director presented the FY 2013 year-end financial report. She stated that the total year end receipts for FY 2013 were $9,348 million, which is a 2.8 percent increase in revenue as compared to FY 2012. Sales and use tax receipts decreased in FY 2013 by $30.4 million, but individual income tax receipts increased by $210.9 million, corporate income tax receipts increased by $26 million, and limited liability entity tax receipts increased by $45 million. Total receipts for FY 2013 increased by $257 million over FY 2012, which exceeded the official estimate by $40.5 million.

The FY 2013 general fund surplus is $70.6 million. The surplus represents revenues in excess of the official estimate and decreased spending over budgeted appropriation levels. The executive director explained necessary government expenses (NGE) and outlined the estimated NGE levels for FY 2013, which totaled $49.6 million, $3.9 million over the budgeted amount. She gave a historical overview of NGE over the past 3 bienniums. The 2012 RS HB 265 general fund surplus expenditure plan requires that $45 million of the $70.6 million surplus go toward FY 2014 NGE. The remainder, $25.6 million, is to be deposited into the budget reserve trust fund.

The current balance for the budget reserve trust fund is $147.3 million. The balance will drop to $98.3 million after $49 million earmarked by the FY 2014 enacted budget is used. Some state agencies had FY 2013 shortfalls. The Kentucky State Police, Kentucky State Fair Board, Department of Parks, Department of Public Advocacy, and the Department of Natural Resources suffered FY 2013 budget shortfalls.

The state budget director discussed the FY 2013 road fund summary. Road fund receipts for FY 2013 were $1,491.6 million, which is a 3.3 percent increase over FY 2012. The largest receipt increases were in the motor fuels tax and the motor vehicle usage tax. The overall FY 2013 receipts fell short of the enacted estimate by $8 million. There is a surplus of $17.7 million over the enacted budget, which will be deposited into the state construction account.

FY 2013–2014 Revenue Projections

The state budget director, the deputy state budget director, and the deputy executive director for financial analysis provided a financial outlook report, focusing on FY 2013–2014 projected revenues. The state budget director discussed the current fiscal status, stating that tight fiscal conditions are expected in the immediate future. Kentucky's slow fiscal growth is consistent with growth in surrounding states and cannot make up for recession impacts and inflation. The official revenue growth estimate is 2.4 percent for FY 2013 and 2.3 percent for FY 2014.

The road fund had a 3.4 percent growth in the 3rd quarter of FY 2013. Road fund receipts increased 18.3 percent in April but were flat in May. Motor vehicle use and motor fuels taxes show growth in the 4th quarter, but total receipts would need to grow 5.2 percent in June to equal the official estimate. The state budget director discussed the anticipated July statutory adjustment to the average wholesale price of fuel and the effects of falling fuel prices on the fund.

The state budget director discussed the history of budget balancing measures during Governor Beshear's administration, totaling $1.6 billion. Most agencies have had 8.4 percent cuts, with 6.4 percent to universities, 4.2 percent to Education and Workforce Development, and 2.2 percent to Justice and Public Safety agencies. Several critical areas have been exempt from cuts, including SEEK, Medicaid, debt service, health insurance and retirement, student financial aid, and some community-based services. There were unforeseen budgetary impacts, such as higher inmate populations than budgeted and federal sequestration. Future budgetary challenges for the state include increases in education funding, pension obligations, and infrastructure.

The state budget director discussed the next biennial budget. The structural imbalance in the current budget is $157.5 million. There are potential increases in the next budget to fund teacher and state employee pensions, inflation in public employee health insurance, and inflation in Medicaid costs, which are expected to total approximately $420 million. Other critical needs include SEEK funding increases, teacher raises, increased debt service for new capital projects, and a salary increment for state employees.

Anticipated Impact of Federal Sequestration

Representatives from the Department of Education discussed the anticipated impact of federal sequestration on the department. They provided background regarding the sequestration, discussing the federal Budget Control Act and the American Taxpayer Relief Act of 2012, and outlined the fiscal impacts to Kentucky's education system statewide from the reduction in federal funding in several programs.

The executive director of the Office for Policy and Budget for the Cabinet for Health and Family Services discussed the impact of federal sequestration, outlining the impacts on various agencies within the cabinet.

Department of Revenue Amnesty Collections and New Employees Hired

The executive director of the Office of Processing and Enforcement with the Department of Revenue discussed the results of the 2012 tax amnesty program. Preliminary results show $110.8 million in gross amnesty revenues and $1.6 million in post-amnesty interest and fees. After deducting local government distributions and accelerated collections, the net new revenue that can be directly attributed to the tax amnesty program in FY 2013 is $58.6 million.

The executive director stated that approximately 1,500 payment arrangements were made during the amnesty period and that 60 new businesses were registered with the department. Approximately 27,000 amnesty applications were received, and 21,000 were approved. Taxpayers were denied participation in the amnesty program based on noncompliance with the department's request for information or failure to pay the total amnesty amount due. The executive director discussed post-amnesty enforcement actions, including collection of taxpayer data and compliance requirements for approved tax amnesty applicants. Tax data collected is being used to create a data warehouse to assist in identifying nonfilers and underreporters. The department is also implementing an upgraded tax collection system.

The executive director discussed the use of additional employees hired to implement the tax amnesty program. The department hired 85 additional revenue enhancement initiative employees as a result of 12 RS HB 499. These employees identify nonfilers and underreporters by using compliance programs and field audits, and they collect delinquent accounts for the general fund. About $8.1 million was dedicated in FY 2013 to fund these 85 positions. As of May 2013, the new employees have collected $24.9 million, with an additional $2.6 million collected for local government distribution. The final report regarding the tax amnesty program was to be completed by August 31, 2013.

Implementation of New Kentucky Lottery Games and Projected Revenues

The executive vice president and the senior vice president and general counsel of the Kentucky Lottery Corporation, and the Kentucky state treasurer discussed the implementation of new Kentucky Lottery games and projected revenues. Net revenues from all lottery sales have increased steadily from $99.1 million in FY 1993 to a projected $224.1 million in FY 2013. The lottery has distributed revenues (from 1989 through May 2013) of $1.8 billion, including $214 million in SEEK funds, to the general fund; $2.04 billion for grants and scholarships; $42 million for literacy development; and $20.8 million to the Affordable Housing Trust Fund (FY 1999 through FY 2003).

The executive vice president said that keno will be played on the current terminal system at retail locations, with drawings conducted at 5-minute intervals. The game will be offered to current retailers and to newly recruited retailers in social settings, such as bars and restaurants. It should provide the corporation the ability to grow the player base to include younger players from higher economic and educational backgrounds. Keno was planned to start in November 2013. Estimated sales for keno are $53 million in the first full year, growing to $110 million by the 5th year of operation, with annual dividends of $15 million in the first year, growing to $30 million in year five.

The executive vice president said iLottery is a distribution channel for lottery games. This system will establish the foundation for Internet lottery sales, including banking and player accounts, geo-location, age verification, time spent, and wagering limitations where appropriate. The iLottery system is expected to be implemented 9 to 12 months after the start of keno, and will provide a convenient way for customers to make purchases online. Implementation by other lotteries has not harmed lottery retailers. Projected proceeds from iLottery are $2.7 million in the first year, reaching $49 million by FY 2023.

Impact of Reductions in Coal Severance Tax Receipts on Local Governments

The judge/executive of Letcher County and the judge/executive of Bell County discussed the impact of reductions in coal severance tax revenues on their counties. The judge/executive of Letcher County noted that, in his county, coal severance funds are used to operate the jail, sewer systems, and senior citizen centers, and to provide other services that residents rely on. He noted that his county is down $1.3 million in coal severance receipts out of a $10.7 million budget. The cuts that will need to be made will affect the county's everyday operations.

The judge/executive of Letcher County reviewed the allocation of funds from the coal severance taxes and requested that the General Assembly examine and possibly amend the formula for the distribution of coal severance funds. He said the "off the top," "off the middle," and "off the bottom" allocations from coal severance taxes, including the line-item projects that are designated in the budget and are paid for with coal severance funds, are a concern because those projects are funded first. With less severance money available overall, less and less money is flowing to the counties to assist with general operations. The reduction in coal mining and mining jobs has resulted in lower tax receipts in all areas where local governments impose taxes, creating additional revenue pressures in his county.

The judge/executive of Bell County suggested that the formula for fund allocations be amended to allow a larger portion of the total money available to counties to be used more flexibly, as allowed under the Local Government Economic Assistance Fund (LGEAF). Thirty-five percent is deposited in the Local Government Economic Development Fund, and 15 percent is deposited into the LGEAF fund. He recommended that the General Assembly consider reversing those percentages so that the larger amount is distributed to counties in a manner that allows for more flexibility.

Economic Development Update

The secretary of the Cabinet for Economic Development and the commissioner and deputy commissioner of the Department for Business Development discussed economic development efforts in the commonwealth and economic growth. The state should reach prerecession employment levels by the end of 2013, with economic growth in both rural and urban areas.

The commissioner of the Department for Business Development discussed Kentucky's robust automotive production industry. Since January 2010, more than 200 motor vehicle-related projects have been announced, representing 14,500 new jobs and $3.5 billion in capital investment. Kentucky's midyear production ranks third in the nation and first on a per capita basis. Seventy-eight counties have an employer linked to the automotive industry.

The commissioner then discussed foreign investment in the state. Kentucky has 400 foreign-owned facilities representing 30 different countries, employing more than 80,000 workers. The 3-year employment growth rate in these facilities was 12 percent, compared to an overall growth rate of 6 percent for the state. In 2012, nearly 35 percent of all new capital investment and 20 percent of all new jobs announced were a result of foreign investment.

The commissioner discussed the cabinet's workforce development efforts and the need for an educated workforce. The cabinet's goal is to provide clients with a primary point of contact in this area, serving as a more integrated and easily identifiable workforce service provider. This goal will be attained by combining efforts with other cabinets to provide training, assessment, job screening, and other services for potential employees and employers.

The deputy commissioner of the Department for Business Development discussed the recently launched "Select Kentucky" geographic information system site selection tool. This is a centralized portal for businesses to search for available properties, existing industry data, and community demographics. The tool is a partnership with the Commonwealth Office of Technology, designed to provide potential employers with the latest data and the most pleasant site selection experience possible. She also discussed media familiarization tours, which showcase Kentucky's industry and quality of life to a global audience.

Health Benefit Exchange Update

The executive director of the Office of the Kentucky Health Benefit Exchange testified about the exchange. There are 640,000 uninsured people in the state. Of these, 300,000 may qualify for Medicaid under the new eligibility rules, 290,000 may qualify for premium assistance through the exchange, and 50,000 may purchase insurance on the exchange without subsidy.

The exchange is a marketplace for individuals and employees of small businesses to shop for health insurance offered by insurers and to compare those plans based on price and quality. Individuals may also apply for Medicaid and the Kentucky Children's Health Insurance Program coverage. The Patient Protection and Affordable Care Act requires states to create their own exchanges or default to a federal exchange, and Kentucky opted to create its own. She also outlined the insurers that are participating in the exchange.

The executive director discussed the Small Business Health Options Program (SHOP) within the exchange. Kentucky must have a SHOP program to provide health insurance options to small businesses of 2 to 50 employees. SHOP will ease the administrative burden on the small employers that now administer group health plans. Kentucky has merged the SHOP exchange with the individual market for administrative and financial simplification.

The executive director discussed federal premium assistance tax credit requirements. Individuals may qualify for premium assistance through the exchange if their household income for the taxable year is between 138 percent and 400 percent of the federal poverty level. Individuals may also qualify for cost-sharing reductions if their income is below 250 percent of the federal poverty level. A small business may qualify for a tax credit if it pays at last 50 percent of the premium for each employee, if it has fewer than 25 full-time equivalent employees for the tax year, and if the average annual wage of the group is less than $50,000.

The executive director gave several examples of estimated costs to purchase health insurance on the exchange, for various types of individuals and businesses at different coverage levels. She discussed the exchange's website, the various pages on the website, and the differences between the individual and SHOP areas of the website. She demonstrated how to browse and compare insurance plans.

The executive director discussed the exchange's estimated operating budget through FY 2019. Costs include staffing, technology costs, vendor support staff, and operational costs including hardware and software, rent, and facility costs. Federal funds may be used for exchange operation through 2014, but it must be self-sustaining by 2015.

State Employees' Health Plan Update for Plan Year 2014

The commissioner of the Department of Employee Insurance and the deputy executive director of the Office of Legal Services, Personnel Cabinet, testified about the state employees' health plan for 2014. There are few changes due to grandfather status for plan design elements and employee contributions. The employer contribution was increased 2 percent, and the annual trends are projected to be in the 8 percent to 9 percent range.

Many of the mandates under health care reform begin to take effect in 2014. These changes are reflected in the 2014 designs with benefit enhancements like preventive services such as immunizations, screenings, well-child and well-adult visits, all with no member cost. The 2014 plans expand wellness offerings, and there are premium incentives for abstaining from all tobacco products.

The two 2014 LivingWell plans require health awareness, monitoring health status, setting goals for improving health, and encouraging preventive health care. The preventive care benefits are at no cost to members. All information collected during the health assessment is confidential.

The commissioner discussed enrollment in the 2014 plans. Open enrollment is mandatory for all employees and lasts from October 1–31, 2013. Benefit fairs will be held throughout the state from October 1 through October 18. The fairs will offer free flu shots and health screenings. He discussed the four plan options, discussing coverage and cost.

Local Option Sales Tax

The mayors of Louisville and Princeton and the president and CEO of Whayne Supply Co. discussed a local option sales tax proposal. The mayor of Louisville discussed the need for new revenue streams for localities and compared Kentucky sales tax rates to those of surrounding states. There is broad support for introducing language for a constitutional amendment allowing for a local option sales tax, including endorsements from the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association for Economic Development, among others. A February 2013 poll indicates that 72 percent of voters support the option to vote on a local sales tax constitutional amendment.

The mayor of Louisville gave examples of possible annual tax revenues that could be generated if an optional local sales tax is approved. These revenues could be used for infrastructure improvements; in Louisville alone, $60 million is needed to bring bridges, sidewalks, signs, and roads up to minimum standards. The mayor of Princeton gave examples of how local option sales tax revenues could help with needed improvements in her city.

The president and CEO of Whayne Supply Co. discussed how adopting a local option sales tax could address infrastructure needs that, in turn, would improve his company's competitiveness and have a positive effect in yearly company earnings.

The executive director of the Urban Studies Institute at the University of Louisville discussed local option sales taxes, providing a national overview. Thirty-seven states have some voluntary tax sharing arrangements with their local governments. Thirty-two of these arrangements take the form of general retail sales tax, and 23 states have local option sales taxes structured similarly to that proposed by the mayor of Louisville. The most common rate is 1 percent. In most cases, local option sales tax revenues can be used for general or specific purpose, and most require majority approval by referendum.

The executive director provided further details on other states' local option sales taxes, stating that most jurisdictions have exemptions and caps, such as limitations on big-ticket items like vehicles. Typically, the same state agency that collects the state sales tax also collects the local sales tax, which minimizes administrative costs to the local jurisdictions.

The executive director discussed the potential economic impacts of local options sales taxes and Kentucky's membership in the Streamlined Sales and Use Tax Agreement (SST) and its effects on the state's ability to implement and collect local option sales taxes. Sales taxes tend to be regressive, but when food, prescription drugs, and utilities are exempted, the regressive effect is mitigated. She discussed the effect of a higher local sales tax rate on higher-cost purchases, stating that some people may seek lower tax rates across county lines or state borders.

The executive director of the Department of Revenue Office of Sales and Excise Taxes gave an overview of the SST project, stating that Kentucky is a full member state. Kentucky has received $107.0 million in payments from SST vendors since entering the agreement in October 2005. Cumulative collections for all SST member states from 2005 through 2012 are $1.3 billion. In FY 2013, SST filers sent more than $20.7 million in sales tax revenue to

Kentucky. Local sales taxes must be administered at the state level. Registration, filing of returns, collection and distribution of tax revenues, and audits would all be handled by the state if Kentucky is to stay in compliance with the agreement. To meet the terms of the SST agreement, the local tax base must be identical to the state tax base, only one local sales and use tax rate is allowed per local jurisdiction, and the local tax rate must be identical from jurisdiction to jurisdiction. He discussed various types of sourcing, including destination-based and origin-based sourcing.

Sales and Use Tax Vendor Compensation

The president of the Kentucky Retail Federation, president of the Woodford Feed Co., owner of Caudill/Wright Enterprises, and vice president of ValuMarkets Inc. discussed sales and use tax vendor compensation. The president of the Kentucky Retail Federation discussed 13 RS HB 440, which amended the amount of vendor compensation that a retailer could retain for collecting and remitting the sales and use tax on a timely basis. Prior to the law change, the retailer could deduct from the amount of sales and use tax due on each return 1.75 percent of the first $1,000 of tax due and 1 percent of the tax due in excess of $1,000. The total compensation could not exceed $1,500 per reporting period. After the passage of 13 RS HB 440, retailers can now deduct from the amount of sales and use tax due on each return 1.75 percent of the first $1,000 of tax due and 1.5 percent of the tax due in excess of $1,000. The total compensation cannot exceed $50 per reporting period.

The president of the Woodford Feed Co., owner of Caudill/Wright Enterprises, and vice president of ValuMarkets Inc. expressed concerns with the lowering of the cap on vendor compensation from $1,500 to $50 per reporting period. They said the information shared with some legislators regarding the impact of the change did not accurately reflect the widespread impact of the lowering of the cap to $50. The change negatively affects small to medium-size businesses, not just big-box retailers. A retailer that has annual taxable sales of more than $635,000 will see a reduction in the amount of compensation. According to a PricewaterhouseCoopers LLP study, the national average cost for collecting the tax is about 3 percent for all retailers.

Real Property Escheat Pilot Project

The Kentucky state treasurer discussed the real property escheat pilot project, which helps jurisdictions deal with abandoned property. There have been 300 properties identified, with 99 percent certainty, for which the previous owners are now deceased and no heir is known. These properties have started the process of reverting ownership back to the jurisdiction and allowing the jurisdiction to sell that property. Only a few properties have completed the process. Profits from the sale of the properties have been minimal, being eroded by fees, back taxes, and liens. Local governments receive any profits first, with residuals reverting to the commonwealth.

The state budget director discussed the anticipated revenue from the program, which was included in the 2012–2014 biennial budget. Estimated revenues of $7 million in FY 2013 and $10 million in FY 2014 were budgeted. These revenues have not been realized.

Sector Strategy Program

The secretary of the Education and Workforce Development Cabinet and the commissioner of the Department of Workforce Investment discussed the Sector Strategy Program. The secretary discussed Kentucky's educational gap and the new educational requirements needed to attract and keep new jobs in the state.

The commissioner discussed in further detail the talent development sector strategies being used by the cabinet. The cabinet is partnering with industries to match training to specific industry needs to address skills gaps in the workforce. Sector strategies can attract businesses, improving the sustainable economic outlook for the state. The state is partnering with five sectors to provide an appropriately trained workforce for automobile and aircraft manufacturing; distribution and logistics; research and development business services; health care and social assistance; and energy creation and transmission. The commissioner provided several examples of successful targeted skills training.

The secretary discussed the benefits gained by using sector strategies. With these strategies, the state can attract new jobs, stimulating economic growth and prosperity. Employers gain an innovative industry sector driven by a skilled workforce. Workers gain highly marketable skills and better career opportunities.

Kentucky State Fair Board Financial Status

The president of the Kentucky State Fair Board discussed the financial status of the fair board. The board anticipates a $16 million loss over the next biennium. The board will request a total appropriation of $48.9 million for FY 2014–2015, and $51.2 million for FY 2015–2016. This total amount will include a general fund request for $6.2 million in FY 2014–2015, and $4.8 million in FY 2015–2016.

New Markets Tax Credit Program

The director of government relations for Enhanced Capital and the chairman for 3DR Laboratories discussed the New Markets Tax Credit Program. The director provided an overview of Kentucky's New Markets program, which was enacted in 2010 with credit allocations awarded in 2011. The program consists of $62.5 million of allocation or investment authority that must be used in low-income or high-poverty areas. Community Development Entities (CDEs) receive allocations of tax credits that are used to raise private sector capital. Investors earn 39 percent tax credits for investing in CDEs, which are claimed over 7 years beginning in year three. CDEs must have allocation agreements in force with the US Treasury and a service area that includes Kentucky.

The director discussed specific results for Kentucky's New Markets program. More than $60 million of private sector investments in 10 projects have qualified across the state. Investments are supported by $24.3 million in tax credits, with a maximum of $5 million being claimed per year. As a direct result of the program, 207 new jobs have been created, 358 jobs have been maintained, and 624 construction jobs have been created. Projects have included investments to help small businesses grow and new real estate/facilities development. New investments have increased state and local tax revenues. The director provided a map of New Markets Eligible areas of Kentucky.

Limited Liability Entity Tax

A group of Kentucky business taxpayers and representatives from the Kentucky Society of CPAs discussed a proposal to amend the limited liability entity tax (LLET). One deduction allowed when determining Kentucky gross profits is related to costs of goods sold. This term is defined in KRS 141.0401. Pursuant to that definition, the Department of Revenue has been disallowing all costs except for direct materials and direct labor. That interpretation disallows costs that are normally understood to be costs of goods sold for federal income tax purposes. When different costs are allowed at the federal level but not allowed at the state level, compliance issues may arise, which may affect Kentucky's business climate. This group proposes to align the definition of "cost of goods sold" in Kentucky's LLET with the definition for the federal income tax.

Ramifications of Heroin Addiction

The executive director of the Kentucky Office of Drug Control Policy and the state budget director appeared before the committee to discuss the increase in heroin use in Kentucky since the passage of 12 SS HB 1, which increased monitoring and oversight of the dispensing of prescription drugs. The executive director identified programs available to help people addicted to drugs and identified additional needs. The state budget director outlined financial resources devoted to addressing drug abuse in Kentucky.

Subcommittee Activity

The Interim Joint Committee on Appropriations and Revenue is organized into seven 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 2014–2016 biennium.

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

The Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection did not meet during the 2013 Interim.

Budget Review Subcommittee on General Government, Finance, and Public Protection

The Budget Review Subcommittee on General Government, Finance, and Public Protection held three meetings during the 2013 Interim.

The executive director from the Kentucky Retirement Systems reported on funding, investments, and benefit plans. Kentucky Retirement Systems gave information from actuaries who project that KERS Non-Hazardous, as currently funded, would probably bottom out in 3 to 4 years.

The executive secretary from the Kentucky Teachers' Retirement System (KTRS) reported on the KTRS, and KTRS provided clarification regarding the inviolable contract for medical and Social Security benefits, and the health care liability.

Representatives from the Cabinet for Health and Family Services provided information about substance abuse and available treatment beds in Kentucky.

Representatives of all constitutional officers, including the auditor of public accounts, attorney general, Kentucky state treasurer, secretary of state, and the Kentucky Department of Agriculture, presented a budget update.

The executive director from the Kentucky Judicial Form Retirement System provided a budget update.

Representatives from the Unified Prosecutorial System provided a budget update.

The executive director of the Commercial Mobile Radio Service Board presented an update on the 911 reporting requirements established in the 11 RS SB 119.

Budget Review Subcommittee on Human Resources

The Budget Review Subcommittee on Human Resources did not meet during the 2013 Interim.

Budget Review Subcommittee on Justice and Judiciary

The Budget Review Subcommittee on Justice and Judiciary held one meeting during the 2013 Interim.

The chief justice of the commonwealth, who also serves as the chief administrator of the court system, provided an update to the members concerning the budgetary status and needs of the judicial branch. The top priority is to provide salary increases for personnel. The court system is making progress in developing a new electronic case management system and has completed its move into newly renovated office space in Frankfort.

The secretary of the Justice and Public Safety Cabinet provided an update concerning the budgetary status and needs of each department within the cabinet. Those include Corrections, Kentucky State Police, Juvenile Justice, Criminal Justice Training, Public Advocacy, and Justice Administration. Progress is being made in reducing the prison population, but that reduction has not come as quickly as expected. Consequently, costs for Corrections were more than the amount budgeted in FY 2012–2013, and that situation is also expected in the current fiscal year. Due to a number of factors, the State Police had costs in FY 2012–2013 that exceeded the amount budgeted, and it appears that the amount budgeted for FY 2013–2014 will be insufficient.

The commissioner of the Department of Public Advocacy said that restricted funds generated by the department had been decreasing over the last few years, and thus overall funding was inadequate in both FY 2012–2013 and FY 2013–2014. Prison and jail costs could be reduced if provided funding allowed the department to expand use of social workers in assisting its clients.

Budget Review Subcommittee on Postsecondary Education
and
Budget Review Subcommittee on Primary and Secondary Education

The Budget Review Subcommittee on Primary and Secondary Education and the Budget Review Subcommittee on Postsecondary Education held four joint meetings during the 2013 Interim.

Representatives from the Kentucky School Boards Association (KSBA), Department of Insurance, and Kentucky League of Cities testified regarding the Kentucky School Boards Insurance Trust and the recent closure of that trust. Representatives explained when and how the trust was formed, its purpose (primarily to assist local school districts in obtaining liability and property insurance at a lower rate through volume purchasing), reasons for its closure, and steps being taken to properly shut the fund and minimize the fiscal impact on school district. KSBA representatives indicated that a reinsurer will be selected and will cover all liabilities that exceed what KSBA is able to cover. The Novation plan tentatively approved has been evaluated by outside consultants and is considered very strong. They also indicated that local school districts would be provided final liability amounts in a few months and will be given two options for payment—cash or participation in a bond issuance plan that will allow the liability to be paid over a period of years.

The president of the Council on Postsecondary Education (CPE) reported on performance-based funding in higher education and outlined examples of other states using performance-based funding models. He summarized the Governor's Conference on Postsecondary Education Trusteeship, outlining highlights that included discussions of public-private partnerships in higher education and the role higher education plays in economic development.

The vice president for Adult Education for CPE reported on the Adult Learner Degree Attainment Initiative authorized in the FY 2012–2014 biennial budget. The report included data from 2000 to present, outlining key statistics related to Kentucky's adult education programs.

The deputy executive director of the Kentucky Center for Education and Workforce Statistics gave an overview of the organization, the data it collects, and how it may play a role in better informing policy makers of key education and workforce data.

Representatives from the Kentucky Education Action Team, an organization composed of eight education support and advocacy groups with the intent of developing united messages for the public and General Assembly, discussed the organization's legislative and budgetary goals for the 2014 Regular Session. Primary goals are restoration of funding for the Support Education Excellence in Kentucky program to the FY 2007–2008 level and to restore funding for the "flexible focus funds" programs to the FY 2008-2009 level.

The secretary of the Education and Workforce Development Cabinet provided an overview of the financial condition of agencies in the cabinet. He discussed areas where federal sequestration has had, or will have, a negative impact and detailed the 24 percent reduction in state general fund appropriations since 2008. Sequestration had reduced funding for the Office of Vocational Rehabilitation and the Office of the Blind by $3 million. There will be long-term effects on numerous programs if such reductions continue.

The president of the Council of Postsecondary Education and the commissioner of Education presented a general overview of the 2014–2016 biennial budget requests of their agencies. General fund reductions have occurred since FY 2007–2008. Additional revenue in the upcoming biennium is needed to maintain services to students at the current level.

Budget Review Subcommittee on Transportation

The Budget Review Subcommittee on Transportation held six meetings during the 2013 Interim.

The secretary of the Transportation Cabinet spoke on the future of MAP-21, the federal surface transportation funding program. The program expires on September 30, 2014, but the structure of a reauthorized program is expected to stay largely the same. Sustainable funding for the federal program remains questionable, however. Without subsidies from the federal government's general fund, its highway trust fund will run out of money in FY 2014–2015. Federal sequestration was projected to have a minimal effect on surface transportation funding, with most of that effect coming in programs funded through the federal general fund rather than the highway trust fund.

The executive director of the Office of Budget and Fiscal Management, Transportation Cabinet, provided updates on road fund revenues. Through May 2013, road fund receipts were up 5.2 percent over the same period of FY 2012–2013. The motor fuels tax for the first and second quarters of FY 2013–2014 was 32.3 cents per gallon, the maximum allowable following the 10 percent increase on the variable rate for FY 2012–2013.

The State Highway Engineer and the director of the Division of Maintenance, Department of Highways, Transportation Cabinet, spoke on bridge maintenance and road maintenance in general. The state maintains nearly 9,000 bridges, with local governments maintaining nearly 5,000 more. Almost 1,200 of these bridges are classified as "structurally deficient" with one or more parts in poor condition, while nearly 5,000 are classified as "functionally obsolete," meaning they do not meet current design standards.

The annual overall maintenance budget has remained flat over the last two biennia; the cost of removing snow and ice has been lower than average in the last 2 years, but certain defined calculations such as pension contributions have increased, and the cost of materials has risen. Substantial increases in maintenance funding are necessary to keep Kentucky's highways and bridges at current standards.

A representative from the National Conference of State Legislatures spoke about the characteristics of public-private partnerships, which have been used in other states for highway and bridge projects as well as other uses. P3s, as they are commonly known, can provide another option for financing projects that may have problems being funded by traditional means. They can provide cost savings and faster project completion. However, they do not represent additional money for the state, so funding can remain a concern.

The president and CEO of the Kentucky Chamber of Commerce talked about projects, including new dorms at the University of Kentucky and Eastern Kentucky University, which had been completed efficiently through the P3 process and spoke about the chamber's encouragement of P3 legislation to allow their use statewide.

The secretary of the Transportation Cabinet spoke about the cabinet's considerations for potential P3 projects, including the risks involved when designing a contract for a P3 project.

The State Highway Engineer spoke on the implementation of 13 RS HB 445, which authorized design/build procurement methods for up to five road and bridge projects each fiscal year. The secretary said that no projects had been designated for design/build at that point, but that there were potential projects for that method.

The secretary, state highway engineer, and executive director of the Office of Budget and Fiscal Management discussed project lettings and the cash balance in the road fund. The secretary stated that a minimum of $150 million is a fair target amount to be in the road fund at any given time and that project lettings are being done at a pace that is sustainable in the long term.

Representatives from the Kentucky Water Transportation Advisory Board and the Kentucky Association of Riverports spoke on the importance of riverport maintenance and the positive results of the $1 million appropriation contained in the FY 2012–2014 biennial budget for improvements and maintenance of access to riverports.

Representative Jim Wayne and Representative Joni Jenkins presented information on Representative Wayne's prefiled legislation, 14 RS BR 222, which would create a tax credit for those living under the poverty line who pay tolls to cross the new Louisville-Southern Indiana Ohio River Bridges. The credit would be for up to $500 annually and would be refundable so that, even if the household did not pay $500 in income taxes for the year, it would still benefit from the credit. BR 222 would also prohibit the tolls from being collected on mass transit vehicles. The conservative estimated cost to the state would be $1.9 million annually in general fund revenues.

The president of Kentuckians for Better Transportation and representatives from general aviation airports spoke about the Aviation Economic Development Fund, its benefits for the state's smaller airports, and the need for maintaining the taxes collected on jet fuel within that fund rather than using fund transfers. They also spoke about the aviation education programs.

Report of the 2013
Interim Joint Committee on Banking and Insurance

Sen. Tom Buford, Co-Chair
Rep. Jeff Greer, Co-Chair

Sen. Jared Carpenter
Sen. Julian M. Carroll
Sen. Julie Denton
Sen. Chris Girdler
Sen. Morgan McGarvey
Sen. Dennis Parrett
Sen. Dorsey Ridley
Sen. Albert Robinson
Sen. Dan "Malano" Seum
Sen. Brandon Smith
Rep. Julie Raque Adams
Rep. Johnny Bell
Rep. Dwight D. Butler
Rep. Will Coursey
Rep. Ron Crimm
Rep. Robert Damron
Rep. Mike Denham
Rep. Joseph M. Fischer
Rep. Jim Gooch Jr.
Rep. Mike Harmon
Rep. Dennis Horlander
Rep. Dennis Keene
Rep. Thomas Kerr
Rep. Adam Koenig
Rep. David Meade
Rep. Michael Meredith
Rep. Brad Montell
Rep. David Osborne
Rep. Sannie Overly
Rep. Ruth Ann Palumbo
Rep. Ryan Quarles
Rep. Jody Richards
Rep. Steve Riggs
Rep. Bart Rowland
Rep. Jonathan Shell
Rep. Kevin Sinnette
Rep. Fitz Steele
Rep. Wilson Stone
Rep. Tommy Thompson
Rep. John Tilley

LRC Staff: Rhonda Franklin, Sean Donaldson, and Jamie Griffin

Presented to the
Legislative Research Commission
and the
2014 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 two times during the 2013 Interim.

Banking

Representatives of the Kentucky Bankers Association (KBA) reported on state banking issues in Kentucky. They reported that the KBA represents 96 percent of state banks, often referred to as "community banks," which hold 98 percent of all assets in Kentucky and approximately $69.5 billion in deposits. Despite the strength of Kentucky's state banks, the KBA representatives expressed concern about the industry's role in economic recovery and the requirements imposed on state banks and the unintended advantages given to the large national banks by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). Large national banks are better able to absorb the new regulatory expenses as operating costs than the community banks, allowing them to undercut community banks in the marketplace through loan rates and terms. While the community banks represent no systemic risk for the nation‘s financial system, the regulatory burdens imposed by Dodd-Frank on banks of all sizes are challenging the future of smaller banks. The requirement that bank boards change their role from business development to management oversight will make it difficult for community banks to fill bank director positions, due to increased responsibility and possible personal liability.

The KBA representatives addressed foreclosure issues and resultant abandoned and vacant property issues. They recommended changing the time period for the right of redemption of a foreclosed property from 1 year to 6 months, stating that this could improve sales and prices at foreclosure sales. Another recommended change is to standardize the process for master commissioner sales across the state, as each county currently has its own set of rules for sales, making it difficult for purchasers to understand the process. Finally, the KBA is considering discussions of nonjudicial foreclosures, or deed of trust. Kentucky is a strict judicial foreclosure state, but many states allow nonjudicial foreclosures that are less costly, faster, and easier to accomplish; are easier for the defaulting borrower to understand; eliminate deficiency judgments; result in less risk to neighborhoods due to abandoned properties; and allow transfer upon completion of the sale.

The Bluegrass Bankers Association discussed the need to reduce the length of time for the right of redemption on foreclosed property. A requirement for county clerks to provide timely notice of tax delinquency certificates to the mortgage holder could reduce the number of foreclosures.

The commissioner of the Department of Financial Institutions summarized transactions submitted to the Kentucky Deferred Presentment Transaction System, commonly referred to as the payday loan database. The data from November 1, 2012, to October 31, 2013, found the following:

- Total number of transactions: 2,190,267
- Number of borrowers: 210,383
- Average advance amount: $334.22
- Average total fees: $55.21
- Average loan term: 20.26 days

The number of licensees has steadily dropped from a high of 801 locations across the state in 2007 to 556 locations in 2013. The average number of transactions per borrower was 1.658 during 2012, with a low of 1.5 transactions per month to a high of 1.9 per month, which complies with the two-loan maximum per customer.

Insurance

A representative of a facility providing applied behavior analyst (ABA) services addressed the committee about the ABA services provided to children with autism spectrum disorders. The facility does not bill health benefit plans for the services rendered and detailed problems experienced by parents who submit claims to their insurer, despite the health benefit mandate for coverage of ABA treatment enacted by 2010 HB 159. Several parents of children treated by the facility expressed gratitude for passage of the mandate and for the ABA treatment their children are receiving. However, the parents stated that they have not received reimbursement from their health benefit plans for the ABA treatment or that reimbursement is intermittent.

A representative from Autism Speaks addressed the problems relating to health insurance reimbursement encountered nationally by providers of ABA treatment and by parents of children receiving ABA treatment for autism spectrum disorders. Some of the reasons that insurers use to deny coverage of ABA therapy for autism spectrum disorders are that ABA services are educational and not covered as health care, that ABA is not medically necessary, that providers are improperly supervised, that there are no American Medical Association codes to specifically cover ABA, and that providers are not in the plans' networks.

Committee members requested that the insurers meet with the providers and parents to resolve issues with reimbursement. Department of Insurance representatives agreed to meet with the parents to address problems with reimbursement.

The commissioner of the Department of Insurance testified about health insurance transitional relief for 280,000 insureds in the state who received notice that their individual or small-group health plan would be discontinued for 2014. The transitional plan is in response to the president's recent announcement that current policies that will be noncompliant with the Patient Protection and Affordable Care Act for plan year 2014 may be exempt if the state agrees and the insurers in the state agree to continue the current policies. Health insurers operating in the state were asked to report to the department whether they were planning to continue to offer their prior year's policies in 2014. Humana will offer its current plans to its insureds, and United Healthcare will offer its current plan to its insureds with small modifications. Bluegrass Family Health will not offer its current plans for the 2014 plan year. Anthem representatives testified that Anthem would not offer its current plans for the 2014 plan year.

