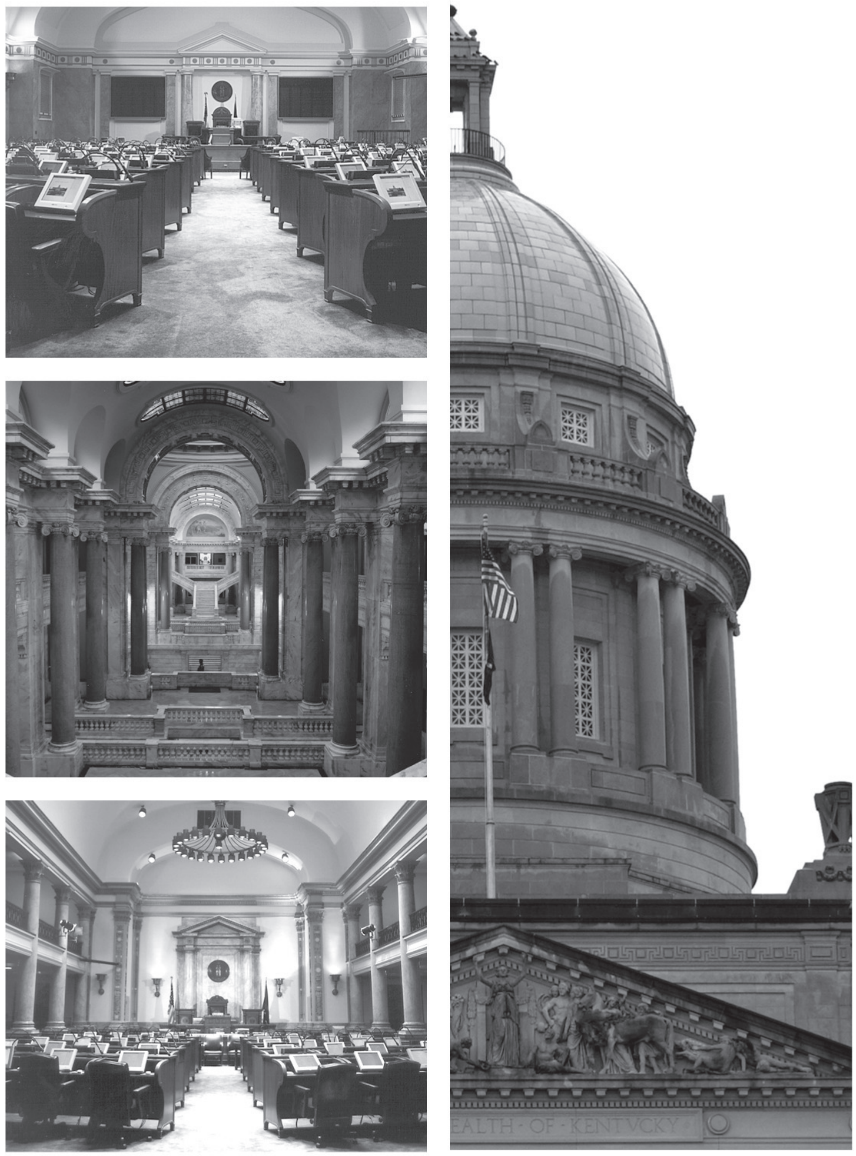
Final Reports Of The Interim
Joint, Special, And Statutory Committees
2014



Informational Bulletin No. 246

Legislative Research Commission
Frankfort, Kentucky
December 2014

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

2014

Presented to the
Legislative Research Commission
and the
2015 Regular Session of the
Kentucky General Assembly

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Legislative Research Commission
Frankfort, Kentucky
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December 2014

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 2014 Interim, all 15 interim joint committees held meetings. Eight of the 10 statutory committees met during the 2014 Interim. There were no special committees in 2014.

LRC provides this informational booklet as a summary of the activity of the interim joint, special, and statutory committees since adjournment of the 2014 General Assembly. The reports were prepared separately by the committee staff.

Marcia Seiler
Acting Director

Legislative Research Commission
Frankfort, Kentucky
December 2014

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Sen. Damon Thayer
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LRC Staff: Tanya Monsanto, Lowell Atchley, Kelly Ludwig, Kelly Blevins, and Susan Spoonamore

Presented to the
Legislative Research Commission
and the
2015 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. Walter Blevins Jr.
Sen. David Givens
Sen. Dorsey Ridley
Sen. Whitney Westerfield
Rep. Johnny Bell
Rep. Will Coursey
Rep. Jim DeCesare
Rep. Myron Dossett
Rep. Jim Glenn
Rep. Richard Heath
Rep. Kim King
Rep. Suzanne Miles
Rep. Terry Mills
Rep. Bart Rowland
Rep. Steven Rudy
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; county fairs.

Committee Activity

The Interim Joint Committee on Agriculture held six meetings during the 2014 Interim. Several committee meetings were held outside of Frankfort in order to visit sites engaged in agricultural operations. The Subcommittee on Horse Farming and the Subcommittee on Rural Issues were reauthorized, and each held two meetings during the Interim. A variety of topics were discussed, and several agencies and organizations updated committee members on projects and proposed legislative suggestions for the 2015 Regular Session.

The committee met at Eden Shale Research Farm, in Owen County, where members received testimony from the Kentucky Cattlemen's Association, Kentucky Beef Network, and the Dean of University of Kentucky's College of Agriculture, Food and Environment. The state veterinarian updated members on the Livestock Care Standards Committee regulations. A representative of Dow Agrosciences discussed the company's work with Eden Shale Research Farm in the area of forage management.