Report of the 2013
Interim Joint Committee on Economic Development and Tourism

Sen. Alice Forgy Kerr, Co-Chair
Rep. Keith Hall, Co-Chair

Sen. Julian M. Carroll
Sen. Perry B. Clark
Sen. Carroll Gibson
Sen. Chris Girdler
Sen. Denise Harper Angel
Sen. Ernie Harris
Sen. Jimmy Higdon
Sen. Dennis Parrett
Sen. Mike Wilson
Rep. Julie Raque Adams
Rep. Lynn Bechler
Rep. Kevin D. Bratcher
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Rep. Leslie Combs
Rep. Tim Couch
Rep. Jim DeCesare
Rep. Mike Denham
Rep. Bob M. DeWeese
Rep. Jeffery Donohue
Rep. Myron Dossett
Rep. Jim Gooch Jr.
Rep. Jeff Greer
Rep. Mike Harmon
Rep. Richard Heath
Rep. Richard Henderson
Rep. Dennis Horlander
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Rep. Thomas Kerr
Rep. Kim King
Rep. Martha Jane King
Rep. Adam Koenig
Rep. Brian Linder
Rep. Tom McKee
Rep. Terry Mills
Rep. David Osborne
Rep. Ruth Ann Palumbo
Rep. John Short
Rep. Arnold Simpson
Rep. John Will Stacy
Rep. Fitz Steele
Rep. Wilson Stone
Rep. Tommy Thompson
Rep. Russell Webber
Rep. Jill York

LRC Staff: John Buckner, Louis DiBiase, and Dawn Johnson

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Subcommittee Organization and Membership

Task Force on Economic Development

Sen. Alice Forgy Kerr, Co-Chair
Rep. Ruth Ann Palumbo, Co-Chair

Sen. Julian M. Carroll
Sen. Perry B. Clark
Sen. Carroll Gibson
Sen. Chris Girdler
Sen. Denise Harper Angel
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Rep. Tommy Thompson
Rep. Russell Webber

Rep. Keith Hall, ex officio

LRC Staff: John Buckner, Louis DiBiase, and Dawn Johnson

Interim Joint Committee on Economic Development and Tourism

Jurisdiction: Matters pertaining to commerce, industry, and economic and industrial development 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.

Committee Activity

During the 2013 interim, the committee held one meeting in Frankfort and four meetings elsewhere.

Northern Kentucky Convention Center

The president of the Northern Kentucky Chamber of Commerce discussed the construction of the new Brent Spence Bridge corridor, which will benefit the region, as well as comprehensive tax reform to increase Kentucky's competitiveness. He said the Cincinnati/Northern Kentucky Airport is important to the regional business environment. Connectivity to national and international markets is important for many businesses that relocate to the area, and the air cargo capacity is very important to industries that require expedited shipping. The chief executive officer of the airport discussed services offered and the economic activity attributed to the air hub by summarizing a recent economic impact study, which found that the airport generates approximately $3.6 billion annually in the local economy and is the fastest-growing cargo airport in the United States. There are approximately 174 daily nonstop flights to 47 cities, with 37 of the top 40 business markets served daily. To improve sustainability, the primary goal is diversification of air carrier service by focusing on increasing local origination traffic. The airport has completed a $36 million, 16-gate terminal consolidation, and the airport master plan update was completed this year.

The executive director of the Northern Kentucky Convention Center addressed the need to expand the center to respond to increased demand for space at the center and to meet area needs. Over the past 15 years, the center has hosted more than 2,500 events and supports more than 350 jobs in the community, with an economic impact exceeding $1 billion. In regard to a proposed $35 million expansion of the center, the fiscal return would be 2.7 percent annually, or $930,000, with a total annual economic impact estimated at $4.5 million to $5.7 million. The economic loss for not expanding is approximately $50 million due to a lack of convention center space.

Northern Kentucky University

The vice president of government and community relations at Northern Kentucky University discussed job creation. Focusing on the development of the right labor force will greatly increase the state's economic output. The state is challenged not only to increase the number of trained professionals for newly created jobs, but also to replace those who leave the workforce. There is high demand for trained professionals in health care and information technology; however, the state has not identified the investment necessary for building capacity in these areas. The university's new College of Informatics needs $3 million to $4 million in a recurring allocation to expand capacity for personnel and technology to meet the community's current requests for talent and applied research. Due to state funding cuts and tuition caps, the university is unable to fund this capacity-building request. Enrollment has doubled in these key programs, but with nearly 100 percent placement of the 409 graduates in 2013, the region does not have the students to supply the additional talent to take advantage of opportunities for business growth. The same situation is mirrored in health care professions.

The state needs postsecondary education public policy and investment strategy that supports the primary talent and applied research goals of the commonwealth. Each higher education institution must be given incentives to align talent development strategy with opportunities in their region. The state must develop outcome-based funding models. These models appropriate all or part of an institution's existing funds and additional state funds based on level of productivity on very selective metrics. States implementing this plan include Indiana, Mississippi, Nevada, Ohio, and Tennessee.

The director of the Center for Economic Analysis and Development at Northern Kentucky University said the state's principal opportunity is job growth, but job growth is regional. Finding and retaining talent are the keys for long-term success in the state. For Kentucky to attract and retain growing businesses and industry that will generate job growth, a strategy targeted at regional needs around the talent supply is needed. Most regions are experiencing a mismatch between the skills of workers and jobs available. Many workers are skilled and trained for the old economy rather than available jobs. The state must invest to educate toward the new economy's high-demand occupational jobs, such as welders, machinists, and electricians. Occupational groups such as information technology and mathematical scientists are growing rapidly, as is the education field. Replacement needs will outnumber new net job growth by 2:1. Of interest are occupations that offer high wages, numerous openings, and relatively fast growth.

Demographics and Jobs of the Future

The research director of the Kentucky Education and Workforce Development Cabinet spoke about demographics and jobs of the future. The needs of a rapidly increasing older population cannot be met by the current and provided population data for each Kentucky county. The United States needs to return to what is successful—manufacturing, invention, and innovation. Not everyone needs to acquire a college degree. Trade occupations such as plumbers, machinists, and electricians are the most in demand. Jobs returning from China are lower-wage jobs. With the economic declines in the northeast and Midwest, the southeast could be the new economic engine with the right investments in education and infrastructure.

New Businesses in Northern Kentucky

The president and CEO of the Northern Kentucky Tri-County Economic Development Corp. (Tri-ED) commended the Northern Kentucky University's College of Informatics and the airport's efforts to reinvent itself. Both have immensely helped the area economy. He reviewed Tri-ED's target areas, which include increasing professional office operations, technology-oriented projects, and aviation service projects. Kentucky ranks 11th in *Site Selection* magazine rankings of competitiveness. Surrounding states are competing much more aggressively than Kentucky. Taxing issues are at the forefront with other states including reducing or eliminating income taxes and other tax restructuring, and he said that corporate income tax reform is needed in Kentucky. The exodus of major manufacturing firms is due to more competitive tax environments in other states.

The committee heard additional testimony concerning workforce development during a joint meeting with the Interim Joint Committee on Labor and Industry that was held at the Toyota Motor Manufacturing facility in Scott County.

Toyota Overview

The manager of External Affairs and Government Relations, Toyota Motor Engineering and Manufacturing North America, Inc. (TEMA), discussed Toyota's national and regional operations in North America. Toyota's headquarters for manufacturing is in Erlanger, Kentucky. Vehicle development, engineering design, and advanced research are conducted in Erlanger and Ann Arbor, Michigan. Regional operations include TEMA; Toyota Motor Manufacturing Kentucky; Toyota Motor Sales Inc. in Blue Ash, Ohio; and North American Parts Operations in Hebron, Kentucky. Fourteen manufacturing facilities exist across North America, producing 12 models.

The total economic investment that Toyota has made in its North American operations is $27 billion, and it employs more than 39,000 team members. About 1.8 million vehicles have been produced, and local purchasing exceeds $26 billion. In the past 24 months, more than $2.1 billion has been invested in North American manufacturing and an additional 4,000 jobs have been created. Approximately 600 suppliers operate in North America, 100 of which are located in Kentucky. The supply base adds nearly 48,600 jobs to the automotive industry. Toyota Motor Manufacturing Kentucky operates as one of the largest plants in the world on 1,300 acres and 7.5 million square feet. A $6 billion investment, the production capacity reaches 500,000 vehicles annually and employs 7,000 team members. In 2014, the facility will reach the milestone of producing 10 million vehicles. Toyota's North American production facilities exported 125,000 locally assembled vehicles to 21 countries in 2012.

Team members at Toyota Motor Manufacturing reside in 72 of Kentucky's counties, and 80 percent live within 80 miles of the plant. The top five counties of residence for team members are Scott (2,202), Fayette (1,404), Harrison (356), Jefferson (245), and Grant (240).

Lexus Project Announcement: Overview, Wage Assessments, Local Infrastructure Improvement, and Workforce Development

The Lexus RX and ES models that are produced in North America (in Canada and Kentucky) represent nearly 60 percent of total annual Lexus sales. The Lexus project in Kentucky will produce 50,000 units per year for the North American market, add two production shifts at the Georgetown facility, and create 750 team member positions. The investment is $531 million. The chief of staff for the Cabinet for Economic Development said that in 2007, the Kentucky Jobs Retention Act was implemented to meet the needs of the larger automotive industry. Existing incentives from this program may be used for the current Lexus project. As the project develops, modifications may be made to the investment. The Kentucky Economic Development Finance Authority awarded $146.5 million over 10 years to the project.

To facilitate the Lexus project, infrastructural improvements at the Interstate 75 and Cherry Blossom Way and Champion Way off ramps need to be made. Also, because a skilled workforce is important to the project, to build a "talent pipeline," the cabinet has partnered with the Bluegrass Community and Technical College and developed an Advanced Manufacturing Technician program at the Toyota facility.

Kentucky Community and Technical College System and the Advanced Manufacturing Technician Program

There is a growing need for highly skilled workers in specific trade skill positions in the automotive industry. A work-ready workforce is needed to fill hundreds of open positions. The Advanced Manufacturing Technician program (AMT) seeks to address these issues at Toyota, which include the retirement "bubble," the negative perception of industrial jobs, and the national problem of approximately 600,000 unfilled skilled positions. Toyota's campaign to change the perception and value of jobs in manufacturing includes partnerships with the Foundation for Kentucky Industry's "Dream It! Do It!" campaign, Project Lead the Way, and the STEM initiative for support for careers in science, technology, engineering, and mathematics. The AMT program was implemented in 2010. The program offers an associate degree in applied science and on-site training in the technical aspects of a manufacturing position, as well as floor experience and core exercises within the plant. The classroom aspect of the program uses a new-model classroom that looks and feels like a factory setting. The AMT program partners with the Bluegrass Manufacturing Development Collaborative, made up of 16 member companies, 11 of which sponsor current students in the program.

The president of the Kentucky Community and Technical College System (KCTCS) said that KCTCS seeks to provide the workforce training needs of businesses and industries through 16 colleges and 70 locations throughout the commonwealth. KCTCS provides workforce solutions annually to more than 5,000 Kentucky companies, primarily in the manufacturing sector. The Kentucky Center of Excellence in Automotive Manufacturing led to a $5.5 million National Science Foundation grant to create the Automotive Manufacturing Technical Education Collaborative (AMTEC). AMTEC has collaborated with 35 community colleges in 12 states. Through the development of national standards, a workforce of multi-skilled technicians for the automotive sector is being trained. Their partnership with Toyota began in 2003. In 2006, the

Advanced Manufacturing Technician Program was appropriated $1.5 million to acquire property and to design a facility.

Adventure Tourism

The committee traveled to Breaks Interstate Park to hear testimony about the importance of the park to tourism in eastern Kentucky and also about the growing importance of adventure tourism to rural Kentucky.

Breaks Interstate Park is one of only two parks in the nation created by interstate compact. The superintendent of the park outlined the history of the 4,800-acre park and provided an overview of how Virginia and Kentucky work together to fund the park, the structure of the park's commission, and its funding. Of the park's $2 million budget, Kentucky provides 7 percent and Virginia provides 8 percent. Forty percent of the park is in Kentucky, and 60 percent is in Virginia. The commission has four Kentucky appointees and four Virginia appointees.

The newly appointed secretary of the Tourism, Arts and Heritage Cabinet discussed his role. He noted the success of the Governor's School for the Arts, the Berea Kentucky Artisans Center, and the Kentucky crafts movement. The tourism industry in Kentucky is now a $12.2 billion industry, and social marketing is an increasingly important part of the cabinet's advertising. He also talked about the success of the bourbon industry and the Kentucky Bourbon Trail, which receives over 500,000 visitors per year. The "Bourbon Country" initiative, featuring destinations with bourbon connections, continues to expand. Traditionally, the demographics of people who visit Kentucky show that visitors are predominantly Midwestern families with children looking for wholesome outdoor activities, while bourbon destinations and adventure tourism attract young, upwardly mobile, professional visitors from all over the world.

The cabinet is focusing more on the film office and its incentive program, and the Tourism Development Act (TDA), which has been very successful by attracting nearly $1 billion of new investment in Kentucky. While Kentucky was the first state to offer a program like the TDA, other states have now copied it. To bring Kentucky to the forefront, the cabinet intends to do a better job communicating to developers that Kentucky is a good place to invest, especially now that the economy has improved.

To make maximum use of budgetary funds, the cabinet will do more cross-promoting among agencies through advertising. For example, the Fair Board is working with the Frankfort Convention Center on problem solving and lead sharing. He said the arts and preservation communities should collaborate more with the tourism community to mix constituencies in creative and collaborative ways.

In regard to developing a lodge at Kincaid State Park, previous attempts at finding private-sector investment in the park have not been successful. The Tourism Development Act has a provision allowing the recovery of up to 50 percent of the initial investment over 20 years through sales tax rebates with an investment on state-owned land versus 25 percent for development on private land. The cabinet and the Kentucky Chamber of Commerce are still looking into park development.

The commissioner of the Department of Travel and Tourism gave an overview of the department. He explained that the majority of marketing is out of state. Kentucky tourism results in $1.227 billion in annual tax revenue, which includes $164 million in local taxes. The Department of Travel and Tourism is the only state agency that is a consumer marketing agency. The website is the most important marketing vehicle in travel and tourism. Marketing and advertising includes television, radio, print, and digital advertising. The department also oversees the Tourism Marketing Incentive Program, which is funded by the 1 percent statewide lodging tax. A total of $5.5 million is allocated to nine tourism regions for marketing purposes. Each region's allocation is based on population, number of hotel rooms, and tourism activity money spent. Each region can choose to participate in the Cooperative Marketing Program, which allows a region to participate in state-funded advertisement at a reduced cost while the department covers a majority of the advertising costs.

The commissioner said that visitor profiles show that a majority of state advertising has shifted from the Midwest to the South and toward higher-income families. Marketing has increased for adventure tourism and outdoor activities, but travel research suggests that Kentucky is viewed not as a vacation destination but rather as a getaway, which is defined as a trip of less than 3 days. The department also works with local convention and visitors bureaus and tourism commissions on in-state marketing. They have found that the Internet is the top resource for travel and tourism information. The cabinet's tourism website is managed daily due to its importance, averaging approximately 2.5 million visits annually. The website also has an industry portal that provides research information, contacts, and incentive program materials to travel-related businesses.

The director of the Office of Adventure Tourism provided an overview of adventure tourism in the state. All of the trails in Kentucky have been inventoried and are listed on the agency's website. The office printed a guide featuring outfitter services, trail listings, zip lines, and other adventure tourism businesses. The website has been updated to include the guide, adventure events throughout the state, and a blog featuring articles on firsthand experiences. The office also assists with new business development such as zip line companies. Other accomplishments include horse camps at some state parks, horse trail and rail trail development, and more multi-use trails at state parks. There are planned construction projects through an Appalachian Regional Commission grant to construct trails in Buckhorn Lake and Kingdom Come state parks to connect communities.

Adventure tourism contributes $8.4 billion to Kentucky's economy. The office is assembling a master trail plan to connect communities across Kentucky. There is also trail town development along river ways for people traveling Kentucky's rivers. The office is working with 34 communities statewide that are designated as trail towns. A trail town is a portal into a trail system, a place to buy products and services, and a trail-friendly town that is willing to provide information and share its culture and history.

Telecommunications

The committee discussed issues relating to 2013 Senate Bill 88.

The vice president of Regulatory Affairs at tw telecom gave initial comments based on the perspective of a competing services provider to AT&T. tw telecom is a publicly traded company that offers voice, data, and Internet access services to businesses in 40 states and the District of Columbia. It provides services to northern Kentucky, Lexington, and Louisville and has invested more than $24 million in the state. It offers a competitive advantage to business customers and plays an important role in the telecommunications industry. About 20 years ago, the legislature gave broad deregulatory power to the Public Service Commission (PSC) that allowed it to give a carrier any type of deregulation the data submitted warrants. The PSC determines whether there is enough competition to allow deregulation. The law serves the state well. If AT&T had begun the regulatory process rather than the legislative process 2 years ago, there might already be deregulation based on the PSC's determination.

It is important for companies to continue to interconnect networks to allow users of one carrier to communicate with others. The federal Telecommunications Act of 1996 opened the local exchange to competition and determined that all carriers have an obligation to interconnect networks opening the door for smaller carriers to compete. It gave public service commissions the authority to adjudicate any complaints or issues on interconnection. Now, as networks transition to packet technology, larger carriers are advocating that the interconnection obligation should not apply. Any new legislation should include the PSC's ability to adjudicate all wholesale carrier-to-carrier issues. Since the wholesale market is a monopoly, the PSC plays a vital role.

The general manager of Logan Telephone Cooperative said that the cooperative is one of 13 small providers of landline and broadband services for rural areas that are too costly for larger providers to serve. Small providers are community oriented and create networks that allow businesses to locate in rural areas and thrive. A robust wireless network and a robust fiber optic network are necessary to ensure rural Kentucky is successful. While the Telecommunications Act of 1996 requires the Federal Communications Commission (FCC) to support affordable and comparable services for rural areas, recent reforms have had a negative impact in these areas. Larger service providers are seeking deregulation, but the rural industry is advocating a more balanced approach that would create smart regulation guaranteeing protection of consumers, promotion of competition, and an assurance of universal service. Consumers recently have complained about long-distance carriers dropping calls to areas when they do not want to pay for access to those networks. This harms rural businesses and is a public safety concern. The best policy is to wait for the FCC's study on the transition to IP networks.

The executive director of Kentucky Cable Telecommunications Association (KCTA) said his agency represents investor-owned cable television companies. Cable has driven innovation and transformation in the video business, has made broadcasting better by bringing television to suburban and rural areas, and has invested billions of dollars in original content. One in three households has wireless telephone service through cable. The cable industry made the commitment to deliver broadband to residential customers by taking risks and investing billions of dollars. There are nearly 800,000 cable customer households in Kentucky. Nearly 2,800 are employed by Kentucky cable providers, with an additional 23,000 direct and indirect jobs associated with the industry. The total economic impact in Kentucky is $3.4 billion. KCTA gauges whether any legislative proposal will allow the cable industry to maintain an even playing field with competitors and keep customers' costs as low as possible. The cable industry is ready to work with the committee and other stakeholders to accomplish this end.

The director of the Kentucky Resources Council said the council provides no-cost legal and technical assistance to community groups, individuals, and local governments on a range of environmental and utility issues. The Kentucky Resources Council opposed 2013 Senate Bill 88. He said AT&T has requested and received approval from several states to be freed from the obligation to be the carrier of last resort. While investment continues in the most profitable areas, there is a continued gap in the availability of services for rural and higher-cost areas. It is important to ensure there is no slippage of services for those who cannot afford additional services or do not need them. There should continue to be a gatekeeper function through the PSC. AT&T was asked to sufficiently demonstrate robust competition and public protection, but it declined. Senate Bill 88 included language allowing wireless service switching by an affiliate of the incumbent utility without any approval or review of whether it would be as reliable and as functional. This issue surfaced in areas affected by Hurricane Sandy. The Kentucky Resources Council is trying to come to terms with a way Kentucky can move forward responsibly and cautiously because this is an essential service guaranteed under state and federal law. The council recommends reserving further action until the FCC makes its decision.

The executive director of the Kentucky Public Service Commission said the PSC's role is to implement regulatory policies based on the General Assembly's policy decisions that have been signed into law by the governor. In the last 9 years, the General Assembly has made two substantial changes to telecommunication regulation. In 2004, broadband service was deregulated based on the premise that doing so would foster expansion of high-speed Internet and provide economic development. In 2006, the General Assembly allowed incumbent local telephone providers to opt out of remaining regulation of rates for basic landline service beginning in mid-2011. Kentucky's three largest phone companies have opted out and have raised rates without undergoing PSC review.

In 2011, the Federal Communications Commission changed the purpose of the Universal Service Fund (USF). The USF, established in 1996 to subsidize voice service to low-income or high-cost areas, is funded through fees paid by all phone customers in the United States. In 2011, the Connect America Fund was created to replace the high-cost support for voice service and shift funding to the expansion of broadband service. It sets minimum service standards for carriers electing to receive the subsidy. No carriers have requested funds under this programming in Kentucky. The second change is the transition from traditional switch-based telephone technology used to make voice calls to IP-based. This is not the same as VoIP. IP-based technologies do not require Internet access. The transition may have a significant regulatory implication depending on decisions at the federal level.

University of Kentucky's Economic Impact

The committee traveled to the University of Kentucky's main campus to hear testimony on the importance of the university to Kentucky's economic growth and also to receive information about the advantages of a smoke-free workplace.

The president of the University of Kentucky spoke about the importance of the university to state economic growth. Education and health are the two most important indicators of economic prosperity. The university is involved with improving both.

The University of Kentucky, which has 12,188 full-time employees, is Kentucky's second-largest employer and Lexington's largest. It generates $51.9 million in state payroll tax revenue and $26.7 in local payroll taxes. More than 5,000 degrees have been awarded annually over the past decade, and the average employment wage is $38,919 for those holding a bachelor's degree, $49,098 for those with a master's, and $78,688 for those with doctoral degrees from the University of Kentucky. In regard to the university's physical infrastructure, the president mentioned the College of Pharmacy's $160 million research facility, the University Hospital's $1 billion structure, and a $74.4 million Biological Biomedical Sciences Research Building, to name but a few. In addition, the university has attracted $264 million in private financing to build new dormitories that will house 4,600 beds, new construction at Commonwealth Stadium that is paid through university athletics, and $65 million renovation and expansion of the Gatton College of Business and Economics. All of these facilities will help accelerate research and education efforts at the university by attracting top-tier faculty and students.

The director of the University of Kentucky Markey Cancer Center spoke to the committee about smoking-related health problems faced by Kentuckians. He said that Kentucky ranks highest in the nation in cancer mortality and also highest in the nation for smoking-related cancer. To help counter this, he urged consideration of comprehensive smoke-free workplace laws. Smoke-free regulations protect 34 percent of Kentucky's population, and there has been no evidence that smoke-free laws harm businesses.

Subcommittee Activity

Task Force on Economic Development

The Task Force on Economic Development did not meet during the interim.

Report of the 2013
Interim Joint Committee on Education

Sen. Mike Wilson, Co-Chair
Rep. Derrick Graham, Co-Chair

Sen. Walter Blevins Jr.
Sen. Joe Bowen
Sen. Jared Carpenter
Sen. David Givens
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Stan Humphries
Sen. Alice Forgy Kerr
Sen. Gerald Neal
Sen. Kathy Stein
Sen. Katie Stine
Rep. Regina Bunch
Rep. John Carney
Rep. Hubert Collins
Rep. Leslie Combs
Rep. Jim DeCesare
Rep. Jeffery Donohue
Rep. C.B. Embry Jr.
Rep. Kelly Flood
Rep. Jim Glenn
Rep. Richard Heath
Rep. Joni Jenkins
Rep. James Kay
Rep. Brian Linder
Rep. Mary Lou Marzian
Rep. Donna Mayfield
Rep. Reginald Meeks
Rep. Charles Miller
Rep. Rick G. Nelson
Rep. Ruth Ann Palumbo
Rep. Marie Rader
Rep. Jody Richards
Rep. Tom Riner
Rep. Bart Rowland
Rep. Rita Smart
Rep. Wilson Stone
Rep. Ben Waide
Rep. David Watkins
Rep. Gerald Watkins
Rep. Addia Wuchner
Rep. Jill York

LRC Staff: Ken Warlick, Ben Boggs, Jo Carole Ellis, Janet Stevens, Daniel Clark, and Lisa Moore

Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Subcommittee on Elementary and Secondary Education

Sen. Stan Humphries, Co-Chair
Rep. Wilson Stone, Co-Chair

Sen. Walter Blevins Jr.
Sen. David Givens
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Rep. Regina Bunch
Rep. John Carney
Rep. Hubert Collins
Rep. Jeff Donohue
Rep. James Kay
Rep. Brian Linder
Rep. Mary Lou Marzian
Rep. Charles Miller
Rep. Rick G. Nelson
Rep. Ruth Ann Palumbo
Rep. Marie Rader
Rep. Bart Rowland
Rep. Ben Waide
Rep. Jill York

Sen. Mike Wilson, ex officio
Rep. Derrick Graham, ex officio

LRC Staff: Jo Carole Ellis, Janet Stevens, and Lisa Moore

Subcommittee on Postsecondary Education

Sen. Alice Forgy Kerr, Co-Chair
Rep. Reginald Meeks, Co-Chair

Sen. Joe Bowen
Sen. Jared Carpenter
Sen. Gerald Neal
Sen. Kathy Stein
Sen. Katie Stine
Rep. Leslie Combs
Rep. Jim DeCesare
Rep. C.B. Embry Jr.
Rep. Kelly Flood
Rep. Jim Glenn
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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. Four of the meetings were in Frankfort, and two were site visits. The committee heard reports relating to content standards and assessments, charter schools, districts of innovation, school district profiles and audits, reading and financial literacy, teacher effectiveness, Advanced Placement programs, student leadership, and postsecondary education.

Kentucky Core Academic Standards

Staff of the Kentucky Department of Education (KDE), reported that the Common Core Standards initiative, led by the National Governors Association and the Council of Chief State School Officers, resulted in new standards in English and language arts and mathematics that align with the college and career requirements of SB 1 (RS 2009). Before the standards were adopted as components of the Kentucky Core Academic Standards (KCAS), more than 340 Kentucky teachers and education professionals provided feedback on the KCAS. The standards provide a framework for curriculum development. The Continuous Instructional Improvement Technology System, launched August 1, 2011, will ensure equitable access to exemplary lessons for teaching the standards.

The Bluegrass Institute for Public Policy Solutions staff testified that, although they think the new standards are better than the previous Commonwealth Accountability Testing System standards, they do not think international benchmarks are met. Other testimony criticized the KCAS for perceived poor content, intrusion on privacy, and high implementation costs.

Statewide Assessments

KDE staff discussed problems with the spring administration of the ACT QualityCore End-of-Course (EOC) Kentucky Online Testing System. From April 29 to May 3, 2013, ACT experienced significant capacity issues with online testing in high schools in Alabama, Ohio, and Kentucky. In Kentucky, approximately 2,000 students in 30 schools experienced interrupted online test sessions but were able to complete the tests. Local grading policies were reviewed for impact, and some schools revised policies or delayed grade reports. One hundred percent of high school students completed testing in the EOC online system or with paper.

A team of psychometricians will evaluate the effect of the testing problems on scores for individual students and schools. KDE will review accountability scores for the affected schools and notify district test coordinators regarding the use of scores. KDE will issue a request for proposals for a new vendor if ACT cannot resolve the issues. EOC test results may be used for a percentage of a student's final grade in the course, as outlined in local policy. If that percentage is less than 20 percent, schools districts will submit reports to KDE providing justification.

Local administration of Constructed Response (CR) tests will enable teachers to identify strengths and weaknesses in student writing and instruction and make modifications based on data. Students will take multiple-choice sections for state accountability, but CR scores will not be included in the accountability index.

Jefferson County Public Schools

The superintendent of Jefferson County Public Schools (JCPS) reported that Jefferson County is the largest school district in the state of Kentucky, with more than 100,000 students, 172 school sites, and 10,966 full- and part-time employees. JCPS students make up one-seventh of the students in Kentucky, and 50 percent of JCPS students are minorities.

The JCPS Strategic Plan Vision 2015 is based on a curriculum management audit and research-based practices. The Strategic Plan has four focus areas: student progress in learning and proficiency in all subjects; career and college readiness at graduation; stakeholder involvement/engagement; and safe, resourced, supported, and equipped schools.

JCPS is collaborating with the Kentucky Department of Education and Jefferson County Teachers Association (JCTA) on professional development turnaround strategies to improve student achievement. KDE provided webinars on intervention models, a summer turnaround institute, assistant principal training, and assistance from the National Institute for School Leadership. Also, JCPS has adopted the Kentucky Professional Growth and Effectiveness System developed by KDE. The goal is to have a highly effective educator in every classroom.

Priority schools are receiving technology upgrades and Internet expansion, and education recovery staff are included in JCPS professional learning opportunities. Also, JCPS is collaborating with the National Association for the Advancement of Colored People and the Prichard Committee to provide parent cohort training in the fall of 2013 focused on priority schools.

While graduation rates have increased overall, the graduation rate for African American students increased 7 percent. College and career readiness increased 12 percent in the 2011–2012 school year. The class of 2013 secured $132 million in scholarships, a $2 million increase over last year. Also, JCPS was one of six school districts in the nation that the Broad Foundation recognized for efforts to increase African American students' success and participation in Advanced Placement (AP) Programs. The number of African Americans in JCPS taking AP exams increased by 21 percent.

Bowling Green Independent School District

The superintendent of Bowling Green Independent Schools reported that the district comprises approximately 4,000 students: 56 percent of the students qualify for free and reduced lunch, 40 percent are minorities, and 14 percent speak English as a second language. Among these students, 26 languages are spoken.

The School Report Cards and the District Report Card indicate that the schools and the district performed very well on the statewide achievement test growth scores. The growth score is determined by the number of students who show typical or higher rates of growth in relation to peers. This is evidence that the system of interventions is having a positive impact on student achievement. The district will continue to assess students quarterly with assessments aligned to standards and to provide immediate, small-group, intense intervention for those students who are not performing at benchmark.

Bowling Green Junior High and Bowling Green High School students performed above state average with respect to college and career readiness, and more students are taking Advanced Placement classes. This suggests that efforts to engage students and to provide students with more rigorous learning tasks are significantly affecting student achievement.

New buildings constructed in the district are energy efficient. The elementary school constructed in 2009 was the first in the district to have solar tubes that use direct sunlight and reduce the amount of electricity used in the building.

Warren County Public Schools

The superintendent of Warren County Schools indicated that it is the most diverse school district in Kentucky, serving more than 14,000 children from preschool to 12th grade and providing services to children who speak more than 40 languages. The school district serves nearly 1.5 million lunches each year and has 182 buses that travel 13,210 miles per day.

Warren County serves 20 percent of Kentucky's refugee students; 47.9 percent of its student population qualifies for free and reduced-price lunch. He said the district provides state-of-the-art technology available to all students, including ActiveBoard technology in every classroom.

Warren County claims to have the nation's first Net Zero School, Richardson Elementary, which is capable of operating virtually without energy cost as it produces more clean energy with solar panels than it consumes in purchased energy. The district has managed to offset nearly $6 million in energy costs through its energy conservation policy since 2003, an accomplishment that is equal to saving more than 123 teaching positions.

Districts of Innovation

Staff from KDE reported that HB 37 (RS 2012) provided the opportunity for local districts to create innovative approaches to education. The supporting regulation, 701 KAR

5:140, was adopted in May 2013. The districts of innovation application and review process rates each application against a rubric. Sixteen districts applied in the first round, and four were selected: Danville Independent, Eminence Independent, Jefferson County, and Taylor County. Feedback was provided to the applicants not chosen, which are eligible to reapply.

There were 50 statutory and regulatory waiver requests in the 16 applications, including 28 waiver requests included in the four selected applications. Waivers were granted in the areas of compensation, class size, calendar, attendance, graduation requirements, governance, and priority schools. Seven of the denials related to issues that the Kentucky Board of Education has no authority to waive: certification by the Education Professional Standards Board and district and school accountability.

Charter Schools

Representatives of the Kentucky Charter Schools Association reported that Kentucky is one of eight states that have yet to enact a public charter school law. They reported that research suggests that charter schools could be a beneficial option for low-income students and African American students. A representative of the Black Alliance for Educational Options (BAEO) said the achievement gaps between white, black, rich, and poor students are large and persistent. Charter schools serve less than 5 percent of the student population across the country, but 64 percent of parents surveyed by BAEO support them.

According to KDE, African American students in 2012 had an average freshman graduation rate of 72.1 percent; up 5.3 percentage points from 2008, but 7.9 percentage points lower than the average freshman graduation rate of white students in Kentucky in 2012 (80.0 percent). In Kentucky's class of 2012, about 5 percent of black students met ACT college-readiness standards in all four subject areas compared to 42 percent of Asian students, 32 percent of white students, and 13 percent of Hispanic students.

The director of the Center for Research on Education Outcomes (CREDO), located at Stanford University, reported that it maintains a policy-neutral stance on the policies and programs it evaluates, including charter or public schools. In June 2013, CREDO released its second National Charter School Study. It is the most extensive evaluation of charter school performance to date, covering 26 of the 43 states that allow charter schools to operate. Those 26 states educate more than 90 percent of the 2.1 million charter school students in the nation.

The CREDO report suggests that performance of charter schools as measured by the academic progress of students is improving. In such instances, the charter schools outperform their local district non-charter schools, sometimes providing additional learning opportunities equivalent to an extra 14 days in reading in a traditional school. There is variation in the quality of charter schools, but that variation in student performance in charter schools has nothing to do with the number or types of students who enroll in them. Charter schools can create competitive pressure on traditional public schools, but only if the quality is high. According to the CREDO director, the demand for seats in charter schools far exceeds the capacity of existing charter schools. She said 560,000 parents requested for their children to attend charter schools across the nation, and there was no space for many of them.

The executive director of Jefferson County Public Schools' Accountability, Research, and Planning Division said there is no conclusive evidence that charter schools will significantly affect student achievement. According to CREDO, only 25 percent of charter schools are doing significantly better in reading than public schools, and only 29 percent are doing significantly better in math. The National Assessment of Educational Progress (NAEP) provides strong comparative data about schools across the nation. In-depth analyses of NAEP show there are few differences between charter and public schools in academic performance, with a slight edge to public schools.

In a 2010 University of Minnesota research study on the cost-effectiveness of initiatives for reforming schools and raising student achievement, it was found that, of the 22 approaches examined, the least cost-effective approach was charter schools.

Harvard University studied characteristics of highly effective charter schools and found that most shared the same characteristics. Those characteristics are use of data to guide instruction, frequent teacher feedback, increased instructional time, high-dosage tutoring, and high expectations. All of these characteristics and highly effective practices are found in JCPS's Strategic Plan Vision 2015 and its approved application to become a District of Innovation.

JCPS reportedly outperformed the annual improvement goal set by KDE. More than 75 JCPS schools also met the annual improvement goals set by KDE, while 13 of JCPS's 18 priority schools met their targets. JCPS's percentage of college- and career-ready students is 51.2 percent, more than a 19 percent increase since the 2010–2011 school year.

The president of the Jefferson County Teachers Association reported that, according to *Education Week*, the states that have the most charter schools were also most likely to be found in the poor performing group. In Wisconsin, public schools significantly outperformed charter schools. The inference was that charter schools tend not to select students who show poor performance and tend to release students who show poor performance.

School District Financial Audits

The auditor of public accounts reported that his office has conducted 14 special examinations of school districts in the past year. The school districts were Kenton County, Breathitt County, Mason County, Dayton Independent, Webster County, Pike County, Ashland Independent, Carroll County, Metcalfe County, Fayette County, Menifee County, Letcher County, Montgomery County, and Martin County. Also, there is an ongoing investigation of Jefferson County Public Schools. This is the first meaningful attempt to conduct a fiscal audit of Kentucky school districts. The audits indicate that most school districts are doing a good job in difficult financial times.

The main purpose of the audit is to ensure that limited resources are making their way to classrooms rather than to central offices. The audits are prompted by concerns and allegations from citizens, legislators, public officials, and school board members. Preliminary complaints come through a tips hotline and a website hosted by the Auditor's Office. The Auditor's Office has facilitated conversations with organizations that represent school board members, teachers, and administrators. The office has disseminated best practice recommendations on transparency and fiscal accountability.

One of the common themes found during the examinations is a lack of a proper balance between school boards and superintendents. There needs to be an increased level of financial literacy for those who serve on school boards in Kentucky.

KDE requires school boards to submit superintendent contracts and benefits to KDE so they can be placed on a website for public access. More than 170 superintendent contracts are available for viewing online. KDE is developing additional training for school board members on their oversight responsibilities. After 2013, superintendent evaluations should be written and made available to the public as required by KRS 156.557.

Financial Literacy

A representative of the Bell-Whitley County Community Action Agency advocated for a half-credit financial literacy course as a mandatory graduation requirement in Kentucky’s high school curriculum. Last year, 4,088 of 652,317 students enrolled in Kentucky high school financial literacy elective courses. He also discussed the effect of the High School Financial Planning Program (HSFPP) and students’ knowledge of the KEES program using a pretest and posttest model. He stated that 63.9 percent of students had improved financial literacy scores after participating in the HSFPP.

Collaborative Center for Literacy Development

The director of the Collaborative Center for Literacy Development provided a report on the center’s activities. The center is a collaborative effort of Kentucky’s public universities and the National Center for Family Literacy. The center’s local and state outreach strategies include early childhood involvement, Kentucky Literacy Celebration, the Comprehensive Intervention Model, Reading Recovery, the Kentucky Reading Project, Leveraged Adolescent Literacy and Learning Initiative, Kentucky Adult Education, Culturally Responsive Instruction Observation Protocol, and Read to Achieve.

Gatton Academy

Representatives from the Gatton Academy reported on the recognition it has received from Newsweek, Intel, and The Washington Post as one of the best high schools in the nation. The academy has served students from 107 of Kentucky’s 120 counties. More than 90 percent of all academy students complete applied research projects at Western Kentucky University. Gatton also provides students the opportunity to study abroad, and approximately 80 percent of the students have participated in an international travel experience. Upon graduation, 73 percent of Gatton’s students matriculate to a Kentucky university. An increasing number of the school’s graduates obtain degrees in science, technology, engineering, and mathematics programs. The application process is competitive; only 20 percent of applicants are accepted into the program. Staff at the school would like to enroll more students contingent on an increase in state funding.

Teacher Effectiveness

The Prichard Committee's Team on Teacher Effectiveness presented recommendations based on a 14-month review of studies and presentations from national experts regarding best practices related to building and sustaining a high-quality teacher workforce, including

- Recruitment/preparation,
- Hiring/induction/internship,
- Professional development/leadership,
- Retention/working conditions,
- Compensation,
- Tenure, and
- Evaluation/student achievement.

AdvanceKentucky 5-Year Review: 2008–2013

The executive director of Advance Kentucky reported that, for the fifth consecutive year, students enrolled in high schools that partner with AdvanceKentucky earned significantly higher scores on Advanced Placement exams in math, science, and English (MSE) compared to the national average. New research indicates they also do better than their peers in college.

Since its inception, AdvanceKentucky has served 65,000 AP MSE enrollments and more than 600 AP teachers among 88 public high schools from 67 districts, and 2,500 Pre-AP MSE teachers among these and 10 other districts. Each year a new cohort of 12 to 20 schools joined the program, reaching a critical mass of over 45 percent of school districts in the first 5 years of operation.

Each of the first five cohorts has made improvements the first year of their participation at a rate 8 to 18 times higher than national gains. These transformative increases, combined with sustained year-to-year growth among every AdvanceKentucky cohort, have helped Kentucky's AP performance in all subjects increase by 100 percent generally and by 137 percent among minority students over 5 years—among the highest increases in the nation.

The Leader in Me

Committee members toured Moss Middle School in Bowling Green to see the "Leader in Me" program in operation. Following the tour, presentations were heard from the Bowling Green Area Chamber of Commerce, a representative from Franklin Covey, and the superintendents of Bowling Green Independent Schools and Warren County Schools. By 2017, Bowling Green may be the first city in the nation to have the "Leader in Me" program available to students grades K-12.

"The Leader in Me" teaches the students the following Franklin Covey principles:

- Be proactive.
- Begin with the end in mind.
- Put first things first.
- Think win-win.
- Seek first to understand, then to be understood.
- Synergize.
- Sharpen the saw.

Western Kentucky University

The president of Western Kentucky University (WKU) reviewed the school's 6-year action plan. The Honors College now enrolls more than 1,200 students. The school actively recruits a diverse population of potentially high-performing students and assists these students with financial aid. The scholarship acceptance rate for minority students has increased 91 percent since 2011. The Colonnade Program is designed to ensure that students think critically, solve problems, and communicate effectively. WKU students are offered scholarship opportunities to participate in faculty-led study abroad programs in more than 35 countries.

WKU staff visit middle and high schools in Kentucky to provide information about the rigors of higher education and the importance of college readiness and financial literacy. WKU has completed a $202 million capital campaign and renovated 366,028 square feet of academic space. The school will use construction bonds to build an Honors College and an International Center.

Subcommittee Activity

Subcommittee on Elementary and Secondary Education

The Subcommittee on Elementary and Secondary Education met three times during the Interim to discuss initiatives, data, and assessments related to student learning and performance. Agenda items included the following topics.

Senate Bill 97 Implementation

The Commissioner of Education discussed the implementation of Senate Bill 97, which allows school districts the option to raise the compulsory school attendance to 18 years of age. As of August 29, 126 of 173 districts had adopted the new attendance age, which will be implemented for the 2015–2016 school year in most of the districts.

Since more than 55 percent of districts have adopted the change, all Kentucky districts must implement the change by the 2017–2018 school year. The Kentucky Department of Education provided $10,000 dropout prevention grants to some districts to identify students most at risk of dropping out and to develop strategies to increase graduation rates.

KDE also provided the Persistence to Graduation Tool (PtGT) and the Persistence to Graduation Evidence-Based Practices (EBP) Toolkit to assist and support districts. The PtGT is an early warning indicator in the Infinite Campus system that identifies students who may be off-track to graduate based on a weighting of indicators including percentage of classroom time missed, behavior, grades failed, limited English proficiency, and being 2 years older than expected for grade level. The EBP Toolkit is a repository of best practices, interventions, and appropriate responses to the risk behaviors identified in the PtGT.

ACT College Readiness Benchmarks

ACT Inc. representatives provided information about changes to college readiness benchmarks in reading and science for 2013 graduates. The reading benchmark score increased from 21 to 22, and the science benchmark score decreased from 24 to 23. Students who tested with extended-time accommodations—7 percent of the Kentucky graduates tested—were included in the statewide scores. The statewide composite score of 19.6 was down from 19.8 in 2012; however, when the extended-time accommodations scores were not included, the overall composite increased to 20.0 for 2013. The presenter commented that ACT data indicates that Kentucky students have made significant progress since 2009.

Kentucky Center for Education and Workforce Statistics

The Kentucky Center for Education and Workforce Statistics (KCEWS) provided information on the sources and types of data the KCEWS collects and the reports it prepares on education, employment, and early childhood.

Data is collected from KDE, the Council on Postsecondary Education, the Education Professional Standards Board, the Kentucky Higher Education Assistance Authority, and the Education and Workforce Development Cabinet, and are entered into the Kentucky Longitudinal Data System (KLDS). The KLDS will link early childhood, secondary, and postsecondary data to provide better information about educational preparation, alignment, and success.

K-Prep Assessment Results

The commissioner of the Kentucky Department of Education presented data on the 2013 statewide secondary assessment results. Overall student performance showed improvement from 2012 with the percentage of proficient and distinguished students increasing in nearly every subject at every grade level.

At the elementary school level, the percentage of students performing at proficient/distinguished increased in mathematics, writing on-demand and language mechanics. Mathematics increased from 40.4 to 43.9 percent, and writing on-demand increased from 31.7 to 35.7 percent.

At the middle school level, the percentage of students performing at proficient/distinguished increased in all content areas except science. Reading increased from 46.8 to 51.1 percent, and writing on-demand increased from 41.4 to 43.4 percent.

At the high school level, the percentage of students performing at proficient/distinguished increased in all content areas except mathematics. Social studies increased from 39.5 to 51.3 percent, and writing on-demand increased from 43.9 to 48.2 percent.

Subcommittee on Postsecondary Education

The Subcommittee on Postsecondary Education met three times during the 2013 Interim.

The Impact of University Research on Economic Development in Kentucky

The Council on Postsecondary Education (CPE) reported on the role of advanced university research in Kentucky's ability to compete in the global economy. It was noted that the 1997 Kentucky Postsecondary Reform Act included goals for the University of Kentucky to be ranked nationally in the top 20 universities for research and for the University of Louisville to be a nationally recognized metropolitan research university.

The president of the CPE stated that the council's 2011–2015 Strategic Agenda "Stronger by Degrees" includes "university research, economic and community development" as one of its four components. As such, this component has detailed strategies to increase degrees and credentials in STEM+H (science, technology, engineering, math, and health) fields and to strengthen research and development funding. Since 1997, the number of Kentuckians earning STEM+H degrees has risen 115.6 percent, and externally funded research has more than tripled from $124.5 million in 1998 to $386.8 million in 2011.

The presentation also noted that much of the success in these endeavors is due to the Endowment Match Program, commonly known as Bucks for Brains. This program is a trust fund of state dollars that are matched 1:1 with private gifts to encourage private giving. By being endowed, the funds provide a perpetual source of ongoing research funding. Since 1998, the program has generated more than $409 million in private gifts, resulting in overall endowment values increasing to $1.06 billion.

The University of Kentucky provided information on its land-grant research mission and its role as an economic engine. Research activities are divided into basic, applied, and translational areas. Particular strategic investments have been made in the BioPharmaceutical Complex and the successful efforts of the Markey Cancer Center to acquire National Cancer Institute designation.

The University of Louisville noted that its research funding expenditures have nearly tripled since FY 1998, with 70 percent of FY 2013 funding sources coming from federal funds. These efforts have resulted in a myriad of public/private consortia and translational research program partners. Results show that for every dollar the state invests in the university, more than $3 is generated in the statewide economy. Among the notable research is the Kentucky Spinal Cord Injury Research Center, which is drawing national attention for its remarkable progress in paralysis rehabilitation.

Both universities noted the effectiveness of the Bucks for Brains program in establishing an innovative research environment and creating access into international circles of cutting-edge technological and medical research. Also, the program provided flexibility in addressing the consequences of the recent sequestration on all federally funded research.

The president of the Kentucky Science and Technology Corp. reported on the success of the Kentucky Innovation Act of 2000. The Act provides support for start-up ventures that transform university research into marketable products. Through the Act, Kentucky does not provide grants but rather serves as a co-investor that reaps the benefits of successful products. Since 2001, approximately $25 million in investments has resulted in more than $350 million in income with more than 60 companies established across the commonwealth and associated with the state's universities.

The Findings and Recommendations of the Rural Access Workgroup

The Council on Postsecondary Education reported on the findings and recommendations of the Rural Access Work Group. The Rural Access Work Group was formed in October 2012 to explore the causes of perennially low educational attainment in the rural regions of the commonwealth. This effort came in response to a study sponsored by the Governor's Office and undertaken by the National Center for Higher Education Management Systems as to educational needs in the eastern region of the state with the possibility of opening of another public university in that region.

The work group, which met over a time span of 6 months, consisted of 27 members representing 10 organizations and 11 postsecondary institutions, representing a cross-section of interested citizens, and was charged to formulate recommendations that would increase postsecondary access and success of the commonwealth's rural regions. Its findings resulted in 19 detailed recommendations across six components. The components are

- College affordability,
- College readiness and outreach,
- Education and workforce alignment,
- Partnerships between Kentucky Community and Technical College System and university regional campuses,
- Adult-friendly degree programs, and
- High-speed Internet access.

In the course of its deliberations, the work group discerned that the effect of low education levels on rural communities included overlapping issues of high poverty, poor health, high unemployment, lower life expectancy, and population out-migration. Persistent rural poverty requires a commitment to college affordability. Recommendations include more need-based financial aid, scholarships for coal counties, and employer-funded tuition reimbursement with accompanying state tax incentives and credits for involved businesses.

The work group found that, within these high-poverty regions, overcoming a culture that cannot fathom going to college is as much of a challenge as affordability. Changing that perspective requires partnerships among local political, business, educational, religious, and civic leaders. With regard to college readiness and outreach, many incoming students are ill prepared and require remedial classes that incur additional costs, nonacademic credits, and lengthened time to finish a degree. Recommendations for this challenge include more and better online Advanced Placement courses and stronger dual credit partnerships between high schools and local KCTCS institutions.

Within the rural regions, the work group identified a persistent need to better align education and workforce essentials. Many rural citizens see education and workforce development as simply preparing their younger population to migrate away from their home communities. Regional educational institutions can address this concern by helping the younger population pursue their educational interests locally. These institutions can also emphasize entrepreneurship and small business support.

Related to the issue of workforce development, the work group found that partnerships need to be strengthened among local KCTCS institutions and regional universities. This may be accomplished through more joint enrollment, advising, and “completer” programs; expanded regional campus offerings; and support for online students.

The work group also learned that 1.5 million working-age Kentuckians with high school diplomas lack access to postsecondary institutions. An answer is stronger adult-friendly degree programs helped by online delivery systems, with online advising and support. However, only 67 percent of the commonwealth has access to high-speed Internet. Therefore, an overarching concern is the need for better and more affordable high-speed Internet access.

Technology Integration Programs and Closing the Digital Divide

eTechCampus, a subdivision of eCampus.com, reported on programs available to assist P-20 schools seeking to integrate technology into classroom pedagogy. These programs include incorporating online learning options, etextbooks, and student-owned devices such as iPads and smartphones into the learning environment. The successful implementation of such programming requires sufficient planning and preparation of available technology, adequate facilities, effective curricula, and useful professional development for teachers and administrators.

Based in Lexington, eCampus.com is one of the largest textbook retailers and virtual bookstores in the United States. With the development of eTechCampus, the firm has a division composed of former Kentucky educators with direct experience in large-scale educational technology and classroom integration. The division has the capacity to offer educational technology consulting services to assist schools in undertaking digital learning, professional development programs to help educators adapt classrooms for digital learning, and technological hosting capabilities in ongoing technical support.

Report of the 2013 Special Subcommittee on Energy

Sen. Jared Carpenter, Co-Chair
Rep. Richard Henderson, Co-Chair

Sen. Joe Bowen
Sen. Ernie Harris
Sen. Jimmy Higdon
Sen. Ray Jones
Sen. Bob Leeper
Sen. Dorsey Ridley
Sen. Brandon Smith
Sen. Katie Kratz Stine
Sen. Johnny Ray Turner
Sen. Robin Webb
Rep. Rocky Adkins
Rep. Dwight D. Butler
Rep. Leslie Combs
Rep. Hubert Collins
Rep. Tim Couch
Rep. Will Coursey
Rep. Jim Gooch Jr.
Rep. Keith Hall
Rep. Thomas Kerr
Rep. Martha Jane King
Rep. Sannie Overly
Rep. Tanya Pullin
Rep. Tom Riner
Rep. John Short
Rep. Kevin Sinnette
Rep. John Will Stacy
Rep. Fitz Steele
Rep. Gerald Watkins
Rep. Brent Yonts

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

Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Special Subcommittee on Energy

Jurisdiction: Matters pertaining to investor-owned public utilities, the Public Service Commission, rates, permits, certificates of convenience and necessity; water district rates; public utility cooperatives; electric, oil, and gas transmission companies; telephone companies and cooperatives; Internet access; municipal utilities and water works; energy and fuel development, including alternative fuels and renewable energy; and energy waste disposal.

Committee Activity

During the 2013 Interim, the Special Subcommittee on Energy held five meetings. The committee received testimony regarding a wide range of topics.

Block Grant Application and Prefiled Bills

A representative from the Cabinet for Health and Family Services, Department of Community Based Services, Division of Family Support, explained the requirements and components of the Low Income Home Energy Assistance Program block grant application for federal fiscal year 2014. The block grant application findings of fact were adopted by voice vote.

The committee did not consider any prefiled bills.

Natural Gas

Horizontal drilling and hydraulic fracturing (fracking) for shale gas reserves in the Marcellus and other gas-bearing shale strata continue to influence energy use and policy both in Kentucky and in the nation as a whole. Kentucky provides about 1 percent of domestic US production but does not have the dramatic shale deposits that are found in neighboring states.

Low prices for natural gas are also cutting into the market share that coal has enjoyed in the electric generation sector. Natural gas also has lower emissions than coal.

Natural gas as a transportation fuel is seeing broader acceptance. Centrally fueled fleets, such as delivery and garbage trucks, are among the first adopters. In Kentucky, early adopters are favoring compressed natural gas over liquefied natural gas.

Coal

The current status and future of the coal industry in Kentucky was a topic at several committee meetings. Concern over the regulatory environment in which the industry will have to operate and over declining production and employment in eastern Kentucky was the subject of several presentations.

The president of the Kentucky Coal Association and the secretary of the Energy and Environment Cabinet both spoke to these issues. The historically low price of coal and its dominance as a fuel source are credited with Kentucky's consistently low electric rates. Low rates are seen as a strong asset for economic development. Low natural gas prices are causing some fuel switching by utilities. Coal will continue to have a place in that market but it is likely to be further reduced in the future. Adding to the difficulties being experienced by eastern Kentucky coal miners, the widespread installation of flue gas desulfurization units means that fewer users need low-sulfur coal.

During a trip to Madisonville, the committee heard about the coal industry in western Kentucky. Production and employment have remained steady or climbed slightly in the western part of the state. In part, this is because western coal is easier to reach. This and the fact that western Kentucky coal is higher in sulfur make it lower in price. Easy access to barge and rail enable western Kentucky coal to serve international markets. Some believe that overseas customers are the key to future growth for Kentucky coal.

Committee members were offered opportunities to tour surface and underground mines. A representative of Matrix reported on advances in safety technology. A new proximity switching device can shut down a continuous mining machine if it senses a miner in the danger zones on the sides of the machine. Injuries occur when miners get trapped between machinery and the walls of the mine.

The director of the Kentucky Coal Academy reported on the quality of the training being provided to young miners entering the work force. Since 2005, about 65,000 miners have received training at academy sites. In addition to teaching students about safety and production, the sites offer courses in mine emergency response and firefighting.

Speaking on advances being made in carbon capture technology, the director of the Center for Applied Energy Research delivered a mixed message. Although carbon capture is viewed as essential to continued use of coal for energy production, the state of development is still lagging. Few large-scale demonstrations are in operation, and the ability to deploy on an industrywide basis is still years away. The director stated that it is vital to continue research and development in this area.

Biofuels

A University of Kentucky bioprocess engineer and a sorghum farmer testified about the use of sorghum as a feedstock for conversion to ethanol. Growing sorghum requires less water and less fertilizer than corn. It will grow on soil not suitable for many other crops. The high sugar content of sorghum makes it an attractive choice for ethanol production. While use of sorghum instead of corn avoids the controversy of using food crops for fuel, the high sugar content of the juice makes it very difficult to store for extended periods. This problem might be addressed by using mobile refineries to convert the juice to ethanol on the farm. Alternatively, a network of small local refineries could shorten shipping distances. Other technological approaches are being considered.

As an adjunct to the carbon capture projects discussed previously, there is continuing research into developing strains of fast-growing algae that will thrive on carbon dioxide from flue gas. Projects in Kentucky are currently engaged in making the process efficient with a goal of creating biofuels from the algae.

Encouraging Energy Efficiency

The committee heard two presentations concerning energy efficiency. The first concerned efforts to make manufactured housing and mobile homes less wasteful. Such housing has historically not been well heated or well insulated. Compounding the problems are windows and doors that are not snug. Newer manufactured housing is better in many cases, but a great number of older trailers are still in use, particularly in eastern Kentucky. Trailers manufactured before 1976 are so energy inefficient that most cannot be economically retrofitted or weatherized. Most are found in rural areas occupied by families near or below the poverty level. Such families can be trapped in a cycle of very high energy bills, often exceeding half of the family's monthly income. Manufactured homes account for 13 percent of the state's housing stock.

Utilities have experimented with incentives for converting electric resistance heat, common in older manufactured homes, to more efficient heat pumps. The Kentucky Housing Corporation administers a mobile home replacement program that seeks to move families into new Energy Star manufactured homes.

The second efficiency presentation concerned public schools. Heating and cooling large school buildings, many of which are old and inefficient, is a tremendous drain on the resources of school boards all over the state. Legislation enacted in 2010 requires every Kentucky school district to have an energy manager. Having a single employee who is tasked with monitoring districtwide energy usage was instrumental in identifying areas of wasteful practices. Significant savings were realized through employee education. The Kentucky School Boards Association administers the School Energy Managers Project. The project was initially funded through the American Recovery and Reinvestment Act. Many districts have been able to save enough money annually to pay for their programs and their managers.

Kentucky is a national leader in energy efficiency efforts in schools. More than 14 percent of Kentucky public schools qualify for Energy Star recognition. Only Colorado and Delaware do better. The commonwealth is also in the forefront in the number of net zero schools. Through efficiency and solar arrays, these schools make more power than they use in a typical year. The result is a utility bill that in some months shows a credit balance rather than an amount owed.

Report of the 2013
Interim Joint Committee on Health and Welfare

Sen. Julie Denton, Co-Chair
Rep. Tom Burch, Co-Chair

Sen. Joe Bowen
Sen. Tom Buford
Sen. Julian Carroll
Sen. Perry Clark
Sen. David Givens
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Alice Kerr
Sen. Katie Stine
Rep. Julie Adams
Rep. Robert Benvenuti
Rep. Bob M. DeWeese
Rep. Kelly Flood
Rep. Joni Jenkins
Rep. Mary Lou Marzian
Rep. Tim Moore
Rep. Darryl Owens
Rep. Ruth Ann Palumbo
Rep. Ben Waide
Rep. David Watkins
Rep. Russell Webber
Rep. Susan Westrom
Rep. Addia Wuchner

LRC Staff: DeeAnn Wenk, Sarah Kidder, Ben Payne, Jonathan Scott, Wesley Whistle, Gina Rigsby, and Cindy Smith

Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Health and Welfare

Jurisdiction: Matters pertaining to human development, health, and welfare; delivery of health services; support of dependents; 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; the elimination of 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 six times during the 2013 Interim.

Medicaid and the Health Benefit Exchange

Kentucky Health Benefit Exchange. Representatives from the Cabinet for Health and Family Services testified on the progress of the Kentucky Health Benefit Exchange, the call center, enrollment for expanded Medicaid and essential health benefit plans, the kynect.ky.gov website, payment assistance to purchase health coverage, and prescreening to determine eligibility for premium subsidies discounts and Medicaid.

Managed Care. A representative of the Cabinet for Health and Family Services testified about the 18-month contract the cabinet entered into on January 1, 2013, with Wellcare, Coventry Cares, Passport, and Humana in Region 3.

Medicaid Expansion. A representative of the Cabinet for Health and Family Services discussed federal funding for Kentucky to expand the Medicaid eligibility to 138 percent of the Federal Poverty Level.

Michelle P. Waiver. Advocates discussed the need for a child-appropriate assessment tool for the Michelle P. waiver, which serves individuals who would otherwise be admitted to an intermediate-care facility or mental retardation facility. A Cabinet for Health and Family Services representative testified that the cabinet has been looking at appropriate, tested, proven child-assessment tools and will present the information to the Commission on Services and Supports for Individuals with an Intellectual Disability and Other Developmental Disabilities (HB 144 Commission).

Behavioral and Substance Abuse Issues

Kentucky's Opiate Recovery Treatment Outcome Study. A representative of the Cabinet for Health and Family Services testified about the results of the pilot study that showed reductions in participant drug use, arrests, jail time, and unemployment.

Court-Ordered Mental Health Treatment. Advocates and a representative of the Cabinet for Health and Family Services testified about commitment criteria in KRS Chapter 202A for hospitalization of the mentally ill that are used to evaluate whether a patient should be committed to a facility. Significant obstacles and barriers to care and issues that impact KRS Chapter 202A and assisted outpatient treatment were discussed.

Eastern State Hospital. Representatives of the University of Kentucky and the Cabinet for Health and Family Services testified about the transition of the majority of the operation of Eastern State Hospital from Bluegrass Regional Mental Health-Mental Retardation to the University of Kentucky.

Behavioral Health Services. Representatives of the Cabinet for Health and Family Services testified on the increased demand for services given the inclusion of behavioral health benefits, including substance abuse treatment, in the essential health benefit plan under the Affordable Care Act and the Mental Health and Substance Abuse Parity Act. The cabinet is taking action to increase the number of providers that will be eligible to provide services under Medicaid.

Representatives of Passport Health Plans, CoventryCares, Humana, and WellCare testified regarding individual and family outpatient treatment for behavioral health. They discussed authorization rates for services, denial rates, behavioral health and substance abuse medications that require authorization, and qualifications of medical directors who review behavior health claims.

Substance Abuse. A family physician at St. Elizabeth Physicians in Bellevue testified that individuals can be saved from heroin and opioid overdoses if resources are available. Kentucky needs to address treatment, harm reduction, primary prevention, and recovery.

General Health Care Issues

Colon Cancer Screening. Representatives from the Kentucky Colon Cancer Screening Program Advisory Committee and the Cabinet for Health and Family Services testified on Kentucky's improved rank in the United States for colorectal cancer screening since 1999.

Dental Services. A representative of Dental Lifeline Network testified on the efficiency, cost effectiveness, and accountability of comprehensive pro bono dental care through a network of volunteer dentists and laboratories for needy, disabled, elderly, and medically compromised individuals.

Diabetes Treatment. The committee heard testimony on reasons the Kentucky Board of Nursing withdrew 201 KAR 20:400, which addressed the delegation and self-administration of insulin to children in school settings. A representative from the American Diabetes Association testified on the importance of using a curriculum that meets the standards of the American Diabetes Association training and preparation module used in 22 states.

Medical Marijuana. Advocates testified about benefits of legalization of medical marijuana.

Ophthalmology. Ophthalmologists testified about the need for independent surgery centers in Kentucky and the obstacles presented by the Certificate of Need process.

Phenylketonuria—Autosomal Recessive Metabolic Genetic Disorder. Physicians from the University of Kentucky testified about delays in payments from Medicaid Managed Care Organizations for the necessary food substitutes for individuals with phenylketonuria. A representative from the Cabinet for Health and Family Services discussed efforts to clarify that this is a covered service.

Health Information Issues

Hospital-Acquired Infections. A representative from the Cabinet for Health and Family Services testified on effort and support for evidence-based, cost-effective strategies that can be implemented to prevent infections acquired in the hospital while patients are receiving treatment for other conditions. A representative from Health Watch USA testified about the importance of health care facilities reporting hospital-acquired infections to the Department for Public Health and making the data available to the public.

Kentucky Health Information Exchange. Representatives from the Cabinet for Health and Family Services testified on the advancement of Kentucky Health Information Exchange, a common, secure electronic information infrastructure that meets national standards. They discussed the live connections in hospitals, physicians' offices, and laboratories, the federal funds used to establish the exchange, and the inclusion of behavioral health providers.

Healthy Foods. Representatives of eHealthPath testified that the service is an online tool to help people learn how to cook and eat nutritious meals at home.

Children's Issues

Early Childhood Advisory Council. Representatives of the Governor's Office of Early Childhood and the Early Childhood Advisory Council testified on the creation of the Early Childhood Advisory Council, the recent decline in tobacco settlement funds, and several programs that may be affected. They also discussed a $45 million grant application that was submitted to address the decline in tobacco settlement funds.

Child Care Regulations. Advocates testified about the child care administrative regulations that had been referred to the committee. They discussed their concerns and the effects on children and families resulting from cuts to the Kinship Care and the Child Care Assistance Program.

Public Welfare Issues

Food Banks. A representative of the Kentucky Association of Food Banks testified about the approximately 750,000 people facing hunger in Kentucky, the seven Feeding America food banks that serve all 120 counties, and funding sources for the support of food banks.

Homeless Prevention Pilot Project. The Cabinet for Health and Family Services testified about the Homeless Prevention Pilot Project serving participants in the Adanta Region and Family and Children's Place in Jefferson County, the homelessness prevention rate, and reductions in clients returning to prisons and mental health facilities.

Referred Block Grant Applications

Pursuant to KRS 45.353, the committee held legislative hearings on three block grant applications: federal fiscal year 2014–2015 Preliminary Child Care and Development Fund State Plan, federal fiscal year 2014–2015 Community Services Block Grant, and state fiscal year 2014 Social Services Block Grant Annual Plan.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee reviewed 73 administrative regulations upon referral from LRC under the review process established in KRS Chapter 13A.

Referred Executive Orders

Pursuant to KRS 12.028, the committee held legislative hearings on one executive order upon referral from the Legislative Research Commission: Executive Order 2013-418, Amended Order Relating to Establishment and Operation of the Office of the Kentucky Health Benefit Exchange.

Report of the 2013
Interim Joint Committee on Judiciary

Sen. Whitney Westerfield, Co-Chair
Rep. John Tilley, Co-Chair

Sen. Perry B. Clark
Sen. Carroll Gibson
Sen. Sara Beth Gregory
Sen. Ray S. Jones II
Sen. Jerry P. Rhoads
Sen. John Schickel
Sen. Dan "Malano" Seum
Sen. Katie Stine
Sen. Robert Stivers II
Sen. Robin L. Webb
Rep. Johnny Bell
Rep. Robert Benvenuti III
Rep. Jesse Crenshaw
Rep. Joseph M. Fischer
Rep. Kelly Flood
Rep. Jeff Hoover
Rep. Joni L. Jenkins
Rep. Thomas Kerr
Rep. Stan Lee
Rep. Mary Lou Marzian
Rep. Reginald Meeks
Rep. Darryl T. Owens
Rep. Ryan Quarles
Rep. Tom Riner
Rep. Steven Rudy
Rep. Kevin Sinnette
Rep. Ken Upchurch
Rep. Gerald Watkins
Rep. Brent Yonts

LRC Staff: Jonathan Grate, Chandani Jones, Alice Lyon, Matthew Trebelhorn, Natalie Burikhanov, and Kathy Miller

Presented to the
Legislative Research Commission
and the
2014 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 descendents' estates; domestic relations; adoption; abortion; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, Circuit Courts, and District Courts; jurisdiction, rule, terms, judges, commissioners, selections, districts, qualifications, compensations, and retirement; clerk of court; juries; commissioners and receivers; court reporters; habeas corpus; crimes and punishments; controlled substances offenses; driving under the influence; criminal procedure; probation and parole; correctional penitentiaries and private pensions; civil rights; and juvenile matters.

Committee Activity

The Interim Joint Committee on Judiciary held five meetings.

Kentucky Department of Corrections: Treatment, Reentry, Initiatives, and Concerns

The commissioner of the Department of Corrections (DOC) spoke of the programs used within the department that help inmates with treatment, rehabilitation, and the prevention of repeat offenses. These programs have contributed to an overall reduction in prison population in Kentucky, with the greatest decline beginning in February 2013. DOC has introduced several programs that teach personal responsibility and life skills to prisoners, such as dog-training classes, which help inmates reintegrate back in their communities.

Two important programs also implemented are the mandatory reentry supervision (MRS) program and the substance abuse programs (SAP). MRS allows prisoners in the final 6 months of their sentence to transition into the community under the supervision of a parole officer. This ultimately helps to reduce sentences, to prevent repeat offenders, to create a smoother transition into civilian life, and to promote community involvement. Since 2012, MRS has saved DOC $16.3 million by cutting down inmate days in prison, inmate care, and supervision costs. The commissioner and deputy commissioner also discussed how SAPs help about 6,000 inmates treat their substance abuse either in prison, through community mental health services, or through local programs. By opening SAPs up to the community, DOC is able to help an additional 2,000 inmates through outpatient services and save up to $20 per day.

The deputy commissioner gave an overview of DOC involvement with energy savings performance contracts. Through the Finance and Administration Cabinet, DOC is able to implement energy saving changes to its facilities through low-interest loans, and it is able to put the energy savings toward loan repayment. Improvements have been made to equipment used for lighting; water conservation; heating, ventilation and air conditioning; boilers, chillers, and piping; and utilities.

The reentry branch manager within DOC discussed the importance of reentry assessment tools and programs, while also addressing areas needing further improvement. An executive-level team makes monthly evaluations of men and women in prisons, jails, halfway houses, probation, and parole. The programs that are created from the assessment results address the risks and difficulties these individuals face when reentering their communities. Additionally, they integrate the crimogenic needs identified by DOC into evidence-based, cognitive-therapy programs. Furthermore, efforts are being made to ensure that prior to release, inmates receive their birth certificates and their Social Security cards. However, inmates still face several reentry challenges, including limited housing opportunities, unemployment, educational needs, mental health issues, health care needs, financial instability, family concerns, public perceptions, and transportation. The greatest of these is transportation, without which individuals are unable to attend programs and find employment.

Wardens from two Kentucky prison facilities addressed the problems faced by correctional officers. Successful employment requires correctional workers who are up to date on accreditations, adhere to technology standards, and understand computer-driven management. These employees are difficult to find, and the turnover rate is high, causing continual reorganization; corrections is losing employees to other industries with less risk, leaving DOC with workers who have an average of 5 years or less experience. Corrections officers have an average starting salary of $23,000 with little opportunity for raises or advancement. In addition, they experience severe job-related stress that leads to issues including burnout, early retirement, suicide, posttraumatic stress disorder, impaired family life, and health problems. DOC is working to improve these conditions and keep its employees by investing in additional safety measures, emergency outreach, and mental health services.

Appriss Inc.

Appriss Inc. is a Kentucky-based company that helps criminal justice organizations incorporate technology into their operations. The director of its public information management division discussed the e-Warrants program, a product of all three branches of government including the Kentucky State Police, Kentucky Office of Homeland Security, Office of the Attorney General, the Administrative Offices of the Courts, and legislators. It was created in response to an LRC study in 2005 that found that Kentucky had 385,000 unserved warrants with an average of 674 days required to serve 75 percent of the outstanding warrants issued. The project began in Jefferson County in 2008; as of March 2012, it is used in all counties statewide with an average service rate of 81.86 percent for Kentucky, double the national average for warrant service. The program costs $2.7 million, which comes from Kentucky Homeland Security and the Office of the Attorney General.

e-Warrants generates about 1,011 warrants a day, with the average time to authorize a warrant being 1.55 days and the average time to serve a warrant being 36.6 days. As of May 28, 2013, the total authorized records stood at 1.1 million, as well as 515,913 warrants served and 255,646 rescinded. A majority of records are created in 22 minutes, 20 percent are authorized within an hour, and 40 percent are served in less than a week. Overall, the product has increased speed, data quality, officer and public safety, and efficiency. e-Warrants is predicted to serve

270,000 warrants in 2013 with a possible net revenue of $9.1 million for the year being returned to the general fund.

The vice president of government affairs with Appriss outlined the NPLEX program, which is the meth-check system in Kentucky. It is a database that provides real-time information on the purchase of pseudoephedrine-containing cold medicines from stores for law enforcement use. The system matches pending transactions against past purchase throughout the state and across the country to determine whether the purchase is legal, whether the purchaser has reached the legal limit, and whether prior convictions legally prohibit the purchaser from making the purchase. NPLEX operates at no cost to the state, retailer, or law enforcement and is instead funded by the pharmaceutical companies. There are 27 states that operate NPLEX, and retailers in those states are required to submit real-time records of pseudoephedrine purchases. This prevents offenders from going across state lines to purchase illegal amounts.

The manager of Health Information Solutions spoke about Prescription Monitoring Program (PMP) AWARxE, a joint undertaking between Appriss and the National Association of Boards of Pharmacy. Together, these organizations are providing the "next generation" of PMP software that will simplify and integrate information into a reporting system. This will allow Kentucky's prescription drug monitoring program, Kentucky All Schedule Prescription Electronic Reporting, to transmit and receive data across state lines.

Operation UNITE and Recovery Kentucky

The US representative from Kentucky's Fifth Congressional District talked about Unlawful Narcotics Investigations, Treatment and Education (Operation UNITE), which works in 32 counties in eastern Kentucky to help rid communities of narcotics. The program operates through undercover narcotics investigations, substance abuse treatment, support for families and friends of abusers, and public education. Operation UNITE's goal is to educate and activate individuals by developing and empowering community coalitions to no longer accept or tolerate drug culture. The congressman highlighted several of the substance abuse treatment programs within Operation UNITE and their effects on overdose deaths statewide. Of particular note were Clay and Floyd countries, which have experienced a 15 percent decline in overdose deaths.

Treatment is a key factor in addressing substance abuse, and the congressman discussed Recovery Kentucky, a network of housing and recovery centers, and its involvement with substance abusers. Each center within this program uses a recovery model that includes peer support, daily living skills classes, job responsibilities, and new behaviors establishment.

Substance Abuse Treatment in the Commonwealth

The state opioid treatment administrator for the Department of Behavioral Health, Developmental and Intellectual Disabilities, and a University of Kentucky professor discussed the state of Kentucky's substance abuse treatment capacity. The biggest obstacle for the commonwealth is that it is one of only seven states without outpatient substance abuse treatment programs available through Medicaid. Additionally, few options are available for adolescent addicts, with only 28 beds for males and 12 beds for females statewide. The greatest barriers to accessing care included poor response from program screenings and treatment centers.

The UK professor and a public advocate with the Kentucky Department of Public Advocacy (DPA) then discussed the DPA alternative sentencing social worker program. If implemented, this program would save as much as $6.80 for every $1 spent on social worker alternative sentencing services. The goal would be to have one social worker in every public defender office across the state.

Drug-Addicted and Dependent Babies

The director of the Kentucky Pediatric Research Institute at the University of Kentucky and the director of maternal and child health at the Department of Public Health discussed neonatal abstinence syndrome (NAS). They outlined the connection between NAS and maternal opiate use, and they encouraged the committee to expand behavioral treatment to stabilize these mothers, minimize the risks for the babies, and mitigate the negative outcomes from NAS and maternal opiate use.

State of the Judiciary Address

The chief justice provided an overview of the state's court systems and the changes being implemented to increase their effectiveness, reach, and efficiency. Because of the expense and time-consuming nature of jury trials, the 2005 Administrative Office of the Courts (AOC) mediation program is becoming a frequent tool. Criminal cases have also employed the AOC's 2008 Felony Mediation Program. The number of self-represented litigants has also risen because of increased legal costs and a 25 percent reduction in legal aid funds throughout the state. However, self-represented litigants present challenges ranging from a higher margin of error to limited resources for legal advice. Furthermore, there is a growing demand for court interpreters, and the AOC interpreter directory lists 90 certified and registered interpreters representing 31 languages. Pretrial officers are also experiencing an increase in caseloads, with an additional 327,000 defendant contacts since HB 463 went into effect.

The judicial branch has emphasized problem-solving courts as a solution to the wide variety of its caseload. Family Court filings have increased, and its geographic reach allows 3.2 million citizens to access its services. Although this can be an unmanageable load, the benefit of Family Court is that one judge can hear all the legal issues of a family and provide a sense of continuity and uniform action. Drug Court has also been successful by combining treatment and legal support to participants. It is supervised by circuit and district court judges and has had more than 6,000 graduates since 1996. Veterans Treatment Court is another example of a problem-solving court, providing treatment and support services to veterans. Lastly, Mental Health Courts use judicial oversight and mental health assessments and treatment to reduce the recidivism rate of mentally ill offenders while protecting public safety.

Expungements

The counsel for the Kentucky State Police (KSP) and the counsel for AOC discussed the expungement process and the implications of expanding its availability to felony convictions. Expungement is the removal of court records, which prevents the information from appearing on official background checks. If there are no current or pending charges against the individual, a petition can be made 5 years after the completion of the sentence or probation. If the offense was one against a child, a sex offense, a felony, or a repeat offense, the petition can be denied. The process involves participation and cooperation with KSP, AOC, and the Office of the Circuit Clerk. Expanding felony expungements would create a burden to the judicial system by qualifying almost 95,000 additional cases. The fiscal impact of expanding expungement would run $59.56 in hourly compensation.

A representative from the Indiana legislature presented testimony on Indiana's new comprehensive expungement law and discussed the benefits of passing such legislation. While certain felonies, such as sex offenses, are not expungeable, lower-level felonies can be taken off the record while higher-level felonies remain but are marked "expunged." Furthermore, repeat felons return to their preexpungement status. Many groups supported the Indiana bill, including the Indianapolis Chamber of Commerce, which felt that the bill combated unemployment. In addition, expunged ex-felons are able to more fully participate in their family lives and as workers, students, and citizens.

Prosecutorial Bar Concerns

Several Kentucky prosecutors testified about the concerns of the state's prosecutorial system. Juvenile court and law were mentioned as a specific issue area, and suggestions for improvement included earlier risk assessments, greater ability of judges to order parental participation in counseling, examination of the inclusion of status offenses and mandatory treatment orders within juvenile court, and support system reorganization.

Opioid abuse and synthetic drug use were also addressed as a pressing concern. Even though the recent synthetic drug bill reduced overall use, synthetic drugs are still being targeted towards juveniles and ex-offenders. Heroin use is also increasing, as prescription opioids become less available. In response, the Office of the Attorney General is putting resources toward better addressing abuse and creating opportunities for incarceration diversion. Through public awareness, increased treatment availability and prevention, and deterrent effects, such as charging dealers with overdose deaths, the state can more effectively combat this alarming trend.

Several other issues were recognized as needing improvement. Incompetency is a particular concern in both the juvenile and adult court systems. For juvenile offenders who lack capacity, the case is dismissed and no further action is taken to address the child and his or her behavior. With adult offenders, incompetency to stand trial does not necessarily equate to admission into a mental health facility. As such, neither situation sufficiently addresses the issues, and both increase the risk of recidivism. DUI laws were also identified as a prosecutorial issue because of the ability of a suspect to refuse a Breathalyzer test and the failings of a 5-year look-back period. DNA sampling is another issue needing improvement, with the prosecutorial bar believing that it would make prosecution more successful with the appropriate safeguards.

Defense Bar Concerns

The defense bar, comprising the Kentucky Association of Criminal Defense Lawyers (KACDL) and the Department of Public Advocacy, presented issues and solutions to pressing Kentucky defense subjects. KACDL recommended spending funds more wisely: The current rate of $500 million per year to incarcerate 20,000 is unsustainable. Kentucky can reduce these numbers by reclassifying nonviolent offenses to misdemeanors and reclassifying misdemeanors to violations. Furthermore, the state can pass felony expungements and restore voting rights to nonviolent offenders. Adding to these suggestions, DPA encouraged creating “clear and convincing” standards for pretrial release decisions for those who seem unlikely to repeat, creating “gross misdemeanor” classification for low-level felons, presuming parole for all low-risk offenders, limiting capital prosecutions, reforming juvenile justice, and expanding the DPA alternative sentencing social worker program.

Report of the 2013
Interim Joint Committee on Labor and Industry

Sen. Alice Forgy Kerr, Co-Chair
Rep. Rick G. Nelson, Co-Chair

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Sen. Perry B. Clark
Sen. Carroll Gibson
Sen. Chris Girdler
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Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Labor and Industry

Jurisdiction: matters pertaining to the work force and workplace not specifically assigned to another committee; 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; apprenticeships; unemployment compensation; workers' compensation; consumer protection; and industrial weights and measures.

Committee Activity

The committee held five meetings during the 2013 Interim. The topics discussed included workers' compensation, unemployment insurance, an overview of the Labor Cabinet, the Toyota Motor Manufacturing Kentucky expansion, job market and skills gap for advanced manufacturing, and education and workforce statistics.

Workers' Compensation

Claim Procedures. The commissioner of Workers' Claims discussed two process changes with workers' compensation claims. Claims for coal workers' pneumoconiosis (CWP), commonly referred to as black lung disease, required a consensus procedure in determining benefits awarded. Under the consensus procedure, a panel of three B reader physicians was used to interpret X-rays, and benefits would be awarded based on the consensus of the panel. A showing of clear and convincing evidence was necessary to overcome the consensus reached by the panel. In June 2010, the Court of Appeals declared the process unconstitutional based on *Vision Mining v. Gardner*.

The Supreme Court's December 22, 2011, decision in *Vision Mining v. Gardner* affirmed the Court of Appeals decision that found the consensus process was unconstitutional because it treated CWP claims differently from other occupational pneumoconiosis claims. The Department of Workers' Claims began using the same provision used for other pneumoconiosis claims: to undergo a university evaluation. CWP claims are filed and processed at the University of Kentucky (UK) and University of Louisville (UL), where X-rays and medical histories are evaluated by a B reader and a pulmonary specialist. The commissioner has formed a work group composed of physicians; attorneys for employees and businesses; professors; and individuals working in insurance, labor, and coal industries to bring recommendations to the legislature. The work group has recommended adding universities beyond UK and UL and providing a funding mechanism for the universities to provide assistance in managing CWP claims.

The commissioner of the Department of Workers' Claims and a workers' compensation administrative law judge (ALJ) presented an update about new procedures for litigation in medical disputes. Medical fee disputes have been an area of concern for the department for several years. A panel of attorneys and physicians, put together by the commissioner, made recommendations to deal with the growing number of medical disputes. All medical disputes are assigned to two ALJs. According to an ALJ assigned specifically to medical disputes, the new procedures have expedited the tremendous volume and made the litigation much easier to navigate for claimants.

The commissioner testified about the required review and, if appropriate, update of the fee schedules used for workers' compensation medical treatments. After a stakeholders meeting, where comments and concerns will be presented and discussed, a revision may be drafted. The new administrative regulation containing any changes to the fee schedules should be filed by early 2014.

There was also discussion on prefiled legislation for workers' compensation benefits. BR 140 would establish a rebuttable presumption that cancer is an occupational disease for full-time firefighters. The bill would establish guidelines for compensation and the types of carcinogens associated with specific types of cancer.

Self-Insurance Guaranty Funds

The commissioner of the Department of Workers' Claims testified about the Workers' Compensation Self-Insurance Guaranty Funds. Three self-insurance guaranty funds were established by the 1996 General Assembly for individual self-insured employers, coal employers, and self-insured groups. All individual employers who self-insure their workers' compensation liability are approved and regulated by the Department of Workers' Claims. All self-insured groups are approved and regulated by the Department of Insurance.

Representatives from the Kentucky Individual Self-Insurance Guaranty Fund and the Kentucky Coal Employers Self-Insurance Guaranty Fund testified about information regarding the administration of the funds. The commissioner for the Department of Insurance reported on the status of the Kentucky School Boards Insurance Trust (KSBIT). Responsibility for the oversight of all self-insured groups was transferred from the Department of Workers' Claims to the Department of Insurance in 2004. Reports in 2007 started reflecting declines in revenue for KSBIT. In 2009, Kentucky League of Cities (KLC) and KSBIT financially partnered. KLC transferred funds to KSBIT funds to bring it into solvency. KLC took over administrative operations and actuarial functions. However, in 2011 KSBIT again reported a deficit of $4 million. In 2012, the KSBIT board gave notice that it would not offer insurance and would proceed with formal assessments of those formerly insured. The commissioner stated that the Department of Insurance is considering various options to resolve KSBIT workers' compensation claims.

Workers' Compensation Funding Commission

A new executive director for the Workers' Compensation Funding Commission was appointed in February 2013. He gave a brief background of the commission, which was created in 1987 to hold, administer, invest, and reinvest funds collected for specified workers' compensation liabilities. The commission establishes the annual assessment rates necessary to fund various programs.

Unemployment Insurance Update

The secretary for the Education and Workforce and Development Cabinet, along with the commissioner for the Department of Workforce and Development, testified about the status of the unemployment insurance trust fund. In January 2009, contributions from employers were no longer sufficient to pay unemployment insurance claims. Kentucky became the sixth state to borrow federal money to pay these claims. In March 2009, the governor created a task force to make recommendations to bring the trust fund back into solvency. Recommendations from the task force were codified in House Bill 5 (2012 Special Session) and have been implemented. In 2012, contributions exceeded claims. Additional recommendations were made by a third party consultant on improvements to process and procedures. The commissioner stated that the cabinet is on target to pay all federal Title XII advances by 2017, 5 years earlier than originally anticipated.

Labor Cabinet Overview

The newly appointed secretary of the Labor Cabinet discussed educational outreach programs conducted by the Labor Cabinet, including the Safety and Health Conference, the Apprenticeship and Training Conference, and the Labor Management Conference, as well as other initiatives such as Tech Ready Apprentices for Careers in Kentucky (TRACK).

The secretary discussed the participation of the Economic Development Cabinet, the Education and Workforce Development Cabinet, and the Office of Career and Technical Education in initiating the TRACK program. Piloted in 11 Kentucky school districts, the program identifies students for the program and employers within the community commit to developing registered apprenticeship programs. The Labor Cabinet will seek legislation in 2014 to modify the apprenticeship statutes in KRS Chapter 343 to comply with changes adopted by the federal government.

Toyota Motor Manufacturing Kentucky

Officials with Toyota Motor Manufacturing Kentucky (TMMK) gave an overview of the structure of Toyota's partnership with Toyota Motor Engineering and Manufacturing North America Inc. (TEMA), the Lexus incentive project at TMMK, the workforce development needs of the advanced manufacturing technician (AMT) program, and the transportation and infrastructure needs of the plant. Representatives from the Cabinet for Economic Development, Kentucky Community and Technical College System (KCTCS), Bluegrass Community and Technical College (BCTC), and Capital Link Connections also provided information on workforce development and infrastructure needs for TMMK.

TMMK operates as one of the largest plants in the world on 1,300 acres and 7.5 million square feet. A $6 billion investment, the production capacity reaches 500,000 vehicles annually and employs 7,000 team members. TMMK members reside in 72 of Kentucky's counties, and 80 percent live within 80 miles of the plant.

The Lexus ES 350 Incentive Project at TMMK will add two production shifts at the Georgetown facility and create 750 team member positions. The investment is $531 million. The Kentucky Economic Development Finance Authority awarded $146.5 million over 10 years to the project.

A skilled workforce is important to the project. The cabinet has partnered with BCTC and KCTCS and developed the AMT program at TMMK. The AMT program seeks to address the issues facing TMMK specifically. The AMT program, founded in 2010, offers an associate degree in applied science and on-site training in the technical aspects of manufacturing positions, as well as floor experience and core exercises within the plant. The classroom aspect of the program partners with the Bluegrass Manufacturing Development Collaborative, made up of 16 member companies, 11 of which sponsor current students in the program. Expansion plans for the AMT program would provide for 1,200 students, 12 full-time faculty members, and 20 part-time faculty members on 20 acres of land that the Scott County Fiscal Court and City of Georgetown have acquired.

Infrastructure changes are important to support the Lexus Project expansion. Nearly 10,000 people, not including those driving trucks transporting parts, travel to the facility daily. A proposed I-75 Interstate Interchange Project would connect Cherry Blossom Way and Champion Way, creating a safe and functional route for business at TMMK. Representatives from TMMK and the Cabinet for Economic Development will request that the General Assembly authorize funding for the interchange project and the expansion of the AMT project.

Kentucky Center for Education and Workforce Statistics

The executive director of the Kentucky Center for Education and Workforce Statistics stated that the center is attached to the Education and Workforce Development Cabinet and funded through federal grants as well as recurring state funds. Building upon the work of the P-20 Data Collaborative (since 2009), the center was created in December 2012 by executive order and then approved by the 2013 General Assembly.

The Kentucky Center for Education and Workforce Statistics evaluates education and workforce programs statewide. By linking information on high school, college, and employment in Kentucky with information on the economy, a more complete picture can be presented for evaluation of public policy. New data collections provide better measures for more comprehensive studies and reports for policy makers and stakeholders.

Report of the 2013
Interim Joint Committee on Licensing and Occupations

Sen. John Schickel, Co-Chair
Rep. Dennis Keene, Co-Chair

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LRC Staff: Tom Hewlett, Bryce Amburgey, Michel Sanderson, and Susan Cunningham

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Interim Joint Committee on Licensing and Occupations

Jurisdiction: Matters pertaining to professional licensing not assigned specifically to another committee; racing; prize fighting 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; and trade practices.

Committee Activity

The Interim Joint Committee on Licensing and Occupations met five times during the 2013 Interim. The committee held out-of-town meetings at the Kentucky Horse Park (between Georgetown and Lexington), Keeneland Race Course (Lexington), and the Anheuser-Busch distributor warehouse (Louisville).

Advanced Practice Registered Nurses

Advanced practice registered nurses (APRNs) must have collaborative agreements with physicians before they may prescribe medication. A collaborative agreement for the advanced practice registered nurse’s prescriptive authority for nonscheduled drugs (CAPA-NS) allows APRNs to prescribe or dispense nonscheduled legend drugs. A collaborative agreement for the advanced practice registered nurse’s prescriptive authority for controlled substance (CAPA-CS) allows APRNs to prescribe or dispense controlled substances. Both agreements define the scope of prescriptive authority, although requirements for the CAPA-CS are more detailed. Because collaborative agreements do not require physician oversight, legislation has sought remove the collaborative agreement requirement.

The director of emergency room services at T.J. Samson Hospital said elimination of the collaborative agreement on prescriptions for nurse practitioners would help relieve the shortage of primary care access. APRNs provide appropriate care, and their judgment is sound. APRNs are licensed to provide medical care and will be able to provide more access to care if the collaborative agreement is abolished.

The president of the Kentucky Coalition of Nurse Practitioners and Midwives (KCNPM) said that Kentucky ranks among the highest in cancer deaths, heart disease, strokes, and high blood pressure. Increasing access to care in underserved areas of the state is a common goal. About 63 percent of APRNs practice outside Jefferson and Fayette counties. APRNs will not crowd out primary care physicians. States that are the least restrictive of nurse practitioners have a higher proportion of primary care physicians, while states that have a higher restriction have a lower number of primary care physicians. All nurse practitioners want to collaborate with other health care providers and should be allowed to practice to the full extent of their education and training.

There is no requirement for a physician to supervise nurse practitioners or a nurse midwife, although there must be a prescribing agreement, which is a signed document with no other physician requirements. This poses a barrier to providing health care in Kentucky because some APRNs may devote months to finding a physician to sign an agreement, and some physicians add requirements to the agreement before they will agree to sign them.

The president of the coalition said that physicians charge varying fees for signing collaborative agreements. A member of the KCNPM said that she had to discontinue her collaborative agreement because the fee was prohibitive. If the physician who signs the collaborative agreement retires, moves away, or dies, the APRN must find another physician to sign it. An APRN said the only time she met with the physician who signed her collaborative agreement was at the time of his signature.

A Kentucky Medical Association (KMA) representative stated that health care is moving to a team-based practice rather than independent offices. Teams consist of various combinations of physicians, nurse practitioners, physician assistants, mental health providers, and other professionals to ensure the patient is receiving the right type of care. The result has been higher-quality care and cost savings by reducing duplicative or unnecessary services. KMA's concern is that elimination of the collaborative agreement would move away from the team-based model of care.

Kentucky's citizens are among the unhealthiest and most medicated in the country. Some nonscheduled drugs have the potential for harmful or even fatal drug interactions. Thirty-four states require a collaborative agreement in some form; twenty-five of those states require a collaborative agreement for treatment, diagnosis, and prescriptive authority. KMA has met with nurse practitioners to listen to their concerns. Solutions are to develop a cap on the amount that can be charged for an agreement and to form a clearinghouse of physicians willing to work with existing practices to help maintain them when collaborating physicians leave. There are ongoing discussions regarding rural health clinics and federally qualified health centers to increase access to care. There is concern about the need to increase access to health care, particularly in rural areas.

The president and CEO of St. Elizabeth Physicians said his group has used the collaborative physician supervision model successfully with the physician and the nurse practitioner working together, which should be a standardized practice. There should be close supervision for APRNs early in their careers, with clear delineation of the educational experience that must be obtained before autonomy is considered. There should be a clear delineation of specialty services that should never fall outside physician collaboration in order to protect the public.

The issue of finding collaborative physicians in rural areas is being discussed. Large groups are working on telemedicine solutions for collaboration with nurse practitioners and specialty collaboration. Large groups may consider collaboration at a distance with rural practitioners and could do this for a reasonable fee.

A representative of the Kentucky Academy of Family Physicians said physicians in her practice spend 1 day each week supervising nurse practitioners. On her day to supervise, she answers questions, reads charts, and signs off on them. The cost is built into the system of payment to the nurse practitioner. This increases the physician's responsibility, and the physician is liable if a lawsuit is filed against the nurse practitioner.

At the final meeting of the Interim, KMA representatives and the coalition of nurse practitioners testified that the two groups had reached an agreement. This agreement improves access to health care in Kentucky while maintaining the CAPA-NS. There will be a joint committee from the Board of Nursing and the Board of Medical Licensure, composed of three APRNs appointed by the board of nursing and three physicians appointed by the KMA. The joint committee will make recommendations to their respective boards regarding the CAPA-NS. APRNs, after meeting specified requirements concerning length of practice and quality of performance, may opt to practice without the CAPA-NS.

Kentucky Lottery Corp.

The president of the Kentucky Lottery Corp. (KLC) testified that, since its inception, the lottery has distributed more than $1.8 billion to the general fund, $2.4 billion to grants and scholarships, $42 million to literacy development, and $20.8 million to the Affordable Housing Trust Fund. Players have received $8.8 billion in prizes, and retailers have been paid $919 million in commissions. The lottery board has recently approved the implementation of keno, a draw game played on the current terminal system at retailer locations. A group of new retailers is expected to come from more social environments such as restaurants, bowling alleys, fraternal organizations, bars, and taverns. Thirteen United States lotteries offer this style of game with a sales yield that averages approximately 5 percent of total lottery sales of all products, or 10 percent of sales from terminal lottery games. It is estimated that the first full year of sales could total $53 million. Annual dividends would amount to $15 million.

To preserve the level of revenue the lottery generates, other options need to be considered. The statutes direct KLC to look at other lotteries and seek to offer games that are successful elsewhere. Other games have been offered and gone forward, and the lottery believes that it is on solid legal footing. The profile of the keno player across the United States is higher from both an educational and a socioeconomic standpoint. There is no indication that keno has contributed disproportionately or significantly to compulsive gambling problems in other jurisdictions.

KLC is also considering iLottery, which is the sale of lottery tickets over the Internet. KLC's outside counsel and counsels of most other lotteries in the United States believe that lottery tickets can be sold intrastate by lotteries under state and federal law. Tickets sold by the Kentucky lottery could be sold only within Kentucky. The transaction could not cross state lines. This project will not be launched until after keno has started. To operate Internet sales, KLC must negotiate with a bank, set up player accounts, verify location and age, set up time limits for wagering, and establish spending limits. The development of Internet sales would be a slower process than the implementation of keno. This would generate a similar or higher yield than keno sales.

The KLC general counsel stated that KRS Chapter 154A establishes KLC's jurisdiction and sets forth permissible gaming. The definition for lottery includes any game of chance approved by the corporation and operated pursuant to the chapter, except for games prohibited by the General Assembly. KRS 154A.063 prohibits the corporation from approving any casino or similar gambling establishment and prohibits approving any game played with playing cards, dice, dominos, slot machines, or roulette wheels, or any game where winners are determined by the outcome of a sports contest. Keno is like other draw games in that it is a number match game that comes from the same terminal as other games. It is offered in different venues, but it is a game of chance that in no way involves skill. Previous general counsels have looked at this and consulted with outside law firms, and all believe that keno is consistent with the statute. It is KLC's belief that neither keno nor iLottery will undermine existing lottery ticket sales.

The KLC president said the policy on retailer commission is that no more than 1 percent of the sales of the lottery at the retailer level can be paid to the retailer as a bonus. This has been modified in recent years to either 1 percent or a $100,000 maximum per winning ticket. The $100,000 maximum was necessitated by some of the large payouts in multistate Powerball drawings.

Senator Thayer said that keno was a very different type of game and should require, at the least, an Act by the General Assembly or maybe a constitutional amendment. He said keno and iLottery were expansions of gambling and requested that KLC cease implementation of the game and work directly with the General Assembly and relative committees to protect the right of the people to have input on the changes. Representative St. Onge encouraged KLC officials to request an opinion from the Attorney General regarding the legality of keno.

Kentucky Horse Racing Commission Update

The director of the Kentucky Horse Racing Commission (KHRC) Division of Incentives and Development said there are three funds that are paid from the 6 percent sales tax charged when a stallion is bred to a mare in Kentucky. The money is divided, with 80 percent going to the thoroughbreds, 13 percent to standardbreds, and 7 percent to non-race breeds. There are 11 breeds participating in the non-race breeds program. The thoroughbred industry has been flat in recent years; however, Kentucky continues to lead in breeding and racing. This year the estimated number of mares bred in Kentucky is 15,000. In 2012, 30 percent of North American foal crop came from Kentucky.

Last year the regulation for eligibility was changed so that horses racing out of state could be awarded funds. During the past 2 years, the fund has been commingling its marketing funds with the Kentucky Thoroughbred Owners and Breeders Association. This allows the fund to advertise its benefits to a larger area. Since 2006, more than $87 million has been paid to breeders.

The standardbred program uses its 7 percent to fund the Kentucky Sire Stakes. Horses that participate in this program are sired by stallions standing in Kentucky. During the last legislative session, the General Assembly passed SB 110, allowing standardbred horses foaled by resident mares, regardless of whether they are sired by Kentucky stallions, into the program. This is expected to grow the program by making more horses eligible to enter the Sire Stakes.

In the non-race breeds program, the Kentucky Quarter Horse Breeder Incentive Fund has seen an increase in horses participating in their show category. The Walking Horse Breeder Incentive Fund has experienced an increase in new owners participating and is one of the largest breeds participating in the non-race program. The saddlebred program has increased by 20 percent this year.

The supervisor of pari-mutuel wagering said the handle for historic racing continues to go up with a record $2 million wagered recently. Kentucky Downs purses have increased from $750,000 to $4.5 million in 2 years, based on revenue generated from historic racing at the track. From January 1 to December 31, 2013, machines will handle a projected $300 million. Ellis Park's handle on historic racing was up during its live meet.

The executive director of the KHRC said he has had no direct conversation with other Kentucky racetracks about adding historic racing after the court has ruled on instant racing. Ellis Park is near a mature gambling market, and historic racing has not been as well received there.

The equine medical director said that, during the past 11 months, commission veterinarians have administered furosemide to 12,000 horses, with four administration errors by commission veterinarians in the first 5 weeks of the program. This resulted in two scratch starts. Because of these errors, the commission changed the protocol for race day administration. There is now a Salix coordinator who monitors activities of the veterinarians to ensure horses are treated on time and appropriately, and there is a master treatment sheet that is reviewed by all veterinarians with the coordinator. The veterinarians have radios to communicate with each other and the coordinator in case of questions. Before a veterinarian treats a horse, he notifies the Salix coordinator; if there has been a change, the treatment can be stopped before administration. Color-coded tags are placed on stalls with a different color for each day to eliminate confusion regarding treatment for each day. A treatment sheet with detailed information on each horse is available for review each day.

Since the commission began the program, horses sent to the test barn after races have shown a Lasix concentration slightly less than 30 percent. This tells the commission that Lasix had previously been administered too close to race time.

The benefits of this program are to the wagering public, who get accurate medication information. Ship-in horses arrive on time to get their Lasix 4 hours before their race. There is enhanced security in the barn to stop prohibited practices prior to races. Horses that arrive after the 4-hour deadline are given the opportunity to race without Lasix, and the public is notified. Horsemen have the assurance that all horses are given medication in a fair manner. Soundness evaluations, assessment of exercise history, and review of race video replays help determine risk factors and have reduced racing fatalities. An equine mortality review panel has been formed to collect information when a horse is fatally injured on a racetrack.

HFL Sports Science, a laboratory in Lexington, drug tests for the commission and has received its accreditation. A rapid-response protocol has been established, giving the commission the ability to promptly initiate a strategic response to substances reported as emerging threats to the integrity of competition.

The medical director said 97 percent of race horses are still receiving Lasix. It is age specific, with fewer of the younger horses using race-day medication. Lasix reduces blood pressure by diuresis and, even though the cause of exercise-induced pulmonary hemorrhage has not been determined, it has been shown that by reducing the horse's blood pressure the occurrence of this hemorrhaging is decreased. Lasix is considered a performance enhancer.

Anesthesiologist Assistants

A representative of the Kentucky Association of Anesthesiologist Assistants said that Kentucky requires anesthesiologist assistants (AAs) to first have a physician assistant license from a 4-year program before becoming an AA, but there is no 4-year program in Kentucky. AA programs are master-level programs like the physician assistant programs. Kentucky is the only state that requires an AA to be a physician assistant first. AAs practice under an anesthesiologist at all times and can receive payment only through that setting. The AAs are asking not for independent practice but rather to be licensed.

The president of the Kentucky Association of Nurse Anesthetists said there are 850 certified registered nurse anesthetists (CRNAs) in Kentucky. The critical difference between an anesthesiologist assistant and a CRNA is that CRNAs may also practice independently of anesthesiologist supervision in both urban and rural settings. Access to health care in Kentucky is more important than ever, with more Kentuckians now having health coverage. CRNAs are the sole providers of anesthesia in 24 rural counties. Anesthesiologist assistants are not allowed to bill Medicare for non-medically directed anesthesia services. A CRNA is required to have a bachelor's degree in nursing and 1 to 2 years of ICU experience, followed by graduate school.

Licensing of Alcohol and Drug Counselors

Representative Joni Jenkins said she is sponsoring BR 9, an Act relating to alcohol and drug counseling. Similar legislation passed both chambers during the last regular session but was not enrolled.

The president of the Kentucky Association of Alcohol and Drug Professionals said there is an alcohol and drug problem in Kentucky, creating a growing need for licensed alcohol and drug counselors. The legislation establishes three categories for alcohol and drug counselors: a registered peer support specialist, a certified counselor, and a licensed status for individuals with a master's degree in behavioral science. This assures the public that qualified people are treating clients who have substance abuse disorders. Also, the board will maintain a register of persons who want to become peer support specialists. These are individuals who have at least 2 years of sustained recovery from substance abuse who would work with professionals. The bill will promote academic training and encourage universities to develop curriculum relating to alcohol and drug abuse counseling.

There are certified alcohol and drug counselors as well as social workers and others providing treatment services throughout the state. However, this bill recognizes a unique body of knowledge about substance abuse specific treatment of this disorder. The legislation would not prohibit other professionals from providing treatment in their area of expertise, but it would also allow other professionals to obtain licensure or certification demonstrating enhanced knowledge of substance abuse treatment. There will be no impact on churches that are providing recovery programs.

Issues Related to Alcoholic Beverages

Senator Higdon said that he will sponsor legislation in 2014 that will allow by-the-drink alcohol sales at bed-and-breakfast establishments in wet territory. It will require persons who request a local-option election petition to pay for the cost of the election, taking that burden off the county government. It will establish a uniform city or county population ratio for quota retail package licenses statewide, similar to the Alcoholic Beverage Control Administrative Regulation language regarding this topic. There are about 600 licenses that are not in use across the state. Because package liquor stores are becoming larger, there is not a need for as many licenses. The bill will create a double random lottery for awarding quota package and quota drink licenses in areas that vote to go wet to prevent claims of bias in awarding a quota license.

The bill will address cider, which is a growing part of the alcohol market. There is a need to change current language to define hard cider as 7 percent or more alcohol, while weak cider would be defined as cider with more than 1 percent but less than 7 percent alcohol. Weak cider would then be defined as a malt beverage and could be sold by beer distributors.

The bill will change license fees for distilleries, leaving the fee for distilleries that produce more than 50,000 gallons per year at $3,090. A distillery that produces 50,000 gallons or less per year would pay a reduced fee of $1,000.

Representative Clark commented that consideration of an increase in the amount of ounces that microbreweries are able to sell might also be added to the bill. Allowing sales of alcohol in state parks would give parks control of the amount of alcohol consumed, as well as helping with tourism. Golfers and others bring their own beer, and parks are losing that revenue opportunity. A wet/dry election would still be necessary.

Senator Buford commented that the language regarding sale by the drink in a bed-and-breakfast should clarify that only a guest with proof of registration to stay at the establishment would be eligible to purchase alcohol by the drink.

The cider issue was also discussed by representatives of the malt beverage industry. Although cider is marketed much like malt beverages, Kentucky law defines it as wine. Defining cider below 7 percent alcohol by volume as a malt beverage would eliminate an artificial barrier in the market and allow the product to be sold and distributed like a malt beverage. It would also allow the possibility of producing a Kentucky-grown cider, using Kentucky apples, at microbreweries throughout the state.

Continuing Education for Hairdressers, Estheticians, Cosmetologists, and Nail Technicians

Representatives for Elite Professional Education said HB 311 passed in the 2012 Regular Session, eliminating the requirement of continuing education for licensees under the Board of Cosmetology and Hairdressers. The continuing education system was said to be working poorly, but the bill did not establish new criteria. Currently, hairdressers, estheticians, cosmetologists, and nail technicians operate salons without a continuing education requirement. The issue is the reinstatement of a continuing education requirement and appropriate changes to the system.

The main concern with the lack of continuing education is the rise in infections in the community. Sanitation is a major issue in salons. It is important for instructors to be current on proper practices in order to teach licensees. Former problems with delivery of continuing education can be addressed so that the integrity of the education can be maintained. Elite Professional Education still administers continuing education to licensees in Kentucky who voluntarily maintain current practices in preventing the spread of community-based diseases.

Reinstatement of the continuing education requirements would include 2 hours dedicated to public health, sanitation, and safety education. These requirements were not in the previous law. The industry uses instruments that require proper sterilization. New legislation should exempt a licensee who has reached the age of 60 or who has maintained an active license for 30 years from continuing education requirements. Home study courses, such as an Internet-based class or a correspondence class, would still be acceptable. There will be a proposal to allow the board to contract with a third-party administrator to perform the continuing education program.

The executive director of the state Board of Cosmetology said there are 21,200 active or inactive cosmetology practitioners, 3,400 nail technicians, and 350 estheticians in the state.

Embalmers and Funeral Directors

The chairman of the Kentucky Board of Embalmers and Funeral Directors said legislation passed in 2013 giving funeral directors a reciprocal agreement to use a “courtesy card” with Indiana and Ohio, allowing out-of-state directors to use their licenses in Kentucky and for Kentucky-licensed funeral directors to practice in those states. Consumers will no longer need to hire funeral directors from multiple states to assist in arrangements.

He also reported that an Attorney General’s opinion stated that a licensed funeral director is required to provide all aspects of the funeral service, from time of death until the final disposition and time of burial. An AG opinion determined that a licensed funeral director is required to sell a funeral. Notice was sent to all licensees giving all funeral homes an opportunity to acquire more licenses and preneed licenses. An inspector found several violations, and a warning letter was sent to those businesses. Formal complaints were settled by agreed order, and fines were charged based on the severity of the violation.

A poll regarding removal of remains from the place of death to a mortuary concluded that a licensed funeral director should perform the removal. A licensed professional should attend due to training in microbiology, grief psychology, and other skills. New requirements are in place for continuing education. Twelve hours are required over a 2-year period. At least 6 of those hours must be in-person training.

The president of The Funeral Consumers Alliance of the Bluegrass said the alliance educates people who want to do home funerals. A general price guide of services offered by different funeral homes in the area is given to families to make them aware of their options. The group provides laws and regulations for funeral homes and home burials.

There is a trend toward “green” funerals. Families may construct their own casket, and, under Kentucky law, a body can be transported when accompanied by a provisional death certificate that can be obtained at a health department. Vaults are not required by law but may be required by individual cemeteries.

Kentucky Horse Park

The executive director of the Kentucky Horse Park said the park hosts daily events from mid-March through Thanksgiving. Competitors are at the park for extended periods of time. Visitors spend money in different sectors of the economy, generating tax dollars that ultimately return to the general fund. The average economic impact per year has been about $180 million.

The 2012 budget asked the park to develop a business plan and deliver it to the Appropriations and Revenue committee by June 30, 2012, which the park completed. The General Assembly asked the park to write a plan for operation with no revenue from the General Assembly. When the park submitted its plan in June 2012, the projected cash balance by June 2013 was $128,000. Instead, the park expected a cash balance of $623,000 by that time.

The park recently took over ownership of its food service. This has produced more than $2 million in revenue. The park owns a convention liquor license and is increasing marketing to public and private sponsors.

The business plan has an 8-year progression leading to operation independent from the general fund. The park will need to expand the campground (which is part of its 6-year capital plan), develop a public/private partnership to build a hotel on park property, and get local support from a share of the Fayette County transient hotel tax.

Report of the 2013
Interim Joint Committee on Local Government

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Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Local Government

Jurisdiction: Matters pertaining to the officers, organization, government, and financing of county and city governments; urban-county governments generally; county- and city-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 indebtedness generally; compensation of county and city officers and employees; the imposition of duties and costs on local governments; interlocal government cooperation and consolidation of services; local government employees, civil service, and retirement; powers, duties, and composition of fiscal courts and municipal legislative bodies; offices of county judge/executive, magistrate, county attorney, sheriff, constable, jailer, coroner, surveyor, and county clerk; forms of local government; incorporation and classification of cities; housing projects; 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 use; local air pollution control districts; urban service districts; library districts; city and county libraries; county law libraries; and special districts not assigned to another committee.

Committee Activity

State and Local Issues Confronting Kenton, Boone, and Campbell Counties

Brent Spence Bridge Project. The Kenton County judge/executive said the Kenton County Fiscal Court opposes the use of tolls as a funding mechanism for the reconstruction or replacement of the Brent Spence Bridge. The Brent Spence Bridge project is estimated to cost $2.5 billion. The bridge and the renovation of the existing bridge will cost more than $800 million. The Ohio-Kentucky-Indiana Regional Council of Governments estimates the daily bridge user ratio of Kentucky versus Ohio residents at 65:35.

The residents and business owners of Kenton County will be severely harmed if they are expected to carry the brunt of any toll because of the county’s proximity to the new bridge, and such a situation will result in a significantly disproportionate cost per capita relative to any other county in the Greater Cincinnati and Northern Kentucky regions. Residents in surrounding counties in Kentucky will be able to avoid tolls on the Brent Spence Bridge because they have access to other bridges.

Drug Treatment. The Kenton County judge/executive said the heroin problem appears to be far greater in Northern Kentucky than anywhere else in the commonwealth. The Kenton County Detention Center averages about 600 inmates per day and is at capacity. About 80 percent are there because of drug-related issues at a cost of $23,000 per year per inmate. The numbers are similar for Campbell County, and to a lesser degree, Boone County.

There is a shortage of beds in residential treatment centers in Northern Kentucky. Louisville has 787 beds, and Lexington has 467 beds. Northern Kentucky has 199 beds, which is inequitable.

State Funding Inequities. The Kenton County judge/executive noted three areas of state funding inequities. The first is state funding for higher education per student in Kentucky. The University of Kentucky and the University of Louisville receive approximately $12,000 per student; Morehead State University receives $5,935 per student; Murray State University receives $5,994 per student; Eastern Kentucky University receives $5,469 per student; Western Kentucky University receives $4,578 per student; and Northern Kentucky University receives $3,987 per student. Northern Kentucky is the third-largest populated region in the state and produces a large amount of revenue for Kentucky. There needs to be some equality in the sharing of the educational revenue that is generated.

The second issue involves the allocation of state contract dollars for behavioral health and substance abuse per capita. Comprehend receives the most, with $38.57 per capita, and North Key Community Care (representing Northern Kentucky) receives the least, with $16.36 per capita.

The third issue involves the 2013 Regular Session House redistricting proposal. Northern Kentucky districts contained a maximal number of people, minimizing its ability to be fairly represented in Frankfort.

Economic Development. The Campbell County judge/executive said Northern Kentucky is succeeding in economic development. The area has led the state in the past 15 to 20 years in job creation. It is the only region in the state directly under the influence of a big city nearby in a neighboring state. Even with all of the successes of the state and Northern Kentucky, there are some concerns. In the last 4 or 5 years, surrounding states have improved their economic competitiveness. Kentucky does not have some of the appeal of Florida or California. Kentucky must have an infrastructure and tax climate that are competitive and attractive to people. As an example, Ohio does not have a corporate income tax. In the last couple of years, the effect was direct on Northern Kentucky, which lost a Fortune 500 company, as well as another large employer of several hundred people out of Covington. In a recent competition over an advanced manufacturing firm, Northern Kentucky lost to Ohio. The total from just those three examples is more than 1,000 jobs, with millions of dollars of tax revenue that would have come to Northern Kentucky and gone to the state.

The tax reform commission has done good work but needs to go a step beyond and establish the goal of doing something that places Kentucky in the lead among states. It should catch the attention of prospective employers in certain categories that are meaningful and give Kentucky something convincing to sell.

The Northern Kentucky Convention Center needs to be expanded because the groups that use the convention center have grown. It is the only convention center in the state that covers its own operational expenses and is one of the few in the United States to do so.

Infrastructure Needs. The Boone County judge/executive said there used to be regular allocations for infrastructure improvements of water and sewer. In a growing region like Northern Kentucky, the lack of these allocations has made it difficult to provide water and sewer service to unserved people. About half of Boone County's land mass does not have public water; the county is trying to do more with less. The county has been fortunate that it has seen job growth in the private sector even though it is losing companies to Ohio.

Sanitation District No. 1 is the sewer and storm water utility that covers all three counties in Northern Kentucky. Northern Kentucky has been under a consent decree since 2005 and has 20 years to meet the elements of the decree. Between now and 2025, Northern Kentucky must spend about $3 billion to meet all of the requirements, and the figure is growing. The rate increases over the last several years have been high but have been required to meet this unfunded mandate from the federal Environmental Protection Agency, Kentucky Department for Environmental Protection, and the Kentucky Division of Water. Meeting the requirements and yet allowing residents to pay affordable utility fees in that timeframe is impossible. Northern Kentucky needs more time to get it done and needs assistance from the General Assembly.

Local governments need more tools to be self-sufficient, such as getting rid of obstacles that prevent the merging of certain units of government, combining departments across county lines, or cities combining services.

Local-Option Sales Tax

The executive director of the Department of Revenue's Office of Sales and Excise Taxes explained the streamlined sales and use tax agreement (SSUTA). SSUTA is a nationwide effort by 43 states, various local governments, and members of the business community to develop measures to design, test, and implement a system that radically simplifies sales and use tax collection and administration by retailers and states. The streamlined sales tax (SST) governing board administers SSUTA. The agreement became effective on October 1, 2005. 2001 HB 367 authorized Kentucky to participate in the SST project. Legislation in 2003 enabled conformity with SSUTA. Tax laws were refined to conform with SSUTA between 2005 and 2013. The first SST collection in Kentucky was in 2005. Since 2005, Kentucky has received $106.3 million in payments from SST vendors. In FY 2013, more than 1,000 SST filers sent more than $20.7 million to Kentucky.

A distribution for the percentage of consumers making purchases online versus consumers making purchases in stores is as follows: 49.5 percent of consumers buy less merchandise online than in stores, 26.4 percent buy more online than in stores, and 24.1 percent buy the same amount online and in stores.

The agreement sets out requirements for administering a local sales tax. The state must collect the tax. Notifications must be sent out for rate changes and boundary changes within a set time before the change takes effect. Rates and bases must be uniform in each taxing jurisdiction. Caps and thresholds cannot be used, such as establishing a maximum amount of tax that can be applied to a single purchase.

On May 6, 2013, the United States Senate passed the Marketplace Fairness Act (MFA) of 2013. The MFA of 2013 grants certain states the authority to require remote sellers to collect or remit sales and use taxes on sales to the state. The MFA of 2013 has been assigned to the US House Judiciary Committee, and the chairman is expected to announce House improvements to the Senate bill.

The judge/executive of LaRue County and president of the Kentucky Association of Counties (KACo) said KACo endorses legislation supporting the local-option sales tax. The tax would involve only the particular community that desires to enact it, which can be a particular city or an entire county. The citizens would, by election, choose to enact the provision. A sales tax with a maximum level of 1 percent would be collected as current sales taxes are collected. The citizens become intimately involved in the direction and growth of their community. While elected officials help provide vision, administration, and management, each individual citizen's voice can be heard.

Some may view the local option sales tax as only a large-city proposal that could only benefit Louisville, Lexington, and a small number of other cities in Kentucky. But it is much more encompassing, and the figures that have been generated for each county show tremendous potential for each community. The local-option sales tax is driven by those who live in a community, invest in the community, and make it stronger, thereby making all of Kentucky gain.

The mayor of Lexington asked that the legislature allow citizens to vote and thereby gain a voice in whether they want the local-option sales tax. The state today cannot afford to fund all local government needs. That is why cities and counties need to increase their revenues, within limits. The tax would be for specific projects and then would sunset. The interest in the local option sales tax is in creating jobs. Today, jobs go where the people are—where the people want to be and where the talent is attracted, which is why quality of life and place is important. The local option sales tax can benefit everyone and enjoys bipartisan support.

The mayor of Louisville said Kentucky can remain economically competitive by investing in its people and in its built environment. Oklahoma City invested $2 billion in capital projects and infrastructure using a local option sales tax. About $5 billion in private investment followed. Jacksonville, Florida, built a library, equestrian center, and preservation project and made road improvements with a local option sales tax. The local option sales tax is not just for large communities. Norton, Kansas, which has a population of 2,908, built a city pool with one.

Revenue tools available to Kentucky local governments are real and personal property taxes, special ad valorem taxes, occupational and business taxes, and insurance premium taxes. Kentucky needs options. Cities' general funds have few new dollars. The three major components of employee compensation—pension, health insurance, and collective bargaining agreement wages—have cumulatively outpaced general fund revenue growth. There are limited dollars for capital investments. Every locality in the commonwealth is grappling with these challenges.

Local-option sales taxes are common and are collected in 37 states. Except for Indiana, all states contiguous to Kentucky have this option. Virginia has a 1 percent local sales tax, but no referendum is required. The tax has citizen input and is temporary. The local-option sales tax would improve Kentucky's quality of place to catch up with its competitors, making the state an appealing place for investment and an appealing place to live and work for the children and grandchildren of the state's citizens.

Citizen input is key in determining projects. Most communities using local-option taxes engage their citizens through online input forms and community meetings. After a temporary local-option sales tax is passed, a citizen advisory and oversight process is established to ensure that those projects are moving forward appropriately. A local sales tax could generate considerable revenue.

Food, medicine, residential utilities, and automobiles would be exempt from the local-option sales tax. For the temporary local-option sales tax to become a reality, citizens must be educated and informed, legislation must be passed, the Constitution must be amended, and localities must vote.

The local-option sales tax is endorsed by Republicans, Democrats, Independents, the governor, the Kentucky League of Cities, the Kentucky Association of Counties, the Metropolitan Alliance for Growth (which includes Louisville, Lexington, Northern Kentucky, Warren County, Daviess County, and Hardin County), the media, and many business and civic leaders. Ballot initiatives are often successful because the citizens know for what purposes the money collected will be used. The local-option sales tax was recommended by two state study groups: the 2006 Task Force on Taxation and the 2012 Blue Ribbon Commission on Tax Reform. A poll conducted by *The Courier-Journal* showed that, when asked whether they should have the right to vote on local projects, 72 percent of respondents said yes, 19 percent said no, and 9 percent said they were undecided.

The Daviess County judge/executive spoke in support of the local-option sales tax. Owensboro and Daviess County are growing because citizens voted for one-third-cent increase on the occupational tax. Owensboro allowed citizens to decide how that money was going to be spent. The local-option sales tax is the way to reconnect local people with local government.

The executive director of the Kentucky Center for Economic Policy told the committee that local governments have challenges generating the revenue they need based on constitutional and statutory limits, property tax limits, limits on types of taxes local governments can levy, and limits on general revenue sharing. There is also the lack, in some communities, of a commercial and business base needed to make occupational and sales taxes viable, and there is a loss of taxes due to industry declines. Kentucky's property taxes are low. In 2009–2010, there was $21 in state and local property tax revenue per $1,000 in state personal income, which is 42 percent lower than the national average of $36 and ranks Kentucky 45th among states. Reliance on property tax is declining in Kentucky. Real property tax rates in Louisville and Jefferson County have fallen dramatically. There has been a 35 percent decline in Louisville and a 42 percent decline in Jefferson County since 1978. If Louisville and Jefferson County had maintained the tax rate, it would have nearly $60 million to $70 million more in revenues.

The sales tax is a regressive tax. Even with exclusions, the poor pay more in sales and excise taxes as a percent of their income than others. The sales tax base is eroding in part because services are not included in the sales tax base. Other challenges with sales taxes in general include the fact that the tax is not deductible against federal taxes like an occupational tax and property tax; there is limited growth of sales tax revenue because it is not modernized; there is a loss of state sales tax revenue because of border and consumption effects; it is not a solution for localities without a sufficient commercial or retail base; and there has been a problem with earmarking for specific projects.

Some context is needed when considering the local-option sales tax. The Blue Ribbon Tax Commission recommended the sales tax, but it recommended it as a part of tax modernization and comprehensive tax reform that included sales taxes applying to services and a refundable state earned income tax credit to help offset the impact of a regressive sales tax on lower-income people. Also, a proposal for the tax should not be seen as a swap or an offset or a reduction for another tax such as an occupational tax, as this may be seen as a shifting of responsibility from those who are most able to pay to those who are least able to pay.

Considerations for local tax reform in general would be taking a broad view of the issue of local taxation as well as state taxation; making tax fairness and revenue sustainability a part of the conversation; addressing the decline in the property tax; and increasing the scrutinizing and disclosing of tax breaks.

State-Level Monitoring of City and County Financial Conditions

The chair of the committee said that, in consideration of several local governments across the country being in fiscal distress and in some instances declaring bankruptcy, the committee should evaluate whether state statutes are comprehensive enough in their requirements for monitoring local government financial conditions.

The auditor of public accounts said that his office conducts county audits or allows counties to hire out their audits. The auditor audits the majority of sheriffs and clerks. His office does not have the statutory authority to require audits of cities. However, if a complaint is made, then cities can be audited.

The Auditor’s Office has seen an increase in complaints to audit cities. There are increased financial strains on cities due to declining revenues and pension costs, as well as a significant loss of coal severance funds. There is also a lack of control and oversight by city councils. A lack of training can contribute to this. The auditor conducts many types of audits.

The chief of staff for the Department for Local Government (DLG) said DLG’s responsibilities over cities and counties are different. A county is a constitutionally established political subdivision of the state. The role of state government is much stronger with respect to counties than to cities.

DLG’s state local finance officer and branch manager of counties said DLG can approve or disapprove all county budgets, with the exception of Lexington-Fayette Urban County

Government and Louisville Metro Government. His staff has to approve a balanced budget of each county. Each county is required to submit four quarterly reports. If a county seems to come into financial distress, DLG can perform a financial analysis for that county. The state local debt officer, who is the commissioner of the department, approves debt of $500,000 or more. There is a hearing and an approval or disapproval process.

DLG's branch manager for cities and special districts said DLG receives city audits and uniform financial information reports and compiles them into a useful database to share with the Legislative Research Commission, the US Census Bureau, and the Kentucky League of Cities. DLG does not have the authority to review the audits but simply houses them and passes them on to interested parties. DLG does not receive city budgets.

The chief governmental affairs officer of the Kentucky League of Cities said cities are formed by their citizens. Their auditing and budgeting procedures are public. Audits are performed every year except in cities of the sixth class. Cities have to publish components of those audits in the newspaper for the citizens to be able to analyze the audits, and the auditor's opinion letter is part of that publication. It comes at a significant expense, and it is transparency that cities have traditionally supported and embraced, with the budget process as well. As cities adopt a budget, the budget must be published in the form of an ordinance. Where there are distinctions as to any inadequacies in the city auditing or the budgeting process, they probably stem from a historical basis that traces the differences between cities and counties. City leadership is responsible to the people.

City Reclassification

Representative Riggs said he is sponsoring a bill during the 2014 Session to change the way cities are reclassified. Cities are classified by population, and the General Assembly reclassifies them through legislation. The proposed system would base the classification system on the city's governance model. The forms are alderman form (Louisville Metro still uses the powers assigned to this class); city manager form (20 cities); and mayor-council and commission form (398 cities). Class changes would be a change in the government form. To change the government form, the city must have a public vote. The General Assembly would no longer have to vote on reclassifications. The proposal does not seek to make substantive changes to local issues, but some blending or unifying of city powers may make the system more efficient.

The executive director of the Kentucky League of Cities (KLC) discussed the history of city classification and pointed out issues concerning classification.

The chief governmental affairs officer of KLC elaborated on the history of special and local legislation and the demands that this kind of legislation placed upon the General Assembly. One hundred years before home rule, cities had to petition the General Assembly for authorities for their government. Many diverse laws are gauged on city classification. In 1994, voters approved the ability of the General Assembly to devise a new classification system. There has not been a uniform proposal since then to change the classification system. City populations do not always match the statutory requirements for the classification of the city. KLC formed a committee to propose a new classification system. The chief governmental affairs officer outlined the bill draft that is being proposed to accomplish reclassification change.

KLC's Legislative Platform for the 2014 Session of the General Assembly

The Kentucky League of Cities 2014 legislative agenda is as follows:

- **City Revenue Diversification**. KLC will seek to expand the authority to impose a restaurant tax to all cities, with adjustments to net profits and gross receipts taxes on restaurants in return. KLC will support an amendment to the Kentucky Constitution to permit cities to ask voters to decide on a temporary local sales tax.
- **911 Funding.** KLC will seek to increase the current commercial mobile radio services (CMRS) fees, require prepaid providers to remit the CMRS fee that postpaid mobile subscribers are required to pay each month, support the repeal of the cost-recovery statutes that require taxpayers to pay for the costs of wireless providers for carrying 911 calls, continue to oppose any measure that removes the ability of local governments to impose local fees for the operation of 911 services, and oppose any proposal that would reduce the total amount of state-generated revenue from the wireless fees.
- **City Classification Reform**. KLC will seek to create a new classification system based on form of government. The proposal would reduce in the number of city classes and would largely eliminate arbitrary and illogical distinctions between classes.
- **Road Aid Formula Modernization**. KLC supports restructuring of road funding formulas for a fair allocation to local governments with higher traffic areas and thus more frequent needs for repair and maintenance.
- **Police Officer Personnel Issues**. KLC will continue to strongly oppose any legislation that expands the "Police Officer Bill of Rights" to make its provisions applicable to all internal matters. Depending on whether the Supreme Court renders a decision in pending litigation, KLC may seek legislation that clarifies the language and eliminates contradictions in a number of police personnel statutes.
- **Retirement: Anti-Spiking Legislation**. KLC will seek to clarify the meaning and application of anti-spiking provisions to ensure they do not apply cumulatively and also provide for additional needed exemptions for increases that occur for other legitimate reasons rather than abuse.
- **Prevailing Wage**. KLC will seek either to repeal the existing state prevailing-wage law or to make significant amendments to the statutes to raise the threshold or manner of calculating the rates.
- **Newspaper Publication Reforms**. Cities will work with the Kentucky Press Association to modernize the laws related to newspaper publications by incorporating online resources and other mediums to provide citizens more access to information about the operation of their city government in a more cost-efficient manner.
- **Drug Abuse**. KLC will continue to support legislation that addresses addiction's destructive impact on the quality of life in communities, through the examination of criminal penalties and opportunities for treatment and rehabilitation for those who become addicted.
- **Protecting Home Rule and City Budgets.** City leaders will vigorously oppose any legislation that attempts to preempt local home rule authority or impose unfunded costs on city taxpayers.

KACo Legislative Platform for the 2014 Session of the General Assembly

The president and incoming president of the Kentucky Association of Counties presented KACo's 2014 legislative platform:

- **E-911 Funding.** The two existing statutory funding frameworks provide 52 percent of funds required to provide the service. The remaining amount, $42 million, is provided by general fund money from the counties. Landline usage is decreasing, so KACo proposes an increase in the landline fee as well as adjustments to charges for prepaid wireless phones as well as contracted wireless phones.
- **Pension Payment Due in Full.** KACo urges the General Assembly to pay the Commonwealth's portion of full annual required contribution payment to fully fund the Kentucky Retirement System.
- **Biennial Budget Priorities.** The budget did not fully cover catastrophic medical coverage for inmates housed in county jails (the equivalent of about 1 month out of 12 was funded). Counties that are heavily dependent upon coal severance funds are suffering because of declines in coal severance money. Another priority is the restoration of funding for prosecutors and property valuation administrators (PVAs). PVAs are concerned that they will have to lay off employees, which will hurt valuation operations. Prosecutors have absorbed multiple cuts in funding. KACo is interested in pursuing the local-option sales tax, also known as the Local Investment for Transformation initiative. "Kentucky Wins" is another priority that would place expanded gaming before the voters.

Administrative Regulations

The following administrative regulations were referred to and reviewed by the committee:

- 815 KAR 4:030 & E—Elevator contractor licensing requirements
- 815 KAR 4:040 & E—Elevator mechanic licensing requirements
- 815 KAR 7:125—Kentucky Residential Code

Report of the 2013
Interim Joint Committee on Natural Resources and Environment

Sen. Jared Carpenter, Co-Chair
Rep. James Gooch, Co-Chair

Sen. Joe Bowen
Sen. Chris Girdler
Sen. Ray S. Jones
Sen. Robert J. Leeper
Sen. Jerry Rhoads
Sen. John Schickel
Sen. Johnny Ray Turner
Sen. Robin Webb
Sen. Whitney Westerfield
Rep. Hubert Collins
Rep. Tim Couch
Rep. Keith Hall
Rep. Stan Lee
Rep. Reginald Meeks
Rep. Tim Moore
Rep. Marie Rader
Rep. John Short
Rep. Kevin Sinnette
Rep. John Will Stacy
Rep. Fitz Steele
Rep. Jim Stewart
Rep. Jill York

LRC Staff: Tanya Monsanto, Lowell Atchley, Stefan Kasacavage, Kelly Ludwig, and Kelly Blevins

Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Natural Resources and Environment

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; air pollution; management of waste; protection of the environment; and the Energy and Environment Cabinet.

Committee Activity

The Interim Joint Committee on Natural Resources and Environment held five meetings between June and November during the 2013 Interim. No subcommittees were authorized. Many topics were discussed during the Interim, but the central theme was the manner in which the state addresses environmental impacts on air, water, and land. The committee examined changes in significant federal air and water rules. There were no meetings out of Frankfort. The August meeting was canceled because of the special session.

Changes in Federal Air Quality Rules, Electric Utility Rates, and the Coal Industry

Environmental regulation has become more stringent over the past decade with the United States Environmental Protection Agency taking a lead role in issuing new federal air quality rules. These rules affect the cost of electricity to Kentucky electric utility ratepayers. A Kentucky Energy and Environment Cabinet representative testified about the Obama administration's climate change program. The program includes several new federal rules issued by the Environmental Protection Agency, forcing reductions in carbon dioxide emissions from new and existing electric power plants. A more controversial component included a prohibition on the financing of coal-fired electric generation projects overseas. The administration also advanced an $8 billion loan guarantee to states for advanced fossil energy and efficiency projects and promised new energy efficiency standards for buildings and appliances. Like earlier rules, overall emissions limitations are achieved through targeted reductions at point sources like electric power plants.

Representatives for Louisville Gas and Electric Utility and Kentucky Utilities explained that the various Kentucky utilities do not have a comprehensive plan for addressing rate increases associated with new federal air quality rules. Each regulation increases cost to the electric power consumer. Technology to remove and control carbon dioxide does not exist. The new rules will bring significant changes, but utilities are requesting flexibility and time to properly assess the impact and properly implement the rules. The rules are intended to force fuel switching from coal to natural gas, but it will take time to force the retirement of existing coal-fired plants and commence the construction of new gas-fired plants.

In October, the Energy and Environment Cabinet discussed revisions to the proposed greenhouse gas rules and discussed the cabinet's systemwide approach to implementation. The Environmental Protection Agency had revised the standards for greenhouse gas emission for new and existing sources. The changes include a 12-month targeted reduction of 1,100 pounds of carbon dioxide per megawatt hour of electricity from coal-fired boilers. Since the state average emission of carbon dioxide is 1,950 pounds per megawatt hour, the reduction cannot be achieved unless Kentucky's facilities were carbon capture ready, and that technology does not exist. Century Aluminum testified that federal standards to regulate atmospheric emissions from coal-fired sources will raise Kentucky's electricity rates, thereby putting the aluminum industry under intense economic pressure.

A representative from the newly established Office of the Reclamation Guaranty Fund testified about coal mine reclamation bonding in Kentucky. Reclamation bonds were found insufficient by the federal Office of Surface Mining in 2012. This action placed the Kentucky program in jeopardy of being in noncompliance with federal standards. Last year, the Energy and Environment Cabinet described the need for creating a statewide coal mine reclamation bond pool to replace the limited, small-operator bond pool which the General Assembly acted on in passing House Bill 66 during the 2013 session.

Century Aluminum also discussed the operating cost of running the Hawesville and Sebree aluminum smelters. Last year, Century was released from the contractual obligation to purchase power from Big Rivers Electric Cooperative. This arrangement was unprecedented and allowed Century to participate in the purchase power market directly rather than buy power from a public utility. Century reported that, after being released from the contract, the Hawesville plant had its first profitable month; however, the price of power on the spot market spiked after an unplanned outage on the Big Rivers system. Century's representative asserted that Big Rivers has been engaging in unplanned live wire maintenance that is creating spot market price increases and volatility. Century requested the committee to direct the Public Service Commission to investigate and report its findings.

Other Natural Resource Concerns

The Kentucky Department of Fish and Wildlife (KDFWR) has jurisdiction over boating safety. The department discussed the federal 2013 Freedom to Fish Act, which imposed a 2-year moratorium on fishing and boating restrictions imposed by the US Army Corps of Engineers. These restrictions, designed to protect boaters and anglers, had the unintended effect of affecting fishing tourism. The department contends that boater safety can be achieved without the restrictions, which impose physical barriers and buoys along portions of the Cumberland River system.

The department also proposed amending Kentucky's laws on boating under the influence laws to mirror motor vehicle laws, making it easier for Fish and Wildlife officers to determine whether drinking was a factor in a boating accident. Forty-five percent of Kentucky's boating accidents are alcohol related.

The state entomologist and representatives from Kentucky State Nature Preserves and the Division of Forestry discussed exotic and invasive species that are affecting Kentucky's native habitats. Plants such as kudzu are overtaking the Jackson Purchase area and spreading soybean rust. These plants become a resource drain because landowners must treat plants with herbicides, and there is little federal or state money to help offset the cost. The state entomologist discussed invasive insect species like the emerald ash borer and the efficacy of a state quarantine on importation of regulated materials such as hardwoods, nursery stocks, and firewood that has been in place since 2009.

Water utilities, including distributors and wholesalers, reported that Kentucky has done a good job of improving the infrastructure and delivery of potable water to its population. The success is due to the favorable climate and geography of the state, federal laws that improved water quality, state laws that established reasonable regulation for water utilities, and access to federal and state funding for the development of infrastructure resources. Water resources are part of the community resources that attract industry and drive economic development.

Several water utilities and state regulators, including the Kentucky Infrastructure Authority and the Division of Water, indicated that funding will become less available in the future, and wastewater facilities must grow in response to the rollout of drinking water lines to unserved areas. Infrastructure must be rebuilt and refurbished continually. Many communities are unable to afford upgrades in the current economic downturn. Public-private partnerships, as described by Kentucky-American Water Co., can evolve as a tool to provide needed finance and additional water resources.

Legislative Recommendations

The committee received no legislative recommendations during the 2013 Interim.

Administrative Regulations

As of November 6, 2013, the committee had received 21 administrative regulations pertaining to programs in the Department of Fish and Wildlife Resources and the Energy and Environment Cabinet.

Prefiled Bills Referred to the Committee

The committee received BR 72, an Act relating to the reorganization of the Department of Fish and Wildlife Resources and the Department of Fish and Wildlife Resources Commission, for the 2014 Regular Session.

Reports Received

The committee had received 11 reports as of November 6, 2013:

- Kentucky Pollution Prevention Center: FY 12 Annual Report
- Kentucky Department of Fish and Wildlife Resources: The Status of Hunting Land Access in Kentucky
- Kentucky Department of Fish and Wildlife Resources: FY 12 Hunger Relief Program Report
- Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky Heritage Land Conservation Fund
- Auditor of Public Accounts: FY 12 Report of the Audit of the Kentucky River Authority

- University of Kentucky: FY 12 Kentucky Interagency Groundwater Monitoring Network Annual Report
- Energy and Environment Cabinet, Division of Waste Management: 2012 Report of Kentucky's Waste Tire Program
- Kentucky State Nature Preserves Commission: 2013 Biennial Report
- Public Accounts: FY 13 Report of the Audit of the Kentucky Heritage Land Conservation Fund
- University of Kentucky: FY 13 Kentucky Interagency Groundwater Monitoring Network Annual Report
- Auditor of Public Accounts: FY 13 Report of the Audit of the Kentucky River Authority

Report of the 2013
Interim Joint Committee on State Government

Sen. Joe Bowen, Co-Chair
Rep. Brent Yonts, Co-Chair

Sen. Walter Blevins Jr.
Sen. Ernie Harris
Sen. Stan Humphries
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. Gerald A. Neal
Sen. R.J. Palmer II
Sen. Albert Robinson
Sen. Dan "Malano" Seum
Sen. Damon Thayer
Rep. Johnny Bell
Rep. Kevin D. Bratcher
Rep. Dwight D. Butler
Rep. John Carney
Rep. Larry Clark
Rep. Leslie Combs
Rep. Will Coursey
Rep. Joseph M. Fischer
Rep. Jim Glenn
Rep. Derrick Graham
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Rep. Martha Jane King
Rep. Jimmie Lee
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Rep. Darryl T. Owens
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Rep. Steven Rudy
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Rep. Ken Upchurch
Rep. Gerald Watkins
Rep. Jim Wayne

LRC Staff: Judy Fritz, Kevin Devlin, Brad Gross, Alisha Miller, Karen Powell, Greg Woosley, Terisa Roland, and Peggy Sciantarelli

Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Subcommittee Organization and Membership

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

Sen. Joe Bowen, Co-Chair
Rep. Darryl Owens, Co-Chair

Sen. Walter Blevins Jr.
Sen. Ernie Harris
Sen. Stan Humphries
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. Gerald A. Neal
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Rep. Larry Clark
Rep. Joseph M. Fischer
Rep. Derrick Graham
Rep. Mike Harmon
Rep. Mary Lou Marzian
Rep. Sannie Overly
Rep. Bart Rowland

Rep. Brent Yonts, ex officio

LRC Staff: Greg Woosley, Judy Fritz, Karen Powell, and Terisa Roland

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; secretary of state; 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; regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; and absentee ballots.

Committee Activity

The Interim Joint Committee on State Government held five meetings during the 2013 Interim, focusing on state and local issues confronting Kenton, Boone, and Campbell Counties; cybersecurity; the Kentucky Employees' Health Plan; the state parks system; Kentucky Retirement Systems; and the Kentucky Teachers' Retirement System.

State and Local Issues Confronting Kenton, Boone, and Campbell Counties

Brent Spence Bridge Project. The Kenton County judge/executive said the Kenton County Fiscal Court opposes the use of tolls as a funding mechanism for the reconstruction or replacement of the Brent Spence Bridge. The Brent Spence Bridge project is estimated to cost $2.5 billion. The bridge and the renovation of the existing bridge will cost more than $800 million. The Ohio-Kentucky-Indiana Regional Council of Governments estimates the daily bridge user ratio of Kentucky versus Ohio residents at 65:35.

The residents and business owners of Kenton County will be severely harmed if they are expected to carry the brunt of any toll because of the county's proximity to the new bridge, and such a situation will result in a significantly disproportionate cost per capita relative to any other county in the Greater Cincinnati and Northern Kentucky regions. Residents in surrounding counties in Kentucky will be able to avoid tolls on the Brent Spence Bridge because they have access to other bridges.

Drug Treatment. The Kenton County judge/executive said the heroin problem appears to be far greater in Northern Kentucky than anywhere else in the commonwealth. The Kenton County Detention Center averages about 600 inmates per day and is at capacity. About 80 percent are there because of drug-related issues at a cost of $23,000 per year per inmate. The numbers are similar for Campbell County, and to a lesser degree, Boone County.

There is a shortage of beds in residential treatment centers in Northern Kentucky. Louisville has 787 beds, and Lexington has 467 beds. Northern Kentucky has 199 beds, which is inequitable.

State Funding Inequities. The Kenton County judge/executive noted three areas of state funding inequities. The first is state funding for higher education per student in Kentucky. The University of Kentucky and the University of Louisville receive approximately $12,000 per student; Morehead State University receives $5,935 per student; Murray State University receives $5,994 per student; Eastern Kentucky University receives $5,469 per student; Western Kentucky University receives $4,578 per student; and Northern Kentucky University receives $3,987 per student. Northern Kentucky is the third-largest populated region in the state and produces a large amount of revenue for Kentucky. There needs to be some equality in the sharing of the educational revenue that is generated.

The second issue involves the allocation of state contract dollars for behavioral health and substance abuse per capita. Comprehend receives the most, with $38.57 per capita, and North Key Community Care (representing Northern Kentucky) receives the least, with $16.36 per capita.

The third issue involves the 2013 Regular Session House redistricting proposal. Northern Kentucky districts contained a maximal number of people in a district, minimizing its ability to be fairly represented in Frankfort.

Economic Development. The Campbell County judge/executive said Northern Kentucky is succeeding in economic development. The area has led the state in the past 15 to 20 years in job creation. It is the only region in the state directly under the influence of a big city nearby in a neighboring state. Even with all of the successes of the state and Northern Kentucky, there are some concerns. In the last 4 or 5 years, surrounding states have improved their economic competitiveness. Kentucky does not have some of the appeal of Florida or California. Kentucky must have an infrastructure and tax climate that are competitive and attractive to people. As an example, Ohio does not have a corporate income tax. In the last couple of years, the effect was direct on Northern Kentucky, which lost a Fortune 500 company, as well as another large employer of several hundred people out of Covington. In a recent competition over an advanced manufacturing firm, Northern Kentucky lost to Ohio. The total from just those three examples is more than 1,000 jobs, with millions of dollars of tax revenue that would have come to Northern Kentucky and gone to the state.

The tax reform commission has done good work but needs to go a step beyond and establish the goal of doing something that places Kentucky in the lead among states. It should catch the attention of prospective employers in certain categories that are meaningful and give Kentucky something convincing to sell.

The Northern Kentucky Convention Center needs to be expanded because the groups that use the convention center have grown. It is the only convention center in the state that covers its own operational expenses and is one of the few in the United States to do so.

Infrastructure Needs. The Boone County judge/executive said there used to be regular allocations for infrastructure improvements of water and sewer. In a growing region like Northern Kentucky, the lack of these allocations has made it difficult to provide water and sewer service to unserved people. About half of Boone County's land mass does not have public water; the county is trying to do more with less. The county has been fortunate that it has seen job growth in the private sector even though it is losing companies to Ohio.

Sanitation District No. 1 is the sewer and storm water utility that covers all three counties in Northern Kentucky. Northern Kentucky has been under a consent decree since 2005 and has 20 years to meet the elements of the decree. Between now and 2025, Northern Kentucky must spend about $3 billion to meet all of the requirements, and the figure is growing. The rate increases over the last several years have been high but have been required to meet this unfunded mandate from the federal Environmental Protection Agency, Kentucky Department for Environmental Protection, and the Kentucky Division of Water. Meeting the requirements and yet allowing residents to pay affordable utility fees in that timeframe is impossible. Northern Kentucky needs more time to get it done and needs assistance from the General Assembly.

Local governments need more tools to be self-sufficient, such as getting rid of obstacles that prevent the merging of certain units of government, combining departments across county lines, or cities combining services.

Cybersecurity Challenges

The auditor of public accounts (APA) testified that the role of the Auditor's Office as cyber-watchdog has been established for many years. The office conducts cyber audits—relating to computers and information technology (IT)—and vulnerability assessments for state and other agencies where technology significantly affects the processing and reporting of confidential information. Kentucky is one of only four states without a breach notification law. If an agency in state government inadvertently releases confidential information about Kentucky taxpayers, the commonwealth is not required by law to notify the taxpayer. APA will work for enactment of a breach notification law and other laws to strengthen cybersecurity. Not all Kentucky state government data is encrypted, but the Commonwealth Office of Technology (COT) is executing a plan to reach full encryption within the next 2 or 3 years. It is a goal of APA to strengthen its relationship with COT to ensure that systems and data are properly secured and to identify new opportunities as the state continues consolidating IT resources and functions under COT. APA also wants to work with the Legislative Research Commission, the National Governors' Association, and other organizations in the forefront of policy making.

The chief information security officer for DocuSign, a company recognized as a global leader in security, testified about cybersecurity adversaries and their methods, future trends in cybersecurity, costs related to cyber threats, and methods of defense. Cyber threats are increasing and becoming more pervasive, sophisticated, and organized. Methods of counterattack include a cybersecurity executive order; state and federal laws and initiatives; industry forums; new regulations; and offensive capabilities yet to be determined, such as possible revision of federal law. From January 1, 2009, to May 31, 2012, there were 268 breach incidents in government agencies, involving more than 94 million records containing personally identifiable information. Portable devices are a leading source of records breaches. The cost of a data breach can be as high as $100 million. Ponemon Institute's 2011 Cost of Data Breach Study assessed the cost at $194 per lost record. Cybersecurity preventive measures are expensive but much less costly than the alternative.

A retired US Air Force lieutenant general who is the chairman of the Deloitte Center for Cyber Innovation and one of four co-chairs of the Commission on Cybersecurity for the 44th presidency testified that Deloitte has been an active participant in a National Policy Council for State Cybersecurity and has been helping shape policy recommendations for governors. One way to counter cyber threats is through creation of a cyber workforce of employees trained and educated in cyber awareness. Other counters include network access controls such as firewalls and antivirus software, monitoring of outbound activity, dynamic situational awareness, open source information, and forensic analysis that can be shared with others. Substantial research is under way in the field of cyber analytics. Experts differ on the benefits of legislation as a counter. The East West Institute, a global think-and-do tank that devises solutions to security concerns, found that 54 percent of experts doubt their organization is capable of defending against a sophisticated cyber attack, 61 percent fear losing global connectivity, and 66 percent think a cyber warfare treaty is needed or overdue.

High-profile cyber attacks from loose-knit, politically motivated groups are increasing. Recent developments have elevated cybersecurity to a governor-level issue, and a number of governors have taken a strong stand. The goal of the Executive Order and Presidential Policy Directive 21 signed by the president in February 2013 is to improve cybersecurity information sharing and to develop and implement risk-based critical infrastructure standards through a public-private partnership. The National Institute of Standards and Technology is leading a public-private collaboration to build a cybersecurity framework for the nation that is expected to be in place in February 2014. The federal Department of Homeland Security and other federal agencies will likely play a pivotal role in information sharing. State and local governments need to look for funding opportunities from the federal government to implement a cybersecurity framework. The executive order should serve as a catalyst for the commonwealth of Kentucky to embrace a cybersecurity framework and its potential influence on critical infrastructure. Sixteen industry sectors are defined as critical infrastructure, with 85 percent in private-sector hands. Examples include agriculture and food, communications, dams, emergency services, health care and public health, transportation systems, and water and wastewater systems.

In the United States, more than 20 percent of reported data breaches occur in state and local government agencies. Cyber crime is more prevalent and more insidious than other crimes, and cyber criminals are more organized and effective than ever. Key messages for Kentucky include understanding the state's risks, starting and sustaining an information security program, and establishing laws for reporting cyber risks. Protection cannot be complete, but it begins with identification of critical infrastructure and databases. Safety of home user electronic products is a valid concern; it is important to buy from trusted vendors. Other concerns are the counterfeiting of products and electromagnetic pulse attacks that could disable power grids and electronic devices. Sophisticated attacks via the Internet can also have devastating effects. The commonwealth and other states can work together through organizations like the National Association of State Chief Information Officers (NASCIO) and the Multi-State Information Sharing and Analysis Center to learn from others and address current and future security issues. Deloitte's 2012 update of its NASCIO Cybersecurity Study is available in print and electronic format and is downloadable from www.deloitte.com.

Kentucky Employees Health Plan

The commissioner of the Department of Employee Insurance and the deputy executive director of the Office of Legal Services, Personnel Cabinet, presented information about plan options available in 2014. Wellness and consumerism are themes for the new plan year.

Loss of grandfathered status under the Affordable Care Act in 2014 is responsible for some of the new plan year changes. Wellness is being emphasized through the HumanaVitality program. The Compass ChoiceRewards pilot program has been introduced to encourage members to price shop for medical procedures and diagnostic tests and then share in any savings that result from their choices.

Kentucky has received funds totaling $95 million from the early retiree reinsurance program (ERRP), a reimbursement program of national health care reform that provides funds to reduce benefit or premium cost increases. About 50,000 early retirees are Kentucky Employees Health Plan (KEHP) members. Loss of grandfathered status in 2014 required benefit changes that added cost to the plans. The funds must be used by December 31, 2014, when the program ends. Without the benefit of ERRP dollars, KEHP would have faced more difficult cost decisions.

The employer contribution will increase 2 percent in 2014, compared to annual trend projections of 8 to 9 percent. According to the Kaiser Family Foundation, the commonwealth's 2014 employer contribution is 91 percent for individual coverage and 79 percent for family coverage; respective comparative benchmarks are 87 percent and 76 percent. Premiums will increase slightly for some plan options, decrease for others, and improve for many dependent tiers. Plan designs reflect some of the mandates and benefit enhancements of federal health care reform. The nonsmoking premium incentive will increase and expand to include all tobacco products. The premium incentive formerly applied only to the plan holder but in 2014 will apply also to covered spouses and dependents age 18 and older. The biggest premium increases for 2014 are for family cross-reference in the LivingWell plans; however, those premiums still reflect a significant discount when compared to full family coverage.

Four plan options are offered for 2014: LivingWell CDHP (consumer-driven health plan), LivingWell PPO (preferred provider organization), Standard PPO, and Standard CDHP. LivingWell CDHP has the highest actuarial value and features an employer-funded health reimbursement account (HRA) that can be used to reduce the deductible. Unused HRA funds roll over to the next plan year. Standard CDHP has the lowest monthly employee premium—$12.98 for single nontobacco users—and also includes an employer-funded HRA. All plans cover in-network preventive care at 100 percent, the primary new benefit enhancement. Other enhancements include coverage of clinical trials and the allowance of certain costs to be counted toward the deductible and out-of-pocket maximum.

The two LivingWell plan options offer better benefits in the form of lower coinsurance, deductibles, and out-of-pocket maximums. These plans require members to make a LivingWell promise by agreeing to complete an online HumanaVitality Health Assessment between January 1 and May 1, 2014, and to keep contact information current. Only the primary plan holder is subject to the LivingWell Promise; spouses and dependents will not be required to complete the online health assessment. Under the cross-reference option, however, both plan holder and spouse must fulfill the LivingWell Promise. Information disclosed during the online health assessment will remain confidential. KEHP will not collect personal health information from the assessment but may receive aggregate data from HumanaVitality based on the assessments completed by all members.

Kentucky ranks 45th among the states in major health status categories. Life expectancy at birth is lower than in the South and in the nation as a whole. The state also has a higher percentage of overweight or obese adults and children, adult smokers, and adults reporting asthma prevalence and poor mental health. It is a goal of the commissioner and KEHP to improve health status in the commonwealth. KEHP has 270,000 plan members, with approximately 160,000 being the primary plan holders.

The 2014 plan options are believed to be the best that KEHP could afford, considering the budgeted funds available, health care cost trends, and additional costs related to federal health care reform. The plans are fiscally sound with no intent to build surplus funds.

Kentucky State Parks System

The committee met at Lake Malone State Park in October to draw attention to complaints about conditions at that park and the needs of all Kentucky state parks. The commissioner of the Department of Parks testified that the parks system has been and continues to be in serious financial trouble. Escalating personnel and business costs and an eroding customer base have brought the situation to the critical stage. There have been numerous attempts to reverse this course, but until revenue issues are addressed, the customer base will continue to erode and negatively affect the future of the parks. Contributing factors to the decline in park revenue are a downturn in the economy, a change in visitor vacation patterns, declining guest services, and a reduction in government sector conference and meeting business. Personnel costs have escalated despite a significant reduction in full-time staff and cuts in the number of hours worked by field staff. FY 2012 retirement and health insurance costs were almost $12 million. The department has also had to deal with a dramatic increase in new construction without receiving added funding for maintenance. Operating and maintenance funds for the new structures have been reduced from $11 million in FY 2000 to approximately $5 million in the current biennium. The department has not been able to meet the standard life cycle for replacement of most infrastructure or the industry standard for replacement of in-room amenities and furnishings. Technology challenges are dramatically impacting services. Critical software, particularly in the resort parks, is so outdated that park reservations cannot be booked through programs like Travelocity and Expedia. The estimated cost to address technology needs is $4 million.

Increased efficiency of operation and a change in culture have been achieved since development of the 2010 Kentucky State Park Operations Strategic Plan, but outside forces continue to affect the ability to maintain and grow. To decrease expenditures over the last several years, the department transferred three parks—Constitution Square, Ben Hawes, and Benham-Lynch—to local governments and reduced full-time staff by 23 percent. None of the golf courses are operating in the black, but courses at Dale Hollow and My Old Kentucky Home State Parks are close to being profitable. Where allowed by local ordinance, the sale of alcoholic beverages at parks is proving beneficial.

Weekly hours for workers have been cut by as much as 20 percent during the winter months, which has hurt morale and diminished the level of services. The Department has advised park staff that they will remain at 37½ hours during the winter season, with the goal of maintaining that as the new norm. This measure has greatly improved morale.

The department is endeavoring to develop more public-private partnerships and is working closely with the Kentucky State Parks Foundation and with friends groups, concerned citizens who work together to support their local parks. Volunteer support from communities is key to success of the parks system. The private sector is not interested in unprofitable park operations. An optimal way to structure private sector involvement would be to provide land at no cost for the private sector to build, operate, and maintain a facility, with a percentage of profits returned to the parks system.

The commissioner said that the state park system plays a significant role in the economy and that investing in the parks makes good business sense. The economic influence of the parks equaled more than $840 million in 2011. Kentucky is unique among the states in its number of resort parks and golf courses. The parks need an increased revenue stream. The need to focus on maintenance-related health and safety issues has limited the ability to address other areas. Assistance is needed to pursue public-private partnerships and to streamline operations. The request for proposals process can sometimes prove cumbersome and hinder partnering with the private sector. The commissioner also commended the performance of both central office and parks field staff.

The president of the Kentucky State Parks Foundation testified about its mission and funding status. A group of residents from surrounding counties attended the meeting, and several testified in support of Lake Malone State Park. Three concerned citizens submitted written statements for the committee's consideration.

Kentucky Retirement Systems

The Kentucky Retirement Systems (KRS) executive director reported that after the FY 2013 annual valuation is submitted to the Board of Trustees in December, the board will set FY 2015 and FY 2016 employer contribution rates for Kentucky Employees Retirement System

(KERS), State Police Retirement System, and County Employees Retirement System (CERS). The consolidated annual financial report should be published in early January 2014.

As of June 30, 2012, KERS-nonhazardous was 27.3 percent funded. A minor drop in the funding status is expected for FY 2013, mainly because investment return is smoothed over a 5-year period. If 100 percent of the actuarially recommended contribution (ARC) is paid and 7.75 percent investment return is achieved, the unfunded liability should be paid off by the end of the 30-year amortization period.

The requirements of Senate Bill 2, enacted in the 2013 regular session, are being implemented. The new hybrid cash balance plan for new hires will become effective January 1, 2014. KRS looks forward to working with the Public Pension Oversight Board created by Senate Bill 2.

Elections will commence in January to fill two board members' terms that will expire March 31, 2014. Two key personnel in the investment division resigned, effective December 31, 2013. KRS has presented a reorganization plan to the investment committee with the goal of providing better career paths in that division.

KRS is involved in four lawsuits with employer groups that are seeking to withdraw from the systems. If they are permitted to withdraw and not pay their share of the unfunded liability, contribution rates would increase, and KERS and CERS participating employers would incur significant additional cost.

Seven Counties Services Inc., a mental health services agency in the Louisville region, filed a Chapter 11 bankruptcy petition in April 2013, seeking to end the necessity for contributions for its employees in the KERS-nonhazardous plan and ultimately seeking to discharge its debt to the plan. Seven Counties argues that it has the right to withdraw from the plan because it is not a governmental entity. The lawsuit also claims that KRS no longer qualifies as a governmental pension plan and is therefore subject to the Employee Retirement Income Security Act. KRS argues that Seven Counties is governmental and as such cannot file a Chapter 11 bankruptcy petition. A KRS motion for a preliminary injunction was denied, and in April 2013 Seven Counties ceased making contributions for approximately 1,000 employees (about $1.1 million monthly) but continued contributions for about 400 employees ($300,000 monthly). Motions for dismissal by Seven Counties and KRS were denied. The case will go to trial in March 2014.

The Bluegrass Mental Health/Mental Retardation agency filed suit in Franklin Circuit Court seeking a ruling that it is not eligible to participate in the systems and to clarify its employees' relationship with KERS. The agency began participating in KERS-nonhazardous by executive order in 1978. It has been ruled that employees of Oakwood Services—a sub-entity created by the agency in 2010 for new hires—are not required to participate. KRS has appealed two rulings in the case to the state Court of Appeals.

In 2011, KRS sued Kentucky River Community Care Inc. (KRCC)—headquartered in Jackson and serving eight eastern Kentucky counties—after learning that KRCC terminated most of its employees and rehired them in Go-Hire Employment and Development, an entity created by KRCC.

In September 2013, Frontier Housing Inc. (headquartered in Morehead) and Housing Oriented Ministries Inc., (headquartered in Whitesburg), two entities participating in CERS since 2002, filed suit in Franklin Circuit Court asking to be declared ineligible to participate because they are not governmental entities.

Kentucky Teachers' Retirement System

The Kentucky Teachers' Retirement System (KTRS) executive secretary testified that the system's pension liability is growing at 7.5 percent, compounded. To remain actuarially sound, KTRS needs $386 million in the first year of the coming biennium and more than $400 million in the second year. In FYs 2007 and 2008, retired teachers gave up 0.8 percent and 0.7 percent ad hoc cost-of-living allowances, and the legislature appropriated additional funds to keep KTRS actuarially sound. The legislature appropriated additional funds in the form of $865 million in bonds since 2010—primarily to repay KTRS for $465 million borrowed to fund retiree medical benefits, plus $400 million for transition funding when Shared Responsibility legislation was enacted to provide long-term funding of retired teacher health care. The total contribution rate is now 29.46 percent, reflecting an additional 3 percent that active teachers began contributing after passage of the legislation. KTRS was 97 percent funded in 1998–1999 but now is only 54 percent funded.

The executive secretary said that defined benefit pension plans are the most cost effective method of providing for retirement benefits. They feature professionally managed investments, lower administrative costs, and insurance against longevity and market timing risks. They provide a bridge through market downturns and can deliver the same benefit at about half the cost of a defined contribution plan.

Over the last 5 years, KTRS investment performance has ranked in the top 7 percent of public pension plans nationally. The assumed rate of return is 7.5 percent. KTRS administrative costs are among the lowest in the nation for statewide pension plans.

Pension reform in 2008 lowered costs by significantly reducing the multiplier for new hires, limiting sick leave credit—formerly unlimited—to 300 days, extending the vesting requirement from 5 to 15 years, and increasing age/years-of-service eligibility requirements. Enactment of the Shared Responsibility legislation in 2010 reduced the unfunded liability from more than $8 billion to $3 billion.

Kentucky teachers do not receive Social Security benefits, and the average annual pension benefit after 30 years service is about $36,000. Retired teachers returning to the classroom can earn only 65 percent of final salary if retired with less than 30 years of service, or 75 percent if retired with 30 or more years. Teachers are eligible for retirement benefits after 27 years of service. The average teacher retires at age 58, with 30 years of service. KTRS has 15,000 members now eligible to retire—or one out of four classroom teachers. Before passage of the Shared Responsibility legislation, teachers were contributing 9.855 percent of pay toward retirement and medical benefits. By the end of the current biennium, the 6-year phase-in of that legislation will be complete, and teachers will be contributing 12.855 percent of pay.

The executive secretary maintained that the funding problem is due to the state not being able to contribute its share but agreed, when it was suggested by a member of the committee, that poor investment return was a primary driver. He said that, since 2008, the state has not made the required annual contributions for teachers' pensions. The change in Government Accounting Standards Board (GASB) rules in 2015 will require the state to report almost double the unfunded liability—from $12 billion as of June 30, 2012, to $23 billion. The problem grows at compounded rates, and the state's options to solve the problem will decrease with upward movement in interest rates.

The executive secretary offered a framework for a plan to solve the funding problem and keep the system actuarially sound:

- Adopt a long-term solution this biennium that would stop compounding the problem;
- Make required annual contributions by replacing the state's debt, which is compounding at 7.5 percent, with a pension obligation bond issued at historically low rates—now 4.3 percent; and
- Establish a minimum time frame for making required annual contributions from the general fund over the next 6 years.

Bonding would be a good option; $865 million in bonds previously appropriated by the legislature is now worth more than $1.1 billion in the KTRS investment portfolio.

The executive secretary said that KTRS investments have done everything they are supposed to do, and he believes that a 7.5 percent return is attainable. To achieve those earnings, assets must be available to invest. The situation is difficult for both KTRS and the legislature, but a plan needs to be in place that can guarantee retirement benefits and fulfill the inviolable contract for teachers in the long term.

Subcommittee Activity

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

The Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs held four meetings during the 2013 Interim. The Task Force considered a variety of issues, including a proposed constitutional amendment relating to constables; the days on which local-option elections are held; the restoration of voting rights for certain convicted felons; voter identification requirements; and the thresholds for campaign finance reporting.

Constitutional Amendment to Abolish the Office of Constable

The task force heard about a proposed constitutional amendment to provide local governments the option to abolish the office of constable. The commissioner of the Department of Criminal Justice Training testified that his office had conducted a study concluding that constables are not necessary in Kentucky because they perform less than one-quarter of one percent of all law enforcement duties. He expressed concerns about the lack of training requirements for constables and the potential liability to county governments for constables' actions, and he testified that the cost of training constables to a level commensurate with other peace officers is likely not justified based on the limited amount of law enforcement work that constables perform.

The president of the Kentucky Constables' Association testified that, rather than seeking to abolish the office of constable, the General Assembly should address concerns with training standards in a manner that would retain the 569 constable positions that assist with law enforcement duties in the commonwealth. The association has developed its own plan for constable training to be funded by the constables themselves. The government affairs director of the association gave an overview of constables' work in the counties and presented a proposal for legislation that would add required certification and training requirements. The association opposed the proposed constitutional amendment because it would give the power to abolish the office to the local fiscal court rather than to the people of the county who elect constables, and because it does not alleviate the lack of training issue for those counties that choose to keep the constable office.

Local-Option Elections

The task force discussed the days on which local-option elections are required to be held. The Oldham County clerk and the Leslie County clerk, representing the Kentucky County Clerk's Association, testified that current Kentucky law creates a costly requirement for counties that local-option elections be held on days other than a primary or regular election day. The Oldham County clerk gave several examples of the costs involved, with one example of nearly $2,500 in expenses to the county for a total of 56 votes cast in one election. Both clerks advocated for a cost-saving statutory change that would require local-option elections to be held on either a primary or regular election day. The Leslie County clerk did note that past bill proposals might have prohibited all local-option elections in years with no primary or regular elections scheduled, and he suggested a bill for the 2014 Regular Session that would also include a provision to accommodate having local-option elections in these non-election years.

Restoration of Voting Rights

The task force discussed the restoration of voting rights for certain convicted felons and two prefiled bills for the 2014 Regular Session that address the issue. The director of the Voting Rights and Elections Project with the Brennan Center for Justice at New York University School of Law testified and stated that, nationwide, approximately 5.85 million felons cannot vote. She said that Kentucky is one of only three states that completely bar voting for convicted felons, absent an executive pardon, and that a plurality of states has some form of automatic restoration of voting rights after the completion of a criminal sentence. Studies show recidivism rates are lower among felons whose right to vote has been restored, and this is likely due in part to the fact that voting is a pro-social act—that the processes of observing time periods, waiting in lines, casting a ballot, and engaging in the elections process to achieve a result are law-abiding exercises that are positive for a convicted felon rejoining society.

Several local advocates testified in support of the restoration of voting rights. The president of the Louisville branch of the NAACP stated that 1 in 17 Kentuckians, and nearly 1 in 5 African American Kentuckians, are denied the right to vote because of a felony, and that more than 128,000 felons have completed their sentences but cannot vote in Kentucky. A representative of the Kentucky Council of Churches testified that exercising the right to vote allows prior convicted felons to participate in their communities, helps restore their dignity, and brings them into society by treating them the same as others in at least one respect. Similarly, a representative of the Kentucky Restoration of Voting Rights Coalition stated that, although she and others have been convicted of a felony, they are back in the community after their sentences are served and want to contribute.

Voter Identification Requirements

The manager of the Election Law Reform Initiative of The Heritage Foundation advocated for Kentucky to adopt a stricter law that would require government-issued photo identification to vote. Government-issued photo identification requirements are an effective means of preventing voter impersonation and various other forms of voting fraud and are thus a means of protecting the integrity of the ballot and the vote itself. He provided examples of voting fraud that have occurred nationally and in Kentucky, and he gave the members details of a grand jury report that documented a 14-year scheme to commit voting fraud that involved both voter impersonation and ballots cast by fake voters. Kentucky is part of an interstate registration system that shows more than 14,000 registered Kentucky voters are registered to vote in other states.

He also gave an overview of the recent trend of states adopting photo identification requirements for voters and the legal challenges to several of these state laws. No facial challenge to any recent photo identification law has been successful, and challenges have largely failed because plaintiffs' claims have not been supported by election data. For example, data produced in litigation in Indiana and Georgia has indicated the laws do not suppress voter registration or turnout. He supplied data showing several instances of higher rates occurring after the laws were passed. There have not been any successful "as applied" challenges because plaintiffs have not been able to produce any witnesses who could not get a required photo identification and vote. Finally, he noted that the United States is the only civilized, developed democracy that does not require photo identification to vote. Mexico, with a larger population in poverty than the United States, requires a photo ID with a thumbprint in order to cast a ballot.

The Leslie County clerk and elections chair of the Kentucky County Clerk's Association testified that he supports additional voter identification requirements to assist poll workers statewide in confirming a voter's identity. The association has not taken a formal position on the issue or conducted a poll of the clerks to gauge support, but the clerks have generally had a concern about the part of the current law that permits use of a credit card as an acceptable form of identification for a voter. He felt confident that a majority of clerks would favor a stricter law because they want the public to feel secure about their votes, and because the clerks want to ensure there is as little opportunity for voter fraud as possible.

Campaign Finance Reporting Thresholds

The general counsel of the Kentucky Registry of Election Finance discussed the possibility of changing campaign finance reporting requirements from the current two-tiered system to a threshold of a single dollar amount that would trigger reporting requirements. The current two-tiered system exempts candidates who raise or spend less than $1,000 from filing any reports, whereas candidates who raise or spend between $1,000 and $3,000 are required to file only a post-election report, and candidates who raise or spend more than $3,000 are required to make all pre- and post-election reports. This system is confusing and requires extensive registry resources to educate candidates on this issue. Consequently, the registry recommended that the General Assembly consider adopting a threshold of a single dollar amount that would exempt candidates below the threshold from filing any reports and require full reporting for any candidates who exceed the threshold. A bill addressing this issue was considered in the 2013 Regular Session with a single $5,000 threshold, but some members had concerns that the dollar amount was too high and might exempt too many local-level candidates from all reporting requirements. The registry would support a bill to create a single $3,000 threshold.

Report of the 2013
Interim Joint Committee on Transportation

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Presented to the
Legislative Research Commission
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2014 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; and driver training schools.

Committee Activity

The committee met five times during the 2013 Interim.

Implementation of HB 445

The secretary of the Transportation Cabinet and the state highway engineer discussed the implementation of HB 445, which allows the Transportation Cabinet to have design-build capability for up to five projects each fiscal year that have a construction cost of less than $30 million. The projects for design-build must be existing projects in the biennial plan. One criterion for determining a design-build project is completion of the initial design, including completion or near-completion of environmental clearance. Environmental clearance includes having all necessary permits obtained and historical assessments made. A second major criterion is non-complex right-of-way acquisition and minimal utility impact. The potential for substantial time savings is also a determining factor. The cabinet's goal is to ensure that a potential design-build project is in the best interest of taxpayers.

Implementation of HB 440

The director of the Division of Collections for the Department of Revenue discussed House Bill 440 and the steps taken before a delinquent taxpayer's professional or driver's license is revoked for nonpayment of taxes.

The taxes covered by the license revocation program are administered by the Department of Revenue, including the state portion of property taxes. Property taxes administered at the local level are excluded. Other debt that the Department of Revenue collects, such as a subset of child support, is not included in the revocation process because the statute refers revocation only for nonpayment of state taxes.

The department's collection tools include a call center to manage outbound telephone calls to taxpayers regarding delinquent tax debt, and collection letters sent at various times in the process. Other collection tools are bank and wage levies issued after the taxpayer has been sent a formal notice by certified mail. There also may be state tax liens to encumber property owned by the delinquent taxpayer as well as offsets to capture any refunds or money due to the taxpayer from the federal government or other state agency.

Prior to the passage of HB 440, the department had the authority to revoke several licenses, including liquor licenses (through the Alcohol Beverage Control Board), mine licenses, and lottery sales licenses. The department can ask the court in Franklin County to close a business by injunction if there is no evidence of cooperation and all other collection actions have failed.

The collections process can take months to complete. Taxpayers who will not be affected by HB 440 include those who receive a bill and are still within the 45-day protest period, taxpayers who file the timely protest and are working with someone in the department to resolve their debt, taxpayers who have filed bankruptcy, and those who are making payments under an approved payment agreement plan or judgment. An individual or business that does not have a legal tie to the incurred debt will not be in danger of legal action or of losing a license.

The department has been working closely with the Transportation Cabinet and county and circuit clerks to implement HB 440. The Department of Revenue and the Transportation Cabinet have made system modifications, and the department is developing an application to handle the process in-house. Information cards have been printed that will be available in county official offices for the taxpayers' use that include a telephone number and the steps to take to resolve the debt.

Implementation of Plate 2 Customer Vehicle Licensing System and Delays in Implementation of the Kentucky Automated Vehicle Information System

To adjust the statutes to conform to the new Kentucky Automotive Vehicle Information System (KAVIS) under development, the 2010 General Assembly passed legislation requiring a person who traded or sold a vehicle to keep the tag to place on a new vehicle. This is known as the Plate 2 Customer system. The bill was to originally take effect January 1, 2013; after several delays, the effective date was pushed back to January 1, 2014, during the 2012 session. The Transportation Cabinet reported that KAVIS will not be ready until the summer of 2014.

The commissioner of the Department of Motor Vehicle Regulation, the project manager of KAVIS, and representatives from 3M, the project contractor, testified about the background and schedules of the Plate 2 Customer and KAVIS programs. The Plate 2 Customer program is tied to the KAVIS effective date, which is expected in midyear 2014. The statute requires the Plate 2 Customer program to be effective by January 1, 2014, but that is not possible because KAVIS will not be ready.

Senate Bill 96, a 2013 bill that required motor safety training as a condition of registering some large trucks, could affect KAVIS. The biggest impact will be new change requests resulting from testing of the software. Change requests are carefully evaluated to determine whether the change is critical or can be initiated later.

Motor Fuel Tax Rates for FY 2013–2014

The executive director of the Office Budget and Fiscal Analysis for the Transportation Cabinet testified about the motor fuel tax rates for FY 2013–2014. The variable portion of the rate is based on a calculated average wholesale price (AWP) of gasoline, which is surveyed four times per year. In the April survey, the actual average wholesale price was $2.884, resulting in a tax increase of 10 percent, which is the maximum allowable increase from one fiscal year to the next. For most of the survey month, the average rolling wholesale price was several cents below the calculated maximum rate. Nine percent of the AWP rate nets an additional 2.4 cents a gallon, bringing the total rate to 32.3 cents per gallon for the first quarter of FY 2014.

There will be a survey each quarter (July, October, and January), and although the rate cannot increase for FY 2014, it could fall to the base rate established by legislation in 2009 of an AWP of $1.78. If that were to happen, the state would lose 9.8 cents per gallon from the first-quarter rate in FY 2014.

If all numbers were evaluated on a quarterly basis and consumption remained stable, Kentucky could expect $18 million in revenue from this adjustment in the first quarter of FY 2014. This amount was already built into the FY 2014 Consensus Forecasting Group revenue estimate and is not additional money. All motor fuel tax collections are shared with the rural and municipal aid program. About half of these revenues are shared with the city and county road aid programs and the rural secondary programs.

The Consensus Forecasting Group set the motor fuel revenue estimate for FY 2013 at $850.4 million. In FY 2014 the Consensus Forecasting Group has set the motor fuels revenue estimate at $901.9 million, which includes the anticipated maximum wholesale price of gasoline in the first quarter.

Fuel consumption is down, and taxable gallons have been down in 10 of the last 12 months. May and October 2012 were exceptions and only slightly above the previous year. According to the Department of Revenue, taxable gallons are down 5 percent overall.

Vehicle miles traveled (VMT) fluctuated in 2012 from one month to the next. VMT was down slightly in February and moderately in March. The deputy executive director for financial analysis, Governor’s Office of Economic Analysis**,** stated that gallonage is down across the country. For a substantial period of time, Kentucky was an exception to the trend in that fuel revenues were growing steadily because the state is a crossroads for several interstate highways. This is the first time Kentucky has taken a sizable pinch in gallonage. Hybrid and electric vehicles will cause a drop in gallonages. As the vehicle fleet becomes newer, and the rates of miles per gallon increase, gallonage will drop without an increase in miles driven. Gasoline usage was higher in 1999 than today.

Recreational Vehicle Franchise Law

The director of government relations in the Recreation Vehicle Industry Association (RVIA) discussed a proposal for the recreation vehicle franchise law and provided background information on the recreational vehicle (RV) industry and how RVs may fit into the franchise law. The representatives of the RV industry proposed a RV-specific franchise law that can address the unique business model followed by RV dealers and their manufacturers. The only type of RV that is covered under the present car franchise law in Kentucky is a motorized RV.

The RV industry is different from the automobile industry. Within the state there are approximately 261 car dealers compared to 28 RV dealers. There are three car manufacturers and no RV manufacturers. Approximately 11,400 people are employed in new-vehicle dealerships compared to 420 employees in RV dealerships. There are 1,025,000 light vehicles manufactured in Kentucky, and 2,356 RVs are shipped to Kentucky out of an approximate 285,749 RVs for the entire industry. There are car sales of approximately $7.2 billion in the state; the retail value of RV shipments to the state is approximately $79.6 million.

Franchise laws evolved to protect car dealers in the dealer-manufacturer relationship, and laws are structured for the car industry business model, whereas the RV industry has a different business model, so the proposal of a different franchise law based on the RV industry is needed. Recreational vehicle dealerships offer items from several brands and manufacturers, but new car dealers typically deal with a single manufacturer. There are approximately 130 RV manufacturers competing for space on a dealer's lot, which is not the case in the auto industry. There are four key provisions of the proposal:

- Territory, which indicates where a dealer is allowed to sell RVs and who is allowed to sell in that area;
- Transfer, or how the dealerships are transferred from one owner to another;
- Termination, which allows the manufacturer and dealers to terminate with or without cause; and
- Warranty, which involves parts manufacturers to be under the franchise and warranty obligations of the proposed law. Parts manufacturers would be responsible for paying the dealer markup for repairs, handling the warranty claim, assuring that the warranty repairs are made in a timely fashion, and assuring that the consumer has good access to warranty service.

Also included in the proposal are definitions specific to the RV industry; a requirement for mediation prior to moving into any kind of injunction, court system, or other more serious dispute resolution system; reciprocity, meaning the dealer can do whatever the manufacturer can do and vice versa; and the inclusion of travel trailers and non-motorized RVs under the law.

Legislative Issues Pertaining to Motorcycles

The president of the Kentucky Motorcycle Association discussed legislative issues pertaining to motorcycles. He discussed three bills on which the association had collaborated with legislative sponsors in 2013 and which it would like to see passed in 2014.

The first bill is referred to as the parking garage bill, introduced by Representative Linder in the 2013 session as HB 420. Motorcyclists have had issues concerning bans on motorcycles in parking garages. These parking garages are usually municipal garages, city-owned garages, or university garages. Typically, motorcyclists have been able to individually address the situation with supervisors of parking garage structures. The main reason for the ban is fear that the arm of the gate will come down and hit a motorcyclist who is going through the gates. It was suggested that an electronic eye, similar to what is installed at the bottom of a garage door, can resolve this situation for $30 to $40 per gate. There have previously been agreements between motorcyclists and parking garages that the garages will allow motorcycles, but the signs prohibiting motorcycles will be left in place for liability purposes.

The second proposed bill has been sponsored by Representative Meredith concerning red light sensors not detecting motorcycles (HB 437 of the 2013 session). Some states permit a person to proceed left with caution at a red light that fails to operate properly if the light has passed through two cycles, 60 seconds, or 90 seconds. Other states have differing requirements, varying from 60 to 220 seconds. The proposed bill relates to motorcycles and motor vehicles.

Representative Flood had sponsored HB 137 of the 2013 session, a vulnerable users' bill. Right-of-way issues are a prevalent problem for motorcyclists. The proposed bill addresses motorcycles, bicycles, mopeds, scooters, in-line skates, roller skates, and motorized wheelchairs. Penalties and fines have been increased if someone is speeding or negligent in the areas of construction workers, and the association would like to see something similar happen in a right-of-way bill in order to cut down on the amount of accidents caused by right-of-way issues.

Household Goods Movers Certification Process

The state director of the National Federation of Independent Business discussed the household goods movers certification process and BR 92, sponsored and introduced for the 2014 Regular Session by Senator Buford. Allowing more Kentuckians to start their own businesses and work together in the household goods moving industry will result in better service for consumers. The proposed bill gives the Transportation Cabinet more authority and autonomy to regulate the industry.

The current law allows competitors to protest an application, which is tantamount to a competitors' veto, thereby preventing new moving companies from operating. The proposed bill eliminates the protest process.

The bill

- directs the Transportation Cabinet to issue a household goods certificate to any qualified applicant that conforms to state law;
- removes house goods certificates from the situs requirements of KRS 281.625;
- directs the cabinet to establish requirements and standards for household goods carriers (requires, at a minimum, keeping the same regulation currently in force) by regulation;
- exempts applicants for household goods certificates from notification requirements and the protest process outlined in KRS 281.625;
- exempts household goods certificates from the certificate issuance provisions and the certificate transfer provisions of KRS 281.630;
- establishes an initial application fee of $250 for household goods certificates;
- establishes a fee of $250 for renewal of household goods certificates;

- requires household goods certificate holders to obtain and retain criminal background checks of employees who have direct contact with the public or may enter into a private residence or storage facility, for a period of 3 years;
- requires that background checks be performed at the expense of the certificate holder, prior to employment, and completed using an entity from an approved list issued by the cabinet; and
- directs the cabinet to list disqualifying criminal offenses.

Road Fund Receipts Update

The secretary of the Transportation Cabinet and the executive director of the Office of Budget and Fiscal Management testified about road fund receipts.

For FY 2013, the revenue received was nearly $1.5 billion, missing the estimate by only $8 million. The largest difference in the estimated and actual figures was $12 million in motor fuels taxes, which is largely attributed to the decline in vehicle miles traveled and taxable gallons consumed. Taxable gallons declined in 11 of 12 months in FY 2013 compared to FY 2012. Vehicle miles traveled were down or constant in 9 of the last 12 fiscal months over the previous year.

The cabinet was able to lapse $17.7 million in road fund dollars through the surplus expenditure plan to the state construction program closing in FY 2013. There was a 3.3 percent growth in the road fund from FY 2012 to FY 2013, mostly in the motor fuels area.

In FY 2014, the cabinet will operate under the official enacted Consensus Forecasting Group (CFG) estimate, which is $1.5682 billion. Based on CFG's August estimate, it anticipates slightly lower road fund revenues than in previous projections. If the August estimates were to hold true, the projected $37 million reduction in motor fuels taxes from the current estimate would be revenue shared. About 48.2 percent of that (or approximately $18 million) would be lost by the various revenue sharing programs. Part of the reason is that the price of fuels will not maintain the current variable tax rate for the second quarter of FY 2014. It is anticipated it may drop slightly after the next survey month.

Vehicle usage tax projections are stronger than were anticipated in December 2011, primarily because in recent years people have been driving their cars longer, and now those cars are becoming less reliable and consumers are being forced into the market. The other taxes category projections are expected to be $13 million less than the official estimate.

Road Fund Cash Balance Status Update

The executive director of the Office of Budget and Fiscal Management gave a road fund cash balance status update. In September 2007, the cabinet began to realize that the program was overloaded from a cash perspective. An internal committee for the Road Fund Cash Management Program met and realized that almost $405 million worth of project obligations were going to be added to the cash management plan that had not been anticipated.

The cabinet strives to maintain a road fund cash balance of $100 million, which, based on the spending for FY 2013, of $6 million per calendar day or $8.4 million per work day, equals only 16.7 days of working capital per calendar day, or 12 days based on a work day. Therefore, $100 million does not stretch far.

In 2007, there was an unexpected influx of project obligations against the road fund program and the economy began to take a turn for the worse. The cabinet cut $445 million of resources from the model during FY 2008, FY 2009, and FY 2010 cash projection outlooks. The road fund cash projections plummeted, and the program was halted. From January 2008 through September 2010, the cabinet made only a net $12.4 million in authorizations in the state construction program. To put that in perspective, 2006 saw $336 million worth of authorizations and 2007 saw $771 million.

The cabinet experienced a $264 million road fund budget cut at the beginning of FY 2010 and more than 2 years later, after it began to restrain the program, the outlook was still bleak. However, the construction program was kept going because the cabinet then had the American Recovery and Reinvestment Act (ARRA) funds, as well as economic development and grant anticipation revenue vehicle (GARVEE) bond programs since 2005. The cabinet has had $2.4 billion in bond authorizations.

The situation began to improve in March of 2010 as $45 million of the $264 million road fund budget cut was restored to the state construction program. Debt restructuring was legislated, which reduced current debt service. In FY 2010, FY 2011, and FY 2012, revenues exceeded expectations by more than $110 million. Because of cabinetwide slowed spending regarding the road fund, $160 million was lapsed to the state construction account through the surplus expenditure plan.

Because the construction program was kept going through other sources, in 2007 the cabinet had more than $600 million in construction phase projects on the books and in the works. The construction projects are spending out much faster than the design, right-of-way, and utility phases, resulting in very large cash balances. Currently, the total outstanding unspent obligation in the state construction program is $746 million, of which $353 million (47 percent) is state priority project (SPP) obligations.

As the 2012 highway plan was put together, one of the things the cabinet worked hard to accomplish was to look at how much cash was anticipated to come into the program, and then try to balance that with expenditures as best as possible. The cabinet put some quick-spend projects in the governor’s recommended highway plan to try to move some pavement rehabilitation projects. There was also a large amount of state money that was allocated to the I-65 widening project in south central Kentucky. That was done to spend down the cabinet’s cash balances and use federal funds in other areas.

In FY 2009, there were two Base Realignment and Closure Commission (BRAC) bond issues where the cabinet put $156 million in BRAC bonds to work. There is a $400 million SPB bond issue that is obligated in full. The cabinet has obligated approximately $250 million of a $400 million SB2 bond issue, at the same time the cabinet had had ARRA funds that were in progress. The state expended approximately $421 million of federal funds under the ARRA expedited construction program.

So far in the biennium, the cabinet is on track regarding state priority project funds. Approximately half of the funds that have been indicated for SPP have been obligated. Many projects in the pipeline have significant design, utility, and right-of-way requirements and although the cabinet attempts to spend those dollars quickly, rights-of-way and utility lines can be relocated only so quickly.

As the cabinet works to complete these projects, it has tried to continue the state program and the federal programs moving along in parallel. The cabinet has also tried to target about $1 billion per year of lettings that go to construction each year and has successfully met that in the last couple of years. Since 2008, including the $900 million Louisville River Bridges project in the estimates, in 5 years the cabinet has awarded $5 billion worth of highway project awards. That kind of program needs a baseline of support from design, right-of-way, and utilities, and as demonstrated, those components do not spend out quickly. The program has a lot of design, right-of-way, and utility work that will pay off in construction projects going forward. This must be remembered when evaluating the current cash balance, which, at $500 million, is much higher than it should be.

The secretary of the Transportation Cabinet stated that the current cash balance and the proposed projects that the 2012 General Assembly told the cabinet to focus on are compared, and the cabinet is in the process of making those projects pay off over time. Therefore, money in the bank will be needed to complete those projects. If the cabinet expedites the spending of that money today and spends it on quick-spend items other than the items instructed by the General Assembly, then the money will not be there for future projects. The balance is a result of many factors, some of which the cabinet controls, some of which it does not. The cabinet is working hard to spend down the cash.

Transportation Cabinet Maintenance Activities

The executive director of the Office of Project Delivery and Preservation testified about Transportation Cabinet maintenance activities. Five major areas of maintenance were highlighted:

- Roadway maintenance, which includes removal of snow and ice, mowing, tree and bush issues, striping, pothole patching, ditch cleaning, pipe and culvert repair, pickup of litter and dead animals, guardrail repair, and replacement of missing and damaged signs;
- Bridge maintenance, which includes deck replacement, structural steel repairs, expansion joint repair and replacement, repair of piers and other substructure, painting, and emergency repairs;
- Traffic maintenance, which includes traffic signal installation, operations and repairs, new sign installation, operating and maintaining of roadway lighting, intelligent traffic systems, 511, and operation and maintenance of the Cumberland Gap Tunnel;
- Guardrail maintenance, which includes addressing uninstalled guardrail needs (1 mile of guardrail costs approximately $142,200); and

- Rest area maintenance, which includes contracts for custodial services and grounds keeping and inspecting properties for contract compliance. These maintenance tasks are addressed for approximately 15,000 miles of road networks.

The maintenance budget has not increased since 2010. The current maintenance budget is about $325 million, which does not adequately address maintenance operations. Lack of timely maintenance will lead to early replacement costs. The maintenance budget has been underfunded since 2003, and the cumulative effect is now being felt.

Much of the maintenance work is unforeseen because of weather or emergencies that cause an unpredictable situation that needs to be addressed immediately. The biggest of those situations is snow and ice removal. Costs are incurred every year to prepare for winter weather even if that weather never occurs. Those costs include buying salt and calcium chloride and getting the salt trucks prepared. The cabinet also must hire contractor partners to help with cleanup. Even in a mild winter, keeping the roads drivable costs several million dollars.

Although the maintenance budget has had an increase in the budget from the 2003 levels, the cost of work needed and getting that work accomplished likewise increases over time. The effect of deferred maintenance in the system is also reflected by poor pavements. Poor pavements are defined by a visual assessment, pavement roughness testing, and traffic volumes. There are higher expectations for the roads with higher traffic volume; therefore, those roads must meet a higher level of service. Poor pavements mean roads need to be resurfaced within the next year. It is recommended that 28 percent of the pavements need to be addressed next year. The cabinet will be unable to address all of those roads. As more roads deteriorate to a poor condition and are patched instead of resurfaced or rehabilitated, extra money must be spent to keep them open and passable until the cabinet can resurface them.

The situation is the same for bridges. The term “structurally deficient” has been used frequently to define these bridges. “Structurally deficient” means the bridges need maintenance. The cabinet owns 585 bridges that are structurally deficient, as defined by the Federal Highway Administration. There are many more bridges in this category than can be addressed. Many bridges will be added to the list in the upcoming years as fair-condition bridges decline into structural deficiency.

The cost of keeping bridges in good repair include, but are not limited to superstructure replacement, with an average cost of $750,000; concrete deck replacement, with an average cost of $400,000; concrete overlays, at a cost of $250,000; repair and replacement of expansion joints, as well as substructure repairs and structural steel repairs, at an average cost of $150,000 each; emergency repairs, at an average cost of $100,000; painting, at a cost of $200,000; and preventive maintenance, at an average cost of $15,000. Environmental concerns, railroad involvement, and traffic control may further increase the costs.

The executive director of the Office of Project Delivery and Presentation said traffic devices are seldom discussed until they are no longer working. The Transportation Cabinet maintains and operates approximately 5,000 electrical devices (traffic signals, school flashers, and beacons), and that number grows larger every year. The cabinet no longer has specific funding for rebuilds and upgrades to electrical devices. The cabinet no longer has specific funding sources for locations that warrant interchange lighting. Projects to improve traffic signal management and operations have demonstrated benefit cost ratios exceeding 40:1. As lighting needs increase, funding decreases. The cabinet spends more time maintaining older traffic signal systems that cost more to keep in operation.

The executive director of the Office of Project Delivery and Presentation stated that the Transportation Cabinet actively monitors how it spends funds on maintenance activities each year. There is an intensive program within the maintenance program itself that is conducted every year to measure spending on those activities. The target is 80 percent of the goal.

One maintenance activity the cabinet measures is ditch cleaning. Ditch cleaning is an important activity because the water is an enemy of the pavement. In the previous 6 years, the cabinet has not met its benchmark on ditch cleaning.

Another maintenance activity the cabinet measures is how it handles trees on the right-of-way. The cabinet is not meeting its target. The cabinet is having particular difficulty because the 2009 ice storm downed many trees. The cabinet saw a spike in the evaluation score because, after the storm, there were fewer trees to deal with. However, in FY 2012 and FY 2013, the cabinet is already seeing trees recover to the point where it is spending money to actively maintain those areas.

Guardrail repair is another maintenance activity the cabinet measures. The cabinet focuses on measuring the guardrail that already exists. The cabinet is notified that a guardrail needs replacement or repair when it receives a call from the police or a citizen, or when cabinet drivers advise of problems. Damaged guardrails are repaired as soon as possible.

Another measured maintenance activity is pavement ride quality on state-maintained highways. Neither the public nor the cabinet believes the cabinet is at its full performance potential with this area.

Shoulder maintenance is another measured maintenance activity. Because of a lack of funding, the cabinet tends to ensure that driving lanes are better maintained than the shoulders, and thus the benchmark has not been met.

The cabinet is exploring alternatives for maintenance of roadways and preservation of pavement. Spending $1 while the road is in good condition is better than spending $4 or more for more costly repairs.

If $10.5 million is invested in the current pavement process, 75 percent of the benchmark would be realized by the cabinet, but if $10.5 million were invested in preventive maintenance of the pavements, 92 percent of the benchmark of either good or fair condition would be realized.

Preventive maintenance of bridges was also discussed. Washing and cleaning the bridges, lubricating the bearings, sealing the deck joints, cleaning the drains, painting steel (including spot painting), removing debris from the channels, and performing scour protection are part of the bridge preventive maintenance plan.

An unknown cost factor of the cabinet's budget is emergency bridge repairs. An emergency contract is put together to make emergency bridge repairs.

Another unknown cost factor is unexpected snow and ice. The breakdown of the approximately $42 million needed for snow and ice expenditures includes 11 percent of that amount needed for state equipment, 35 percent of that amount for contract equipment, 32 percent for materials, 21 percent for state labor, and 1 percent for miscellaneous needs.

Appalachian Highway Funding Under MAP-21

The secretary of the Transportation Cabinet and the director of the Division of Program Management in the Transportation Cabinet discussed Appalachian Highway funding under MAP-21, the current federal highway funding bill.

Congress authorized the construction of the Appalachian Development Highway System (ADHS) in the Appalachian Development Act of 1965. ADHS was designed to generate economic development in previously isolated areas, supplement the interstate system, and provide access to areas in the region, as well as to markets in the rest of the nation. The ADHS is a system of designated corridors and roadways within the 13 states that make up the Appalachian Region. The 13 states that ADHS runs through are New York, Pennsylvania, Maryland, Ohio, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, and Mississippi.

The ADHS is authorized at 3,090 miles. By the end of FY 2012, 2,494.3 miles were under construction. Many of the remaining miles will be among the most expensive to build. Completion of the ADHS is a top priority for the Appalachian Regional Commission.

No new funds are authorized specifically for the ADHS Program in MAP-21, but funds authorized in earlier acts remain available until expended. In Kentucky, $35 million remains in Appalachian Development Highway Program funds. To encourage completion of the designated ADHS, MAP-21 provides that the federal share is 100 percent.

Kentucky has eight corridors on the ADHS (575 miles of roadway) and has completed six (546 miles) of them. Kentucky's two remaining ADHS corridors are US 460 in Pike County and US 119 in Letcher County. The estimated construction cost to complete the US 460 corridor is approximately $150 million. The estimated construction cost to complete the US 119 corridor is approximately $460 million. The Transportation Cabinet intends to complete both corridors.

General Motors and Its Kentucky Activity

The assistant manager of the General Motors (GM) Corvette plant said the plant recently invested $131 million to upgrade the Bowling Green plant and retool the facility to produce the new C7 model Corvette. The final C6 model, the previous version of the Corvette, was built on February 28, 2013. About 215,000 of the C6 Corvettes were built.

The GM Corvette assembly plant has approximately 1 million square feet and has one production shift that operates 8 hours each day, Monday through Friday. The production volume is 17.2 units per hour, which translates to 137 Corvettes assembled on an 8-hour shift. The plant employs approximately 1,000 employees, including 700 hourly employees, 110 salaried employees, and more than 200 contract and temporary employees. The construction of the C7 model brought forth the need for additional permanent GM and UAW employees. Twenty-four employees were added, some transferred from other parts of the country. In 2012, total plant wages were $53 million.

Constructing the new C7 included the need for new buildings. An extension of the building for pretreatment of the frames was added as well as a new body shop. The body shop construction cost approximately $52 million of the $131 million total. The trim area of the plant was rearranged, and now work stations are much more organized.

In January 2013, General Motors announced that the performance build center, where engines are built, will be coming to the Bowling Green Assembly plant. The production of those engines will start in the first quarter of 2014.

Future of the Federal Aid Highway Program

The Federal Highway Trust Fund (FHTF) has a long-term structural imbalance. People are driving less, and the purchasing power of the FHTF is declining at increasing rates. Also, alternative fuel sources are creating issues that reduce revenues to the fund.

Without congressional action to add general fund dollars to the fund, FY 2015, which begins next October, could be a very difficult year for the FHTF. As the 6-year highway plan is developed and as the 2014 session of the General Assembly gets under way, it is imperative that the potential severity of inaction by Congress is understood. Since 2009, Congress has funded the FHTF for distribution for the states at about $40 billion. In 2015, without additional action, the highway component will decrease to $0.2 billion. The fund will rebound in 2016 to $31.4 billion and increase to $36 billion or $37 billion by 2023.

The secretary of the Transportation Cabinet plans to submit a proposal built around the assumption that Congress will act provide the funds necessary to keep the program at about $40 billion per year nationally, but there is no guarantee that this will occur.

The secretary said the Highway Transfer Fund will exceed receipts by $15 billion or more per year. The nation has been spending beyond its means, in the transportation arena, at Congress' direction. The Highway Trust Fund is not sustainable. Congress must realistically and holistically evaluate the way transportation is funded in America.

Prefiled Bills

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

Report of the 2013
Interim Joint Committee on Veterans, Military Affairs, and Public Protection

Sen. Jimmy Higdon, Co-Chair
Rep. Tanya Pullin, Co-Chair

Sen. Perry Clark
Sen. Carroll Gibson
Sen. Ernie Harris
Sen. Chris McDaniel
Sen. Dennis Parrett
Sen. Jerry P. Rhoads
Sen. Albert Robinson
Sen. Whitney Westerfield
Sen. Mike Wilson
Rep. Johnny Bell
Rep. Robert Benvenuti III
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Rep. Denver Butler
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Rep. David Meade
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Rep. Tim Moore
Rep. Rick G. Nelson
Rep. Tom Riner
Rep. Rita Smart
Rep. John Tilley
Rep. Ben Waide
Rep. Russell Webber

LRC Staff: Erica Warren, Kris Shera, Daniel Carter, and Rhonda Schierer

Presented to the
Legislative Research Commission
and the
2014 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; and garbage and refuse disposal.

Committee Activity

Veterans

Veterans Treatment Court. A Jefferson District Court judge described the Veterans Treatment Court program in Jefferson County. The judge said that in Jefferson County alone there are over 56,000 veterans. The Veterans Treatment Court is based on the drug court model to reduce recidivism and to return veterans into productive lives. It is a voluntary program that includes regular court appearances, weekly individual and group counseling, drug and alcohol testing, mental health treatment, and regular attendance at recovery support/self-help meetings. The judge added that the treatment program is not a get-out-of-jail card.

The court also will serve other counties. He asks his team to review any case referred from another judge to ensure that the charges fall within the court's jurisdiction. Cases that include violent or sexual crimes are not accepted.

Kentucky Department of Veterans Affairs: Kentucky Veterans' Centers Benefit Field Representative Operations, and "I Support Veterans" License Plates. The executive director for the Office of Kentucky Veterans' Centers within the Kentucky Department of Veterans Affairs (KDVA) gave admission, residency, death, and staffing statistics for the three centers in Wilmore, Hazard, and Hanson.

The commissioner of the KDVA discussed three capital projects. The Radcliff Veterans Home has been bid once and was over budget, but the project has been rebid. The bids are expected in on June 24. The other two capital projects are the Eastern Kentucky Veterans Center, which needs its heating and air conditioning system revamped, and the Thompson Hood Veterans Center, which needs renovation of two nursing units.

The executive director discussed the KDVA's preparation for billing Medicaid and Medicare. Implementation was delayed after a live safety review found repairs and additional clinical issues that KDVA had to address. The agency will request certification in July and hopes all of the work beforehand will lead to certification, at which point billing will begin.

The regional administrator of the KDVA Field Operations Division discussed the division's operations for 2012. Constituent correspondence assistance averages 50 cases per month. KDVA field representatives average five in-home visits per month, and regional administrators conduct approximately 8 to 10 hearings quarterly.

The US Department of Veterans Affairs' FY 2012 expenditures in Kentucky are for vocational rehabilitation, educational assistance, unemployment compensation, disability compensation, death and disability pensions, life insurance, physical and mental health care, nursing home care, and burial honors and benefits. These expenditures total $1.9 billion.

The regional administrator explained a new VA computer program that takes claims from many claims management systems and provides a consistent way to submit them to the VA. The program, once fully implemented, will help the VA accelerate the speed of filing claims, resulting in quicker rating decisions for veterans. KDVA is committed to lessening the backlog of claims within the state and is working with the VA regional office to submit fully developed claims that will shorten the time a veteran waits to receive compensation. More than 70 percent of all claims submitted are fully developed. KDVA's goal is to have 90 percent fully developed claims in 2013.

The commissioner of the KDVA stated that sale of "I Support Veterans" license plates has generated $52,966.27 in revenue; 4,904 plates have been sold.

Military Affairs

Kentucky Commission on Military Affairs. The executive director of the Kentucky Commission on Military Affairs (KCMA) testified about Kentucky's military footprint, protecting and developing Kentucky installations, base realignment and closure, the reduction of a brigade combat team at Fort Knox and across the Army, and strengthening the defense-related economy. KCMA's mission is to take action to protect and develop military installations, enhance the growth of business, and address all matters of military significance. The executive director discussed the strategic plans and goals of the KCMA.

The major Kentucky installations are the Louisville District of the US Army Corps of Engineers, Fort Knox, Blue Grass Army Depot, Western Kentucky Regional Training Center, and Fort Campbell. The executive director also discussed the impact of the military in Kentucky. Based on a 2011 survey, the military had a payroll of $5.5 billion, which is the largest single source of earnings in Kentucky.

He discussed the broad reach of the Base Realignment and Closure (BRAC) process, the threat and opportunity available within that process, and non-BRAC installation actions. He outlined a vision for Fort Knox to build on the nexus of Army human resources, recruiting, and cadet commands to create further efficiency and saving, reduce duplication, and improve human resources and recruiting across the Department of Defense. Fort Campbell is an ideal site for additional special forces units and US Air Force units. The Blue Grass Army Depot is an underrecognized jewel in depot capabilities and performance.

As to the pre-BRAC rating of Fort Knox and Fort Campbell, the executive director stated that the rankings depend on the attributes being measured and he sees Fort Knox being ranked highly because of the capability put there in the last BRAC to position it for the future. The Army is drawing down in personnel. If unable to execute a BRAC or to get the proposed budget, there may need to be additional savings in personnel.

The executive director of KCMA described the US Army force structure reorganization and its impact on Kentucky. The Army will cut 80,000 soldiers by 2017, a reduction of 15 percent of the force. This cut comes as a result of the US Budget Control Act of 2011 and defense planning guidance issued in 2012. The impact will create a net loss of 320 military positions at Fort Campbell and 3,300 military positions at Fort Knox. There will be no force structure reductions in the Army National Guard or Reserve. Sequestration-driven cuts may reduce the Army end-strength by an additional 100,000 soldiers, but the impact of sequestration is not yet clear. Fort Knox remains an essential home to multiple units and force-generating capabilities, and Fort Campbell remains an essential power projection platform and home to multiple strategic crisis response units and force-generating capabilities.

Sequestration has forced civilian workforce furloughs in the Army of 11 days off annually, making a 20 percent reduction in pay. Further furlough measures may be instituted.

Military Training Credit for Emergency Medical Services Licensing. The director of EMS Education and Licensure with the Kentucky Board of Emergency Medical Services explained how the EMS recognizes military training toward licensure. The director discussed the history of the military medic and the current medic to EMS provider process in Kentucky.

All medics are certified at the basic level of licensure while in the military; however, some medics are practically trained like surgeons or at the highest level of expertise, yet are returning home to be certified at only a basic level. The board is getting ready to review the paramedic regulations and hopes to adjust the skill sets and standards for licensure for multiple levels of medics by the end of this year.

Kentucky Department of Military Affairs. The deputy director of the joint staff for the Kentucky National Guard provided an update on the Kentucky National Guard and the Kentucky Department of Military Affairs. The deputy director indicated that the National Guard remains at or above 100 percent of its allotment of guard members, which makes Kentucky a key state and eligible for more federal missions. The adjutant general’s new position leading the Adjutants General Association of the United States also puts Kentucky in the forefront. The deputy director provided an overview of many nondeployment National Guard activities, including providing honor guards at veterans’ funerals, upcoming participation in a national level exercise related to the New Madrid fault, Survivor’s Day at the Races, and Bluegrass ChalleNGe. Because of demand, a large percentage of the tuition assistance money available for the entire fiscal year was paid out to members of the National Guard during the fall semester, meaning there will be very little to distribute during the spring semester. The tuition assistance program is a key recruitment tool.

The commander and public relations officer of the Civil Air Patrol provided a history and overview of the program and described the new Legislative Wing that allows legislators and legislative staff to participate in the Civil Air Patrol for free. The public relations officer also described the vision for expanding the program and desired upgrades in equipment and funding.

Public Protection

Secure Continuous Remote Alcohol Monitoring. A representative with Premier Integrity Solutions (Premier) and the director of industry relations with Alcohol Monitoring Systems Ltd. (AMS) discussed the benefits of secure continuous remote alcohol monitoring (SCRAM) and how to improve public safety with transdermal technology. The AMS director stated that SCRAM promotes the reduction of alcohol-related crime with a focus on impaired driving. SCRAM is the most widely used transdermal monitor in the world. Forty-eight states use SCRAM, which has monitored more than 270,000 justice-involved alcohol offenders across the country. It has been used in Kentucky since 2007, where SCRAM monitors 1,186 offenders, with 79.3 percent fully compliant; 99.2 percent of total SCRAM days are sober days. The program is at no cost to the taxpayer, as the offender pays for the system. The Premier representative stated that, as a retired judge, he is familiar with the court process and that a repeat alcohol offender does not get better simply by being incarcerated. A national study in 2009 revealed that recidivism rates dropped by 14 percent for all crimes and 45 percent for offenders driving while influenced when the SCRAM system was used. It monitors offenders’ alcohol consumption every 30 minutes, 24 hours a day.

The AMS director said that the technology to transmit the information from the anklet is a radio frequency signal.

Appriss Inc.: eWarrants and Victim Information and Notification Every Day. The director of the public information management division for Appriss Inc. testified about the eWarrants System. Kentucky is the only state that has a full electronic warrant system including receipt in a police car, warrant execution, and authorization by judges. A study a few years ago showed that Kentucky had between 265,000 and 385,000 unserved warrants. On average it was taking 674 days to serve 75 out of 100 warrants. The e-Warrants system generates 1,011 warrants each day. The average time to authorize the warrants is 1.55 days, and the average time to serve warrants is 36.6 days, and for temporary protective orders and domestic violence, summonses were served in 3.5 days.

About 20 percent of records are served within 1 week. Four of 10 are served within 24 hours. As of May 28, 2013, there have been 1,107,259 authorized records, with 515,913 served and 255,646 rescinded. The estimated base court cost per record is $135, which creates millions of dollars of revenue. The director stated that the eWarrants program allows deputies to serve large number of warrants by giving them efficient tools to organize the workload.

The practice manager of Health Information Solutions for Appriss discussed how the company is making it more effective and easier for the medical community to comply with HB 1’s prescription drug monitoring requirements. Appriss has developed a smart hub called the PMP Interconnect, which allows states to securely share information between prescription monitoring programs. It also allows authorized medical practitioners in Kentucky to do Kentucky All Schedule Prescription Electronic Reporting reports every time they write controlled substance prescriptions, and it allows them to have complete access to patients' histories. The practice manager stated that 20 to 25 states should be sharing data by the end of this year.

A representative for Appriss's Public Safety Group testified about the Victim Information and Notification (VINE) program. VINE started in Kentucky in 1994 and has spread to 47 states and Puerto Rico. VINE provides immediate access to offender information and the ability to be notified when the offender's status changes. It includes a public-access web portal where victims have 24/7 web access to review the custody status of offenders. VINE allows a victim to register multiple phone numbers and email addresses, and it includes national victim resources, a victim phone portal, and a free VINEmobile public-access phone application.

Evidence-Based Programming in Marion County Jail. The Marion County jailer gave an overview of the evidence-based programming at the Marion County Detention Center (MCDC). MCDC has a capacity of 297 beds, including 80 pilot program beds and 128 substance abuse treatment beds. In June 2013, MCDC received a grant that will be used to offer three pilot programs to inmates who qualify: Moral Reconation Therapy, Inside Out Dads, and New Directions. He summarized each program and said MCDC has had 53 graduates get a GED in FY 2013. As part of the substance abuse treatment program, MCDC offers a Living in Balance Program (LIB), with 370 graduates. There have been 103 graduates of the Alpha program, designed for incarcerated individuals wanting to recover from their alcohol and drug addictions.

The jailer said statistics prove that prisoners are less likely to reoffend after enrolling in a jail's programs. MCDC helps released inmates secure necessary papers and materials and helps them find employment through a class called Reentry. MCDC does not have a program to help inmates reinstate their voting rights.

Heavy Search and Rescue Demonstration. The battalion chief of the Lexington Fire Department and the assistant chief of the Louisville Fire Department explained the technical search and rescue activities of firefighters around the state and described their vision for a state-funded, statewide integrated program. The Lexington battalion chief discussed finding and rescuing people affected by major widespread disaster using multidisciplinary teams. The two described the natural disasters, terrorist activities, or large-scale accidents that may require the expertise of technical search and rescue teams. The battalion chief discussed ways the technical search and rescue teams can be of help without depleting a particular area's rescue workers, who may be addressing widespread needs. The testimony was followed by a demonstration of equipment and methods in the parking lot behind the Capitol Annex. The Brodhead, Lexington, Louisville, Northern Kentucky, and Owensboro fire departments participated in the demonstrations, including rope rescue, shoring and trench rescue, flooding and swift water rescue, and breaching and breaking rescue.

KSP Force Reduction Due to Budget Shortfall. The Kentucky State Police (KSP) commissioner gave an overview of the KSP budget reductions and expenditures for 2012 and how they have affected 2013. KSP canceled the contracts of 22 employees under the Trooper R Program that rehired retired troopers on a yearly contract basis. Because the state shifted one payroll from FY 2012 to the beginning of FY 2013 and because of a necessary one-time expenditure for much needed new cruisers that were paid for out of FY 2013 funds, KSP had a starting deficit of $10 million out of the FY 2013 agency budget.

KSP looked at all programs and all available funds and trimmed the debt to nearly $8 million in costs, but there is a projected shortfall for 2014 of $5.8 million. Salaries have decreased $11.5 million in the past 5 years. However, veteran officers are retiring, and training for new cadets is a considerable cost. Additional budget pressure comes from increased health care costs, needed technology updates, up to a 40 percent decline in federal money received, fewer officers driving more miles, and replacing 125 vehicles for which there has been no separate line item for 8 years. More than half of the cars have been driven for more than 150,000 miles, and old vehicles need more maintenance. The fuel bill for next year is projected to be $7 million. Despite several new cadet classes in recent years, due to retirements and unfilled vacancies, there is a total loss of 66 sworn troopers.

KSP must at times rely upon local agencies to respond to some calls. Retirement incentives coupled with a lack of salary or cost-of-living increases give no incentive to keep veteran officers from retiring.

Since motor vehicle enforcement merged with KSP, the agency is fully funded through Transportation Cabinet money. It has eliminated several positions, has saved the state $2.2 million in federal money, and has increased assets.

Prepaid Cell Phone Fees for 911 Emergency Services. The director of State Legislative Affairs for CTIA-The Wireless Association, a trade association for the wireless communications industry, testified in favor of a point-of-sale law to collect 911 fees for prepaid cell phones. This model has been endorsed by the National Conference of State Legislatures and has passed in 32 states, the District of Columbia, and the Virgin Islands.

About 240 million calls are made to 911 in the US each year. In Kentucky, wireless subscribers represent 91 percent of the population, or 4 million subscribers. One in four of those subscribers are prepaid wireless users, and Kentucky is not collecting the 911 fee from all prepaid wireless consumers.

Prepaid wireless service allows customers to pay in advance for a fixed number of minutes or a fixed time period of unlimited minutes. Since customers pay in advance, there is no need for the customer to sign a contract and therefore no place to bill a customer for 911 services. When a prepaid customer’s minutes or units are exhausted, the customer can go to a retail store and purchase a recharge card with a fixed number of minutes, go to a wireless provider’s retail store and purchase a recharge card, or recharge minutes by going directly to the prepaid wireless provider’s website. About 70 percent of all prepaid wireless transactions occur in these third-party retail locations.

Traditional postpaid wireless service is sold directly by the wireless service provider, or its agent, to the consumer. Consumers must pay their bills monthly, including taxes and fees, in order to receive service. Under federal and Kentucky law, the wireless provider must receive and record the address for each user. This provides the wireless provider an address for billing and collecting the fee from the user, which the provider then remits to the proper 911 agency.

There are key reasons to support the point-of-sale collection for prepaid wireless consumers. The prepaid point of sale methodology is based on actual sales, is transparent and equitable for all wireless consumers, accurately sources the transaction to the state, and is a more efficient collection method. CTIA believes it will provide stable and predictable revenues to support the 911 system in Kentucky that exceed what is being remitted under current law. The model piggybacks on the existing sales and use tax collection system to minimize additional costs to retailers.

The CTIA director stated that the largest prepaid wireless providers are retailers like Wal-Mart, Target, and Best Buy, which account for 70 percent of sales. About 20 percent of prepaid wireless sales are through locally owned small businesses.

A legislative liaison for the Kentucky Association of Counties (KACo) and the Shelby County judge/executive testified about concerns regarding the costs to counties for providing 911 operations. The KACo liaison said many states are moving toward other ways to increase fees to help 911 service. The judge/executive, who also serves as the 911 director in Shelby County, stated that the county lost $140,000 from people switching from landlines to prepaid wireless service. Several counties have collaborated to find ways to share in the technology because there are no funds to improve equipment needed to maintain pace with 911 technology.

A government relations representative for the Kentucky Retail Federation (KRF) testified in opposition to wireless providers collecting fees for 911 services at the point-of-sale. The representative stated that the Commercial Mobile Radio Services (CMRS) Board collects from 30 prepaid wireless entities. If fees are collected from retailers at the point of sale, the number would increase to thousands of entities. This could be costly and require an entirely new system from the CMRS Board to manage. Point-of-sale will be costly for the retail community. Another concern is that third-party providers allow consumers to get additional minutes through multiple sites on the Internet and evade the fees for 911 services altogether, which would allow consumers to access 911 services without any obligation to pay for it. Point-of-sale fee collection would likely drive more consumers to these online sites that subvert all fee collection.

The KRF representative said there are approximately 3,000 small retailers in Kentucky that could be affected by the point-of-sale approach.

The executive director of the CMRS Board spoke in support of all cell phone customers supporting the 911 services through some equitable funding mechanism. More and more 911 calls are being made to increasingly outdated equipment operated by overworked staff in an environment of stagnant or shrinking 911 revenues. Locally imposed wireline fees are as high as $4.50 per month. Prepaid wireless services pay approximately 38 cents per phone, based on an inadequate formula put in statute that does not equate the 70-cent monthly charge assessed to contract (postpaid) wireless plans. These funds are collected and distributed by the CMRS Board to local call centers and service providers. Local government general fund dollars make up the balance, constituting the largest source of funds spent on 911 services.

Cell phone providers and users are not paying their fair share for 911 services. There are 3.6 million cell phones and 1.8 million landline phones in Kentucky. Cell phones account for about 70 percent of all 911 calls made in Kentucky but contribute less than 20 percent of the cost. The discrepancy in the law that permits prepaid cell phones to pay less than other cell phones has cost the CMRS fund an estimated $13.5 million since mid 2006. In 2008, the CMRS Board sued two providers of prepaid services, Trac Fone and Virgin Mobile, to collect on unremitted fees and has won both cases with combined judgments of $6 million. The Virgin Mobile case is under appeal.

Local governments are not in shape to answer the call for help alone. Current estimates show that providing local 911 services costs more than $150 million annually statewide. Of that, $52 million comes from local and state 911 fees and the balance comes from local general funds. The General Assembly previously passed legislation that directed a comprehensive study to evaluate 911 revenues and expenditures, and a report is due before the next legislative session.

The executive director of the CMRS Board said the judgment related to the litigation for Track Fone is $5.2 million; the figure is about $800,000 for Virgin Mobile.

Emergency Operations Center. The committee toured the newly opened state emergency operations center at the Boone National Guard Center and was briefed on its state-of-the-art functionality, which should allow the state to better handle large-scale emergencies.

Report of the 2013
Military and Overseas Voting Assistance Task Force

Sen. Joe Bowen, Co-Chair
Rep. Darryl Owens, Co-Chair

Sen. Jimmy Higdon
Rep. Tanya Pullin
Keith Cain
James Fowler
Bobbie Holsclaw
Charles Jones
Lindsay Hughes Thurston

LRC Staff: Greg Woosley, Kris Shera, and Ashlee McDonald

Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Military and Overseas Voting Assistance Task Force

Jurisdiction: The Military and Overseas Voting Assistance Task Force was established by the Legislative Research Commission in August 2013, pursuant to 2013 Regular Session Senate Bill 1. The primary objectives for the task force include studying the factors that limit the ability of military and overseas voters to request, receive, and cast absentee ballots in Kentucky elections, any procedures adopted by other states to facilitate more timely absentee ballot voting, and the feasibility of using a secure electronic transmission system to cast voted absentee ballots.

Task Force Activity

The task force held three meetings during the 2013 Interim.

Majors Issues Considered

The task force focused on four key issues in its meetings during the 2013 Interim:

- Review of current Kentucky election laws applicable to casting absentee ballots,
- Perspectives of military personnel who previously served overseas and had experience casting absentee ballots in remote military locations,
- Technology that can assist military and overseas voters in casting absentee ballots, and
- Security concerns by Kentucky’s county clerks and several advocacy groups regarding the integrity and privacy of electronically cast ballots.

The task force expects to continue its work in December 2013 and January 2014 and to file a report with the Legislative Research Commission regarding its study and findings in February 2014.

Report of the 2013 Unified Juvenile Code Task Force

Sen. Whitney Westerfield, Co-Chair
Rep. John Tilley, Co-Chair

Harry L. Berry	Lisa P. Jones
Hasan Davis	Bo Matthews
Glenda Edwards	Mary C. Noble
Steven Gold	Pamela Priddy
Teresa James	John Sivley

LRC Staff: Matthew Trebelhorn, Jessica Causey, Mike Clark, Jonathan Scott, Kathy Miller, and Cindy Smith

Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Unified Juvenile Code Task Force

Jurisdiction: Establish a task force to study the Unified Juvenile Code; establish membership of task force; provide that the task force is to study issues related to status offenders, the use of community resources, alternatives to detention, reinvestment of savings to create community-based treatment programs, feasibility of establishing an age of criminal responsibility, issues related to domestic violence and its impact on children exposed to domestic violence, issues related to special needs children, and use of validated risk and needs assessments; provide that the task force may submit proposals for statutory changes to the Legislative Research Commission by January 6, 2014.

Task Force Activity

The Uniform Juvenile Code Task Force (JCTF) held 10 meetings during the 2013 Interim.

The first five meetings of the JCTF were devoted to presentations and testimony on the current juvenile justice system in Kentucky.

Financial Mapping

The 2012 JCTF identified a need for financial mapping, which would provide insight into resource availability, including federal, state, and local funds. On June 5, 2013, the commissioner of the Department for Community Based Services (DCBS) in the Cabinet for Health and Family Services (CHFS) and witnesses from the CHFS Department of Behavioral Health testified about financial planning and financial mapping as a process for identifying use of public funds addressing a certain population in order to develop a comprehensive financial plan. A study is under way to review data and conduct onsite visits with the Department of Juvenile Justice (DJJ), Education, CHFS, and Administrative Office of the Courts (AOC) partners.

Court-Designated Worker Program

The executive officer of the Department of Family and Juvenile Services at the AOC testified to the JCTF about Kentucky’s court-designated worker (CDW) program. The CDW program works to prevent delinquency among Kentucky’s youth by providing education, treatment, and accountability through a statewide delivery of coordinated services. The CDW first makes contact with a potential offender in the precomplaint stage. The top status offenses reported were “habitual truancy” and “beyond control.” CDW works collaboratively with the juvenile on terms of a diversion contract. By statute, the CDW must provide an adequate assessment of attempts to solve problems through alternative services before court referral.

Testimony described proposed statutory changes to address status cases that no longer go to court. The changes include transferring responsibility to DCBS, requiring accountability by parents, and developing a cooperative agreement with DCBS and the CDW program. In order to provide all relevant information on children being supervised or committed as status offenders by DCBS, statute law should read that information will remain confidential unless doing otherwise is in the best interest of the child. Truancy diversion panels and status review teams may also be effective strategies in a team approach to diverting status offenders.

Children in Need of Services

The director of public policy and research at M&R Strategic Services provided information on children in need of services. Status offenders are not a public safety issue but could become one. In the beginning, these juvenile offenders are just children, and their families are riding out a crisis without access to counseling and support.

Screening/Assessment

The commissioner of DCBS stressed the need for a standardized assessment screening tool for all Kentucky children within the child service system. The tool would prevent unnecessary removal of children and would better meet the needs of those requiring services.

The executive officer of the Department of Family and Juvenile Services at the AOC and the commissioner of the Department of Juvenile Justice discussed the range of current assessment and screening tools.

The commissioner of DCBS detailed the difficulty with choosing a screening process. First, the test must be covered by Medicaid so that all Kentucky children can consistently be funded. Second, it must have multiple assessment tools to account for variations in age, development, situation, drug or alcohol use, or mental health.

HIPAA and Its Impact on Child Welfare Services

The commissioner of DCBS and assistant counsel at the Cabinet for Health and Family Services testified about the ways in which the Health Insurance Portability and Accountability Act (HIPAA) limits DCBS's ability to share information. Because it is in charge of neglect and child protection, DCBS is considered a "covered entity" and must operate under HIPAA. Release of protected health information (PHI) requires consent in most cases. If a child is in DCBS custody, information can be shared if it pertains to treatment or safety. Even though a child may be in DCBS custody, the parent is still the primary caregiver and must consent to the release of information.

Teachers and School Administrators: Concerns and Recommendations

The director of pupil personnel at Henry County Schools, the assistant superintendant and director of pupil personnel at Owensboro Independent Schools, and the executive director of the Kentucky Association of School Administrators all spoke about how the education system encounters and addresses child behavioral, emotional, and personal issues.

Community Services and Programs

The president of Children's Alliance and the president of KVC Behavioral HealthCare KY spoke to the JCTF on Children's Alliance and its operations throughout Kentucky. Children's Alliance focuses on family preservation with in-home services.

The CEO and director of quality improvement from Children's Home of Northern Kentucky spoke to the committee about the home's approach to child services.

The executive director of Community Action Kentucky, along with the director of Family assistance services with the Audubon Area Community Services discussed community agencies and AOC's Teen Court.

The Grayson program director for Necco discussed its role as a private child care provider. Necco serves 1,300 children through DCBS and DJJ.

The Pew Charitable Trusts

The JCTF formed a new working relationship with the Pew Charitable Trusts. Pew's Public Safety Performance Project works with states to advance data-driven, fiscally sound policies and practices in the criminal and juvenile justice systems. Senior associates from Pew presented overviews of the Kentucky juvenile corrections system drivers, primarily the disparity between money being spent on DJJ populations in out-of-home care and treatment in the community. Pew compiled data on characteristics of youth disposed to DJJ, placement trends, and lengths of stay. As a result of research, Pew identified key principles in reducing juvenile offender recidivism and controlling costs, including focusing resources on juveniles at high risk to reoffend; matching placement, supervision, and treatment to juvenile offenders' risks and needs; blending treatment and monitoring; and implementing evidence-based programs.

Fiscal Incentive Programs

Pew brought key speakers from successful programs in Illinois, Ohio, and Georgia to speak to the task force.

RECLAIM Ohio, Targeted RECLAIM, and Juvenile Justice Reform. A witness from Ohio Department of Youth Services described a community-based service delivery system that is designed to provide appropriate services and supports for youth by matching risk level with the least restrictive program setting. Through this program, Reasonable and Equitable Community and Local Alternatives to the Incarceration of Minors (RECLAIM), Ohio has experienced a decrease in population in the Department of Youth Services and on parole. Cost savings associated with RECLAIM programs range from $11 to $45 for every dollar spent versus placement.

State and Local Partnerships for Juvenile Justice Reform. The founder and president of Juvenile Justice Initiative of Illinois and a former Illinois judge spoke to the JCTF about Redeploy Illinois. Redeploy has three goals: reducing youth commitments to Illinois DJJ for nonviolent offenses, providing community treatment services, and offering cost-effective ways of handling youth crime while maintaining public safety.

Juvenile Justice Reform in Georgia. The seventh meeting of the JCTF was held in conjunction with the 2013 Southern Region Conference and National Symposium on Juvenile Services in Louisville. A noted juvenile justice reform specialist, a member of the Georgia Criminal Justice Reform Commission and co-chair of the Oversight and Implementation Committee, spoke on data-driven policy making. The witness discussed community-based intervention strategies and program models that have been proven cost efficient and are also effective to reduce juvenile reoffending. The witness recommended implementation of a performance incentive structure to reinvest money in communities, prohibiting status offenders from being committed to state facilities, and the use of evidence-based data-driven programs and practices to serve juveniles in the community.

Truancy Panel

The associate superintendent for student services, Hardin County School District, spoke on the effectiveness of the truancy panel in Hardin County. The panel looks at students and trend issues to determine the causes of truancy.

A judge from the 36th Judicial District, Magoffin and Knox counties, spoke on the 10-week truancy diversion program.

Status Offenders Committed to the Cabinet

Pew presented information on status offenders committed to CHFS. The presentation included statistics on length of stay, age, and cost relating to commitment.

The commissioner of DCBS spoke of the significant cost and problems related to status offenders committed to DCBS.

Kentucky Juvenile Justice Issue Areas and Policy Options

The last three meetings of the JCTF were devoted to round-table discussion of research and data compiled by Pew.

Recommendations to the Task Force were grouped by status offenders and public offenders, under the headings of admissions and dispositions, length of stay, supervision, services, and oversight.

The final report of the Unified Juvenile Code Task Force contains recommendations relating to juvenile offenders, alternative dispositions, evidence-based programs, out-of-home placements, fiscal incentive programs, and establishing an oversight committee.

Report of the 2013
Administrative Regulation Review Subcommittee

Sen. Ernie Harris, Co-Chair
Rep. Johnny Bell, Co-Chair

Sen. Joe Bowen
Sen. Perry B. Clark
Sen. Sara Beth Gregory

Rep. Robert R. Damron
Rep. Jimmie Lee
Rep. Tommy Turner

LRC Staff: Donna Little, Sarah Amburgey, Emily Caudill, Emily Harkenrider, Karen Howard, Carrie Klaber, Betsy Cupp, and Laura Napier

Presented to the
Legislative Research Commission
and the
2014 Regular Session of the
Kentucky General Assembly

Administrative Regulation Review Subcommittee

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

Subcommittee Activity

KRS Chapter 13A established the subcommittee as a permanent subcommittee of the Legislative Research Commission (LRC). The subcommittee meets monthly and reviews approximately 46 administrative regulations each month. In addition to the review of proposed administrative regulations at each month's meeting, the subcommittee reviews issues relating to the intent and implementation of KRS Chapter 13A and issues relating to existing administrative regulations. Pursuant to KRS Chapter 13A, the subcommittee assists administrative bodies in the drafting of administrative regulations. After the subcommittee has reviewed an administrative regulation, LRC assigns it for a second review by the legislative subcommittee with jurisdiction over the subject matter.

From November 15, 2012, through November 15, 2013, executive branch agencies filed 62 emergency administrative regulations (an increase of 13 percent over the prior year) and 492 ordinary administrative regulations (an increase of 19 percent over the prior year). Of the ordinary administrative regulations filed, 88 were new, 329 were amendments to existing administrative regulations, and 75 were amended after comments.

In accordance with KRS Chapter 13A, the Administrative Regulation Review Subcommittee reviewed all of the ordinary administrative regulations that were not withdrawn or expired prior to the date of its monthly subcommittee meetings. Of those ordinary administrative regulations reviewed, three were found deficient, 303 were amended to conform with KRS Chapter 13A and other appropriate statutes, and 131 were approved as submitted by the agency. Additionally, 32 administrative regulations were withdrawn by the promulgating agencies during this period. These totals do not include 90 administrative regulations scheduled for review during the subcommittee's December 2013 or January 2014 meetings.

Of the three administrative regulations found deficient, one was withdrawn by the agency and two became effective notwithstanding the findings of deficiency based on written determinations made by the governor. Those two administrative regulations were 704 KAR 3:303, Required core academic standards, promulgated by the Kentucky Board of Education, and 907 KAR 17:005, Definitions for 907 KAR Chapter 17, promulgated by the Cabinet for Health and Family Services, Department for Medicaid Services.

The subcommittee staff and the regulations compiler conducted both formal and informal training sessions with executive branch agencies as requested by the agencies. The training sessions focused on the administrative regulations process and the requirements for drafting and formatting administrative regulations.

In July, LRC published the Kentucky Administrative Regulations Service, which contains all administrative regulations in effect as of June 15, 2013. For the second time, the Kentucky Administrative Regulations Service was made available both in its traditional bound 13-volume set and in a one-CD format.

Report of the 2013
Capital Planning Advisory Board

Sen. Stan Humphries, Co-Chair
Rep. Terry Mills, Co-Chair

Sen. Whitney Westerfield
Rep. Tom Riner
Charles Byers
Laurie Dudgeon
Ben S. Fletcher III
Carole Henderson
John Hicks
William H. Hintze Jr.
Sherron Jackson
Mary Lassiter
James W. Link
Mark R. Overstreet
Carol Palmore
Katie Shepherd

LRC Staff: Shawn Bowen, Katherine Halloran, Josh Nacey, and Jennifer Luttrell

Presented to the
Legislative Research Commission
and the
2014 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 Chapter 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 2013 Regular Session, the Capital Planning Advisory Board has held five meetings. The first three meetings (May, June, and July) focused primarily on the review of agency capital plans in preparation of the 2014–2020 Statewide Capital Improvements Plan. The board received testimony regarding 26 capital plans submitted by executive branch agencies, postsecondary institutions, and the judicial branch. The testimony included discussion of each agency's capital construction, information technology, and equipment needs for 2014–2020. The agencies also discussed potential funding for the grant and loan programs they administer.

The board convened two meetings in September. The September 5 agenda included the presentation of reports from the Council on Postsecondary Education regarding postsecondary construction and information technology projects and capital issues. The board also received testimony from the Commonwealth of Kentucky chief information officer regarding information technology projects submitted in the agency plans. A staff report on the state's debt position was also presented by staff of the Capital Projects and Bond Oversight Committee.

The board gave final approval to the 2014–2020 Statewide Capital Improvements Plan at its September 24 meeting. The plan included policy and project recommendations developed and approved by board members at previous meetings.

Relative to the policy recommendations, the following were adopted in conjunction with the 2014-2020 capital plan:

- Adequate funding for the state's information technology projects: The recommendation urges the governor and the General Assembly to provide adequate and equitable funding in the 2014–2016 executive budget for agency information technology projects.
- Budget Reserve Trust Fund: The board recommended that the governor and the General Assembly place a high priority on fully funding the budget reserve trust fund at a level that represents 5 percent of general fund revenues.
- Postsecondary Education-Balanced Capital Investment Approach: The board recommended that the governor and the General Assembly use a funding approach balanced between new construction and capital renewal when deciding on capital project funding for postsecondary education institutions.

- 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.

Relative to projects proposed to be financed from state general funds in the 2014–2016 executive budget, the board recommended a total of 47 projects in three areas: construction (maintenance/renovation), construction (new), and information technology. The following projects were recommended:

Maintenance/Renovation
Expand and Renovate Life Sciences Building – University of Louisville
Expand/Renovate/Upgrade Law Building – University of Kentucky
HVAC System Upgrades – Department of Education
Renovate and Expand Betty White Nursing Building – Kentucky State University
Renovate Science Campus Phase IV – Western Kentucky University
Renovate Student Health Center – Eastern Kentucky University
Renovate/Upgrade Academic Learning Center – University of Kentucky
Replace Underground Gas Mains – Northern Kentucky University
Replace Underground Infrastructure - Steam/Electric – Western Kentucky University
Stabilization of Dorm 8 Kentucky State Reformatory – Department of Corrections
Thomson-Hood Veterans Center 2 Unit Renovation – Department of Veterans Affairs
Upgrade Campus Electrical Distribution System – Murray State University
Upgrade Campus Fire and Security Systems – Morehead State University
Upgrade Data Center Readiness – Finance and Administration Cabinet
Upgrade Guest Accommodations – Department of Parks
Upgrade/Renovate Western State Nursing Facility – Cabinet for Health and Family Services

New Construction
Community Based Psychiatric Facilities West Region – Cabinet for Health and Family Services
Construct Belknap Classroom/Academic Building – University of Louisville
Construct Business and Technology Center – Kentucky State University
Construct/Complete New Science Complex Final Phase – Murray State University
Construct Fourth State Veterans Nursing Home (Additional funding) – Department of Veterans Affairs
Construct MCTC/MSU Postsecondary Center of Excellence Phase I – Kentucky Community and Technical College System
Construct Medical Examiner Office Jefferson Lab – Justice and Public Safety Cabinet
Construct New Breathitt Veterinary Center – Murray State University
Construct Records Holding Building Frankfort – Department of Military Affairs
Construct Science Building Phase II – Eastern Kentucky University
Construction/Renovation/Addition Nicholas County – Court of Justice
Energy Management System Implementation – Finance and Administration Cabinet
Kentucky History Center Museum Renovations – Tourism, Arts and Heritage Cabinet
Renewal of the Capital Plaza Complex – Finance and Administration Cabinet
Renovate/Expand Student Services Facility – Morehead State University
Renovate Old Science/Construct Health Innovation – Northern Kentucky University

Renovation of New Academy Buildings and Grounds – Kentucky State Police

<u>Information Technology</u>
Child Support System (KASES III) – Cabinet for Health and Family Services
Eligibility Systems Integration Services – Cabinet for Health and Family Services
House Bill 265 Adult Learner Degree Attainment Initiative – Council on Postsecondary Education
Information Tech Infrastructure Upgrade – Kentucky Community and Technical College
Kentucky Business One Stop Phase 2 – Finance and Administration Cabinet
Replace Obsolete Systems (WiFi and telephone) – Department of Parks
Replace/Upgrade Mobile Data Computers – Kentucky State Police
Upgrade Campus Phone and Data Network – Murray State University
Upgrade Information Technology Infrastructure – Kentucky State University
Upgrade IT Infrastructure – Western Kentucky University

The complete 2014–2020 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.

Capital Projects and Bond Oversight Committee

Sen. Chris Girdler, Co-Chair
Rep. Kevin Sinnette, Co-Chair

Sen. Julian Carroll	Rep. Robert Damron
Sen. Bob Leeper	Rep. Steven Rudy
Sen. Christian McDaniel	Rep. Jim Wayne

LRC Staff: Josh Nacey, Katherine Halloran, and Angela Offerman

Presented to the
Legislative Research Commission
and the
2014 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, the Capital Construction and Equipment Purchase Contingency Account, and the Statewide Deferred Maintenance Fund; 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 or on behalf of local school districts.

Committee Activity

As a statutory committee, the Capital Projects and Bond Oversight Committee meets monthly. This report covers committee activity between November 1, 2012, and October 31, 2013. The committee met 11 times in Frankfort in the Capitol Annex.

Review of Unbudgeted Capital Projects

The committee approved 15 unbudgeted capital projects pursuant to KRS 45.760(7), which permits a capital construction project to be authorized even though it is not listed in an enacted budget, if at least 50 percent of the costs are from private or federal sources and the project is presented to the committee for review.

Unbudgeted Projects Approved

Agency	Title Of Project	Scope/Fund Source
Education and Workforce Development Cabinet – Office of Employment and Training	Unemployment Insurance System Integrity Enhancement-Adjudication	$666,200 Federal
Education and Workforce Development Cabinet – Office of Employment and Training	Unemployment Insurance/Reemployment and Eligibility Assessment Data Integration Project	$661,600 Federal
University of Kentucky	Upgrade/Relocate Pediatric Critical Care (UK Healthcare)	$6,000,000 Private
University of Louisville	Papa John's Cardinal Stadium Sound System	$3,000,000 Private
Department of Veterans Affairs	Eastern Kentucky Veterans Center – HVAC Humidity Project	$664,700 Federal, pool, and agency
University of Kentucky	Renovate Schmidt Vocal Arts Center Capital Project	$1,700,000 Private and restricted
Department of Military Affairs	Paving of Roads at Harold L. Disney Training Site	$750,000 Federal

Agency	Title Of Project	Scope/Fund Source
Department of Military Affairs	Facility Exhaust System for the Unit Training and Equipment Site Facility	$775,000 Federal
Secretary of State	Enhanced Statewide Election Administration and Online Ballot Delivery System	$1,500,000 Federal
Department of Military Affairs	Controlled Humidity Solar Project WHFRTC Project	$760,000 Federal
Department of Military Affairs	Construct Security Storage Building WHFRTC Project	$760,000 Federal
Department of Military Affairs	Construct Front Access Control Point Boone National Guard Project	$818,880 Federal
Department of Military Affairs	Construct Rear Access Control Point Boone National Guard Project	$760,000 Federal
Transportation Cabinet	Capital City Airport Apron Replacement	$1,323,600 Federal and restricted
Cabinet for Health and Family Services	Eligibility Systems Integration Services Project	$80,000,000 Federal and restricted

The committee approved three scope increases for unbudgeted capital projects during the period, which are summarized in the table below. These scope increases were required because of unforeseen issues that arose during project design or construction.

Scope Increases for Unbudgeted Projects Approved

Agency	Project	Increase	Revised Project Scope
University of Kentucky	UK/Nicholasville Road Flood Mitigation	$3,864,567	$11,880,030
Department of Military Affairs	Construct CERF-P Facility	$33,000	$861,300
Morehead State University	Construct Student Intramural Soccer Field	$48,000	$898,000

Review of Budgeted Capital Projects

Requests for Scope Increases. The committee considered executive agency requests for scope increases to address increased costs of construction materials or expand the scope of projects. The committee approved four agency requests to increase the scope of authorized capital projects, using private, federal, or restricted (agency) funds. Pursuant to KRS 45.760(6), to be eligible for interim approval, any increase in excess of 15 percent of a project's authorized scope must be funded by federal or private funds.

Scope Increases for Budgeted Projects Approved

Agency	Project Title	Increase	Revised Project Scope
Morehead State University	Renovate West Mignon Residence Hall	$264,600	$5,624,600
University of Kentucky	Renovate/Expand Soccer Facilities	$700,000	$7,700,000
University of Kentucky	Construct/Replace/Upgrade Student Housing Phase I	$102,000,000	$277,000,000
University of Louisville	Expand Ulmer Stadium	$900,000	$3,500,000

General Oversight and Review Topics

Allocation From Various Pool Programs. Allocations authorized by the budget bill were reported for capital projects costing more than $600,000 and equipment costing more than $200,000.

Quarterly Status Reports. The committee received statutorily mandated status reports from the Finance and Administration Cabinet, the universities that manage their own capital construction programs (University of Kentucky, University of Louisville, Murray State University, Northern Kentucky University, and Western Kentucky University), the Administrative Office of the Courts, and the Commonwealth Office of Technology.

Energy Savings Performance Contracts (ESPC). The committee did not review any energy savings performance contracts during this reporting period.

Review of Bond-Funded Loan/Grant Programs

Economic Development Bond (EDB) Projects. The committee reviewed and approved three grants from the EDB pool. This pool is capitalized through the issuance of general fund-supported bonds and makes grants (forgivable loans) to local governments to leverage against private investments for economic development in the commonwealth. In return for assistance, companies are required to make commitments regarding job creation and/or job maintenance.

Economic Development Bond Grants Approved

Grantee	Company/Project	Amount
Crittenden County Fiscal Court	Invensys Rail Corporation	$250,000
Lexington-Fayette Urban County Government	Bingham McCutchen LLP Global Services Center	$450,000
Boyle County Fiscal Court	Corning Incorporated	$500,000

The committee also received a report of EDB job creation and job maintenance requirements for previously approved projects from the Cabinet for Economic Development. Of the 19 grants made in prior fiscal years, one project has completed the requirements, four projects have reported employment, four projects have withdrawn from the program, six projects are still in the process of executing an agreement, and four projects with executed agreements have not yet reached a reporting date.

Kentucky Infrastructure Authority (KIA) Projects. The committee reviewed and approved KIA loans and grants to local government entities for public infrastructure projects.

Fund A (Federally Assisted Wastewater Revolving Loan Fund). The committee approved 15 loans totaling $88,578,393.

Fund A Loans Approved

Borrower	County	Amount
City of Pineville f/b/o Pineville Utility Commission	Bell	$533,485
City of Jackson	Breathitt	$700,000
Regional Water Resource Agency	Daviess	$1,538,750
Regional Water Resource Agency	Daviess	$1,655,565
Lexington-Fayette Urban County Government	Fayette	$4,657,640
Lexington-Fayette Urban County Government	Fayette	$6,000,000
Lexington-Fayette Urban County Government	Fayette	$10,194,421
Lexington-Fayette Urban County Government	Fayette	$13,674,302
Lexington-Fayette Urban County Government	Fayette	$21,641,030
City of Frankfort	Franklin	$4,905,000
City of Frankfort	Franklin	$8,000,000
City of London f/b/o London Utility Commission	Laurel	$3,765,250
City of West Liberty	Morgan	$3,937,950
Oldham County Environmental Authority	Oldham	$6,500,000
Perry County Sanitation District No. 1	Perry	$875,000

Fund A Loan Increases. The committee approved four Fund A loan increases totaling $3,158,966.

Fund A Loan Increases

Borrower	County	Amount
Regional Water Resource Agency	Daviess	$246,887
City of Flemingsburg	Fleming	$1,713,600
Grant County Sanitary Sewer District	Grant	$49,749
City of Barbourville	Knox	$1,148,730

Fund B (Infrastructure Revolving Fund). The committee approved seven loans totaling $5,230,765.

Fund B Loans Approved

Borrower	County	Amount
City of Scottsville	Allen	$1,416,540
City of Pineville f/b/o Pineville Utility Commission	Bell	$1,380,000
Bullitt County Sanitation District	Bullitt	$89,225
City of Burkesville	Cumberland	$500,000

Borrower	County	Amount
Green River Valley Water District	Hart	$1,175,000
City of Mount Olivet	Robertson	$350,000
City of Elkton	Todd	$320,000

Fund B Loan Increases. The committee approved one Fund B loan increase, $75,000 for the Marshall County Fiscal Court.

2020 Program (Subaccount of Fund B). The committee did not review any 2020 Program grants during this reporting period.

Fund C (Governmental Agencies Program Loan Fund). The committee did not review any Fund C loans during this reporting period.

Fund F (Federally Assisted Drinking Water Revolving Loan Fund). The committee approved 17 loans totaling $38,240,845.

Fund F Loans Approved

Borrower	County	Amount
Adair County Water District dba Columbia/Adair Utilities District	Adair	$4,000,000
City of Danville	Boyle	$4,000,000
City of Carrollton f/b/o Carrollton Utilities	Carroll	$1,538,817
City of Hopkinsville f/b/o Hopkinsville Water Environment Authority	Christian	$4,000,000
City of Frankfort	Franklin	$4,000,000
City of Williamstown	Grant	$2,000,000
Henry County Water District #2	Henry	$2,855,000
City of Nicholasville	Jessamine	$250,000
City of Nicholasville	Jessamine	$756,100
Northern Kentucky Water District	Kenton	$4,000,000
Garrison Quincy KY-O-Heights Water District	Lewis	$831,000
City of Vanceburg	Lewis	$850,000
Madison County Utility District	Madison	$856,528
City of Harrodsburg	Mercer	$1,688,950
City of West Liberty	Morgan	$3,050,300
City of Hartford	Ohio	$564,150
City of Sturgis	Union	$3,000,000

Fund F Loan Increases. The committee approved three Fund F loan increases totaling $465,027.

Fund F Loan Increases

Borrower	County	Amount
City of Barlow	Ballard	$200,000
City of Carrollton	Carroll	$185,027
City of Harrodsburg	Mercer	$80,000

Coal/Noncoal Projects. The committee also reviewed grants for coal and noncoal counties that were included as line items in budget bills.

Review of Bond Issues and Financing Agreements

In addition to the individual bond-funded projects, the committee approved the following bond issues and financing agreements.

State Property and Buildings Commission (SPBC). The committee approved five new SPBC bond issues (Projects No. 102 , 103, 104, 105, and 106) to refund outstanding University of Kentucky, Eastern Kentucky University, and Kentucky State Fair Board debt for a net present value savings and to provide permanent financing for authorized projects, loan repayments, and other bond refundings.

Postsecondary Institutions. The committee approved four new bond issues for postsecondary institutions.

Bond Issues

Bond Issue	Use	Amount
Morehead State University General Receipts Bonds, 2013, Series A	Finance Renovation of Mignon Residence Hall project	$9,425,000
Murray State University General Receipts Bonds, 2013, Series A	Finance Renovation of Hester Hall, Capital Renewal of Housing and Dining Facilities, and Upgrading Sprinkler System at College Courts projects	$15,635,000
Northern Kentucky University General Receipts Refunding Bonds, 2013, Series A	Refund Consolidated Education Building Bonds, Series L (2004)	$4,995,000
Western Kentucky University General Receipts Revenue Bonds, 2013, Series A	Finance remaining portion of Downing University Center and fully finance Honors College Facility project	$36,095,000

Kentucky Economic Development Finance Authority (KEDFA). With KEDFA bond issues, the state is a conduit issuer and has no legal or moral obligation for the repayment of the debt. The bonds are issued for the benefit of the developer, but the developer has full responsibility for the repayment of the bonds.

The committee approved two KEDFA conduit bond issues during the reporting period: $49,655,000 for Masonic Homes of Kentucky Inc. to finance and refinance the acquisition and construction of health care facilities in Louisville and Shelby County, and $158,195,000 for Catholic Health Initiatives to refinance outstanding commercial paper, which provided interim financing for projects in London and Mt. Sterling.

Kentucky Housing Corporation (KHC). The committee approved five conduit bond issues totaling $52,521,152.

Conduit Bond Issue

Bond	County	Amount
KHC Conduit Multifamily Housing Revenue Bonds (Frontgate Apartments), Series 2012	Jefferson	$15,810,000
KHC Conduit Multifamily Housing Revenue Bonds (Hillebrand House Project), Series 2013	Jefferson	$12,630,152
KHC Conduit Multifamily Housing Revenue Bonds (California Square II & Portland Plaza), Series 2012	Jefferson	$5,750,000
KHC Conduit Multifamily Housing Revenue Bonds (Most Blessed Sacrament Senior Apartments Project), Series 2013	Jefferson	$5,331,000
KHC Conduit Multifamily Housing Revenue Bonds (Sheppard ACD Apartments Project), Series 2013	Jefferson	$13,000,000

The committee also approved $257,860,000 in single-family housing revenue bonds to refund previous bond issues.

ALCo Project notes. The committee approved a $153,290,000 funding note to finance the state’s required contribution to the Kentucky Teachers’ Retirement System Medical Insurance Trust Fund for fiscal years 2013 and 2015.

Turnpike Authority of Kentucky. The committee reviewed one bond issue for the Turnpike Authority of Kentucky. The $187,625,000 in bond funds will permanently finance highway projects approved in the Six-Year Highway Plan.

Louisville/Southern Indiana Ohio River Bridges Project (LSIORBP). The committee approved the issuance of ALCo project notes to finance the $236 million of the Grant Anticipation Revenue Vehicle bonds authorized but unissued for LSIORBP. The committee also received status reports on the project throughout the year. The project is scheduled to be completed by December 2016.

School Bond Issues

School Facilities Construction Commission (SFCC). During the reporting period, the committee approved 133 school bond issues with SFCC debt service participation. Of these new bond issues, 5 were for new schools, 34 financed improvements at existing schools, and 94 refunded outstanding debt.

Local School District Bond Issues. During the reporting period, the committee reviewed 55 local school district bond issues with 100 percent local debt service support and no SFCC debt service participation. Of these bond issues, 22 financed improvements at existing schools, and 33 refunded outstanding debt.

Review of State Leases

During the reporting period, the committee reviewed 23 leases with square footage modifications with annual increases of less than $50,000. Although the overall square footage and total annual rent changed, the rental rate per square foot remained the same. Of these modifications, six resulted in an annual decrease and the remaining 17 resulted in increased annual rental payments with a net total of $44,416.

The committee approved two leases with square footage modifications with annual increases greater than $50,000, one each for the Cabinet for Health and Family Services and the Department of Military Affairs. The total increased annual cost on these two leases was $298,531.

The committee also reviewed 14 leases with agency-requested modifications. The costs of the improvements are amortized over the remaining lease term. The total annual cost of the improvements for all nine leases is $122,114.

The committee approved eight new leases for a total annual cost of $5,571,131. These leases were for the University of Kentucky (four), the Cabinet for Health and Family Services (two), Kentucky Community and Technical College, and the Department for Workforce Investment.

The committee also approved 15 lease renewals and one emergency lease for the Cabinet for Health and Family Services; the Public Protection Cabinet; the Department of Corrections; the Department of Housing, Buildings, and Construction; the Department of Workers Claims; the Transportation Cabinet; and the University of Kentucky.

Projects Not Approved

The committee did not meet on August 27, 2013, which resulted in 10 projects not being approved. The Finance and Administration Cabinet, Northern Kentucky University, and the University of Louisville notified the committee that it would proceed with the projects.

Projects Not Approved

Agency	Project	Amount
Northern Kentucky University	Scope Increase – Renovate Residence Halls Project	$650,000
Cabinet for Health and Family Services	Scope Increase – Kentucky Health Benefit Exchange Information Technology System	$58,700,000

Agency	Project	Amount
Morehead State University	Construct Student Intramural Soccer Field Project	$850,000
Kentucky Educational Television	DTV Antenna Upgrades Project	$690,200
Boyle County Fiscal Court f/b/o Corning Incorporated	Economic Development Bond	$500,000
City of Russell Springs f/b/o Dr. Schneider Automotive Systems, Inc.	Economic Development Bond	$500,000
Morehead State University	General Receipts Bonds, 2013 Series A – Renovation of Mignon Residence Hall	$9,425,000 (amount not to exceed)
Kentucky Housing Corporation	KHC Conduit Multifamily Housing Revenue Bonds (Centre Meadows Apartments Project), Series 2013	$16,000,000 (amount not to exceed)
School Facilities Construction Commission	Bond Issue – Frankfort Independent for renovations	$1,695,000

Report of the 2013 Education Assessment and Accountability Review Subcommittee

Sen. Mike Wilson, Co-Chair
Rep. Rita Smart, Co-Chair

Sen. David Givens
Sen. Alice Kerr
Sen. Gerald Neal

Rep. Tim Couch
Rep. Joni Jenkins
Rep. Mary Lou Marzian

LRC Staff: Janet Stevens, Ken Warlick, Daniel Clark, and Lisa Moore

Presented to the
Legislative Research Commission
and the
2014 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.

Subcommittee Activity

The Education Assessment and Accountability Review Subcommittee met five times during the Interim.

Review of Administrative Regulations

The subcommittee is charged with reviewing all administrative regulations related to Kentucky's assessment and accountability system; however, no administrative regulations were referred to the subcommittee during the interim period.

Oversight of the Office of Education Accountability

As part of its duties to provide oversight and direction to the Office of Education Accountability (OEA), the subcommittee reviewed a report of OEA's investigative activities. For the 2012 fiscal year, OEA received 555 written complaints. Of these, 67 new investigative cases and 12 new cases related to school-based decision making (SBDM) were opened. Forty-two investigative cases and 16 cases related to SBDM were closed, with 58 investigative cases and 12 SBDM cases still pending.

The subcommittee received and approved five reports completed by OEA. The first, *Kentucky District Data Profiles*, contained a compilation of data collected from various sources on all school districts. The report included an individual profile for the entire state, student demographics and performance data, staffing data and related information, and district expenditure and revenue data.

OEA's report titled *Kentucky School District Superintendent Employment and Contracts* included a review of superintendents' salaries, benefits, and other contract terms. The report found that while most superintendents are receiving salary and benefits as provided in their contracts, comparing superintendent compensation by salary alone could be misleading. Some benefits received by superintendents add a considerable amount to the total compensation received. The report included recommendations regarding the annual review of a superintendent's contract.

The Compendium of State Education Rankings 2013 is OEA's fifth annual compendium of state rankings intended as a convenient reference tool regarding how Kentucky's education indicators compare to those in the nation, in Southern Regional Education Board states, and in other states that border Kentucky.

Kentucky high school students are able to earn "performance-based credits" while enrolled in courses that allow additional work time for struggling students, or in courses that allow advancement as soon as the student becomes proficient. OEA's study titled *Performance-Based Credits* examined the measures being used to award performance-based credits, the use of personnel to support performance-based credits, and the ways in which performance-based credits are funded.

The final OEA study, *Test Familiarity and Performance: Comparing Scores on Kentucky's Core Content Tests and Unfamiliar Tests*, analyzed changes in the rank of Kentucky schools in reading and mathematics between 2011 and 2012. The study explained the differences between schools that maintained performance rank relative to their peers and schools whose rank changed unexpectedly.

The subcommittee approved the 2014 study agenda to be completed by OEA.

The commissioner of education and the Kentucky Department of Education (KDE) staff presented updated information on the adoption of the Common Core Standards, including the science standards. Testimony was given by KDE staff regarding testing requirements and results from the latest round of tests.

Report of the 2013
Government Contract Review Committee

Sen. Sara Beth Gregory, Co-Chair
Rep. Dennis Horlander, Co-Chair

Sen. Julian Carroll	Rep. Jesse Crenshaw
Sen. Paul Hornback	Rep. Brad Montell
Sen. Christian McDaniel	Rep. Brent Yonts

LRC Staff: Kim M. Eisner, Charles Booker, and Rebecca A. Brooker

Presented to the
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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 Corp., the Kentucky Housing Corp., state universities in the commonwealth, the Kentucky Employers' Mutual Insurance Corp., the Kentucky Higher Education Assistance Authority, the Kentucky Student Loan Corp., and the Kentucky Retirement Systems to examine the stated need for the service, whether the service could or should be performed by state personnel, the amount and duration of the contract or agreement, and the appropriateness of any exchange of resources or responsibilities; and review of all qualifying motion picture or entertainment production tax incentives.

Memoranda of agreement review exemptions include agreements between the Transportation Cabinet and political subdivisions of the commonwealth for road and road-related projects; agreements between the auditor of public accounts and other government agencies for auditing services; agreements between 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 2013, beginning July 1, 2012, and ending June 30, 2013, the committee reviewed 1,227 personal service contracts and 528 amendments to personal service contracts. The committee also reviewed 269 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

During FY 2013, the committee reviewed 1,326 memoranda of agreement and 1,252 memoranda of agreement amendments. The committee also reviewed 1,007 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only.

During FY 2013, the committee reviewed 2,024 personal service contract items, 3,585 memoranda of agreement items, and 3 film tax incentive agreements for a total of 5,612 items.

Since the start of FY 2014 through November 12, 2013, the committee has reviewed 340 personal service contracts and 251 amendments to personal service contracts. The committee has also reviewed 100 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

Since the start of FY 2014 through November 12, 2013, the committee has reviewed 580 memoranda of agreement and 328 memoranda of agreement amendments. The committee also reviewed 431 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only.

Additionally, as a result of House Bill 3 of the 2009 Special Session, the committee reviewed two film tax incentive agreements at the July 12, 2013, meeting, one film tax incentive agreement at the August 9, 2013, meeting, and two film tax incentive agreements at the September 9, 2013, meeting.

Since the start of FY 2014 through November 12, 2013, the committee has reviewed 691 personal service contract items, 1,339 memoranda of agreement items, and 5 film tax incentive agreement for a total of 2,035 items.

Note: These totals reflect all personal service contracts, memoranda of agreements, and film tax incentive agreements entered into the eMars procurement system and captured by the LRC Contract Reporting Database.

Program Review and Investigations Committee

Sen. Christian McDaniel, Co-Chair
Rep. Martha Jane King, Co-Chair

Sen. Tom Buford	Rep. Dwight D. Butler
Sen. Perry B. Clark	Rep. Leslie Combs
Sen. Julie Denton	Rep. Jim DeCesare
Sen. Ernie Harris	Rep. Terry Mills
Sen. Jimmy Higdon	Rep. Ruth Ann Palumbo
Sen. Dorsey Ridley	Rep. Rick Rand
Sen. Dan "Malano" Seum	Rep. Arnold Simpson

LRC Staff: Greg Hager, Christopher Hall, Colleen Kennedy, Van Knowles, Lora Littleton, Jean Ann Myatt, William Spears, Joel Thomas, and Kate Talley

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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, to determine whether funds are being spent for the purposes for which they were appropriated, to evaluate the efficiency of program operations, and to 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 majority 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 state agencies.

Committee Activity

The Legislative Program Review and Investigations Committee held six meetings through November. The committee elected the Senate co-chair and selected cost drivers for higher education and how students pay for higher education as an additional topic for study by committee staff in 2013.

The committee adopted four reports.

According to the report *Kentucky's Coal Severance Tax*, Kentucky's coal severance tax revenue has recently begun to decline from its peak of nearly $300 million in fiscal year 2012. The tax rate is 4.5 percent of the gross value of coal severed or processed. A portion of the coal severance tax is returned to coal-producing and coal-impact counties through the Local Government Economic Assistance Fund (LGEAF) and the Local Government Economic Development Fund (LGEDF). After initial specified deductions, 50 percent of the remaining coal severance tax revenue goes to the state's general fund, 15 percent goes to LGEAF, and the remaining 35 percent goes to LGEDF. There are further deductions before disbursements are made to counties and cities. In FY 2012, total LGEAF allocations were nearly $39 million; total LGEDF allocations were more than $61 million. In FY 2013, most coal-producing counties in Kentucky are unlikely to have sufficient single-county LGEDF funds to complete all projects authorized for that county in the 2012–2014 budget bill. Declining LGEDF allocations would be a particular concern for counties using the funds to pay for recurring expenses such as debt service on previous bond issues. The respondents to the report were the president of the Kentucky Coal Association, the Letcher County judge/executive, and the executive director of the Western Kentucky Coal Association.

According to the report *Kentucky Department of Fish and Wildlife Resources*, the Kentucky Department of Fish and Wildlife Resources (KDFWR) is administratively attached to the Tourism, Arts, and Heritage Cabinet. It is governed by a nine-member commission composed of citizen representatives who are nominated by the sportsmen and appointed by the governor. The commission, which meets quarterly in Frankfort, is charged with oversight of the department, including hiring a commissioner to serve as the administrator of the department. The department appears to be consistent with the items it brings before the commission for a vote, but the commission has no written bylaws. The report recommends adoption of bylaws. KDFWR has approximately 500 full-time employees. KDFWR has a 5-year strategic plan with four goals and a set of related objectives. Most of the objectives have measureable outcomes, and the seven division directors are expected to adhere to the plan's goals. In FY 2012, hunting and fishing license sales and federal reimbursements were 81 percent of KDFWR revenue. The majority of KDFWR revenue is subject to federal regulation. The department receives no general fund dollars. Federal fund sources require that hunting and fishing license revenue be used for the department's sole use, and program income may be used only for federally approved purposes. In FY 2012, the department's revenue was approximately $53 million. The department is required to have federal and state audits. Recent audits found the department in compliance, with most recommendations pertaining to a lack of expenditure documentation. The vice chair of the Fish and Wildlife Commission, the commissioner and deputy commissioner of the Department of Fish and Wildlife Resources, and the deputy secretary and legislative liaison of the Tourism, Arts and Heritage Cabinet responded to the report.

According to the report *Division Of Commercial Vehicle Enforcement's Authority And Activities To Noncommercial Vehicles*, a formerly stand-alone entity was reorganized as the Kentucky State Police Division of Commercial Vehicle Enforcement (CVE) in 2009. This is consistent with other states that have merged commercial vehicle enforcement entities with state highway patrol departments. The primary focus of CVE sworn peace officers is to enforce commercial vehicle laws, but they have statutory authority to issue citations to noncommercial vehicles. From 2009 to 2012, CVE officers issued nearly 91,000 noncommercial vehicle citations, more than half of which were issued under federal grants. Nearly 44 percent of noncommercial violations cited by CVE officers were for speeding. The report has two recommendations intended to improve identification and measurement of noncommercial enforcement activities. Officers of the Kentucky State Police Division of Commercial Vehicle Enforcement responded to the report.

According to the report *Personal Service Contracting in Kentucky*, personal service contracts (PSCs) are governmental contracts with private vendors to provide professional services. There are no formal guidelines to indicate which services can be provided under these contracts. Hundreds of PSCs are active, and hundreds of millions of dollars have been spent each year. Most contracts and payments appeared to follow designated procedures, but some deficiencies were found in classifying a contract as a personal service or other contract type, justifying a contract, evaluating vendor proposals, timely entering and filing a contract, updating balances on a contract, using the statutory invoice form, soliciting vendors on price contracts, monitoring and evaluating vendor performance, and tracing contract renewals in the accounting system. Estimates of future spending on contracts were unreliable, and amounts reported as spent were incomplete. Responding to the report were the director and assistant director of the Cabinet for Health and Family Services' Office of Policy and Budget; the executive director of the Finance and Administration Cabinet's Office of Procurement Services; the executive director, two directors, and a special assistant of the Transportation Cabinet; the director of the

Department of Education's Division of Budget and Financial Management; and counsel of the Department of Fish and Wildlife.

The committee heard testimony on four topics unrelated to the presentation of new reports.

The deputy secretary and commissioner of the Department for Medicaid Services for the Cabinet for Health and Family Services reported on the status of implementation of Medicaid Managed Care.

The commissioner and a deputy commissioner of the Cabinet for Health and Family Services' Department for Public Health briefed the committee on tobacco use and Medicaid.

The president of the Council on Postsecondary Education testified on the funding and cost drivers of higher education.

The director of the Cabinet for Health and Family Services' Office of Policy and Budget responded to recommendations in the 2012 committee report *Personal Care Homes in Kentucky*.

For the December meeting, the committee is scheduled to select topics for 2014. Staff will present reports on nonmerit personnel and funding and cost drivers of higher education.

Report of the 2013
Tobacco Settlement Agreement Fund Oversight Committee

Sen. Paul Hornback, Co-Chair
Rep. Wilson Stone, Co-Chair

Sen. Jimmy Higdon	Rep. Mike Denham
Sen. Carroll Gibson	Rep. Tom McKee
Sen. Dennis Parrett	Rep. Terry Mills
Sen. Robin Webb	Rep. Ryan Quarles
Sen. Whitney Westerfield	Rep. Jonathan Shell

LRC Staff: Tanya Monsanto, Lowell Atchley, and Kelly Blevins

Presented to the
Legislative Research Commission
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2014 Regular Session of the
Kentucky General Assembly

Tobacco Settlement Agreement Fund Oversight Committee

Jurisdiction: Matters pertaining to the Agricultural Development Board, including requests to the board for grants and loans; planning by the board to establish short-term and long-term goals, to devise strategies, and to make investments that will assist farmers, and the administrative, financial, and programmatic activities of the board; expenditures under the Early Childhood Development Fund and the Kentucky Health Care Improvement Fund; efforts of agencies and educational institutions to assist in the revitalization and diversification of tobacco farms; efforts of institutions of public postsecondary research in conducting alternative crop development research; review of county agricultural development council plans; review of the use of Tobacco Master Settlement Agreement money.

Committee Activity

The Tobacco Settlement Agreement Fund Oversight Committee met 11 times during the 2013 calendar year.

As required by statute, each month the committee received regular activity reports from the Governor's Office of Agricultural Policy (GOAP) regarding Agricultural Development Board (ADB) funding decisions on project applications. Also, the committee received reports and testimony from executive branch agencies and other entities that receive a portion of the tobacco settlement funds.

The committee dealt with a variety of issues under the oversight purview of the legislative panel, including continuing Master Settlement Agreement (MSA) funding and budgetary matters, and an arbitration panel's decision that could affect future funding. Committee members often asked questions about and commented on the spending decisions made by the ADB and by funding recipients in the executive branch agencies who administer early child development, health insurance, tobacco cessation and drug control programs, and medical facilities involved in lung cancer research.

Agricultural Development Fund Projects

During each monthly committee meeting, the panel received a report on the projects that the Agricultural Development Board considered in its previous meeting. In doing so, the committee performed its responsibility of monitoring the expenditure of funds received under the Master Settlement Agreement, that of receiving reports of the Agricultural Development Board through the Governor's Office of Agricultural Policy, and overseeing the pattern of Master Settlement Agreement fund use in accordance with statutes.

GOAP representatives reviewed projects affecting single counties, regions, or the state as a whole. They also presented a monthly listing 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. At times, they reviewed information on other funding programs, such as the On-Farm Energy Efficiency and Production Program and the Farmers' Market Infrastructure Competitive Grant Program.

Committee members often asked for additional information on decisions made and the rationale for making 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 that some project applicants received particular amounts of funding or were denied funding; and project monitoring, compliance, and reporting.

At times, committee members offered suggestions for the Agricultural Development Board and Governor's Office of Agricultural Policy to consider. Examples of suggestions include to remain mindful of the original intent of the Agricultural Development Fund, that of agricultural diversification among former tobacco growers; to redouble funding solicitation efforts in the northeast part of the state, a former tobacco-producing region; to carefully weigh decisions to fund business endeavors in light of marketplace competition; and to assure that funding goals are met and jobs created.

Agency Reports Received

Along with the monthly project reports from the GOAP, the committee received status reports from administrators of programs obtaining tobacco settlement funds through the state budget or directly from the Agricultural Development Board.

Among the health-related agencies reporting, the committee heard from officials with the Office of Early Childhood Development, which receives 25 percent of the state's tobacco settlement funds. The officials outlined progress made by the many programs operating under the Office of Early Childhood Development's administrative umbrella.

Officials with the Department of Insurance reported on the status of the Health Care Improvement Authority, as well as the Kentucky Access high-risk health insurance pool. The Department of Insurance officials also updated the committee on the phase-out of the Kentucky Access program because of the impending changes brought about by the federal Patient Protection and Affordable Care Act.

The directors of the University of Kentucky Markey Cancer Center and the Brown Cancer Center at the University of Louisville discussed research and other work being done under the Kentucky Lung Cancer Research Program.

In separate meetings, those involved with the Tobacco Prevention and Cessation Program and with the Kentucky Agency for Substance Abuse Policy reported to the committee on efforts undertaken to reduce tobacco use in the state and to deal with alcohol and drug abuse.

The assistant director of the Division of Conservation was anticipated to report late in the year on the solid waste and water quality cost share and soil stewardship programs.

Other Reports and Actions

The committee received testimony on other issues as well during the Interim. An assistant attorney general reported on the state's ongoing work to enforce requirements of the Master

Settlement Agreement and the pending arbitration hearing revolving some disputed 2003 MSA payments.

During a meeting in Bowling Green, the committee heard from panelists involved in the tobacco settlement funding process, ADB members, county council members, program administrators, and extension agents. They discussed their experiences and county and regional uses of the funds.