The committee met at Fresh Start Farms in Hodgenville. The president of the Kentucky Soybean Board gave an overview of Kentucky's soybean industry and updated members on the association's recent activities and goals. Representatives from the soybean industry discussed issues affecting Kentucky soybean farmers. Issues included transportation and market access, food system challenges, and water quality. A motion that the Interim Joint Committee on Agriculture submit a comment on the regulation relating to Waters of the United States Rule was passed, without objection, upon voice vote.

At the State Fair, in Louisville, the president of the State Fair Board updated committee members on fair activities and projects being undertaken by the board. The mayor of Louisville discussed the Louisville/Jefferson County Farm to Table project as well as other food market programs.

The committee met at the E.S. Good Barn at the University of Kentucky. The president of the University of Kentucky discussed current projects and recent announcements at the university. The dean of the College of Agriculture, Food and Environment gave an overview of the college and an update on the industrial hemp research project. The committee heard testimony on enrollment and various programs at the university. Committee members discussed the economic outlook of Kentucky's tobacco industry and crop production and were invited to tour the industrial hemp research plot at the University of Kentucky's Spindletop Research Farm.

In Frankfort, a representative from University of Kentucky College of Engineering discussed the use of unmanned aircraft systems in agriculture. A representative of Community Farm Alliance updated members on efforts to establish a Kentucky food policy network, and the executive director of the Kentucky Association of Food Banks updated the committee on the Farms to Food Banks produce purchase program using General Assembly appropriations. A representative of Locally Produced Foods Organization discussed the goals of the organization. A motion that the Interim Joint Committee on Agriculture approve the letter to the Environmental Protection Agency relating to Waters of the United States Rule was passed, without objection, upon roll call vote.

The committee received testimony from the Kentucky Horse Park's new executive director. The committee discussed the vision and future plans for the Kentucky Horse Park. Committee members received an update on the harvest of the University of Kentucky's industrial hemp plot at Spindletop Research Farm. Members discussed Executive Order 2014-834 relating to the reorganization of the Kentucky State Fair Board.

Administrative Regulations

One administrative regulation was referred to the committee during the 2014 Interim, from the Kentucky Department of Agriculture. The regulation related to farmed cervids.

Legislative Proposals/Policy Positions Received

The committee received legislative proposals and comments for the 2015 Regular Session from representatives of the Governor's Office of Agricultural Policy and the Kentucky Department of Agriculture.

The following legislative proposals were received:

Governor's Office of Agricultural Policy
- Support and continue allocating 50 percent of Master Settlement Agreement funds to Agricultural Development Board.
- Recognize conditions of the terms sheet relating to the dispute of the Master Settlement Agreement to ensure future payments are secure.

Kentucky Department of Agriculture
- Change fee structure for grain dealers.

Reports Received

The committee received the following reports:
- From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center, Quarterly Report for the period January 1 through March 31, 2014.
- Independent Accountant's Report: Review of expenditures of the Rural Development Fund from July 1, 2012, to June 30, 2013.

Subcommittee Activity

Subcommittee on Horse Farming

The Subcommittee on Horse Farming met twice during the 2014 Interim. The executive director of the Mountain Saddle Horse Association discussed the association's work to promote and preserve the heritage of the mountain saddle horse breed that has lived in Appalachia for hundreds of years. An extension specialist for the University of Kentucky College of Agriculture, Food and Environment testified regarding the success of the Kentucky 4-H Horse Program, which includes horse volunteer leader certification, judging and horsemanship clinics, and body condition scoring workshops.

Representatives of the Kentucky Horse Racing Commission updated members with the latest horse racing wagering and incentive statistics, and the executive director of the Kentucky Thoroughbred Association discussed the recent improvement of Kentucky's foal crop and thoroughbred sales. The equine programs manager from the Office of the State Veterinarian addressed the members regarding recent developments in equine diseases, welfare, and abandonment.

The members adopted a resolution honoring Sen. Sara Beth Gregory's service in the General Assembly.

Subcommittee on Rural Issues

The Subcommittee on Rural Issues met twice during the 2014 Interim. Officials from the Cabinet for Economic Development, the Cabinet for Education and Workforce Development, and the Workforce Investment Board gave extensive testimony on the economic and employment climate in rural Kentucky. Numerous state initiatives have been deployed to cultivate entrepreneurship and economic growth, including the Kentucky Innovation Network, the Kentucky Small Business Credit Initiative, the Kentucky Angel Investors Network, the Kentucky Small Business Tax Credit, the Kentucky Export Initiative, and the Build-Ready Program.

Representatives of the Kentucky Distillers' Association testified regarding their study of the economic impact of the bourbon industry in the state. Among other things, the study showed that the bourbon industry contributes 15,400 jobs and $3 billion in gross product to the state and that bourbon production has grown 150 percent since 1999.

Officials from the Kentucky State Nature Preserves Commission discussed the advance of the emerald ash borer in the state and efforts to protect the poaching and overharvesting of rare native plant species.

Report of the 2014
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
Rep. Johnny Bell
Rep. Dwight D. Butler
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, Juliana Moore, Charlotte Quarles, John Scott, and Sheri Mahan

Presented to the
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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

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

LRC Staff: Zach Ireland, Justin Perry, Mona Juett, and Benjamin Thompson

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

Sen. Christian McDaniel, Co-Chair
Rep. John Will Stacy, Co-Chair

Sen. Walter Blevins
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

LRC Staff: Katie Comstock, Linda Ellis, Perry Papka, Frank Willey, and Spring Emerson

Budget Review Subcommittee on Human Resources

Sen. Ernie Harris, Co-Chair
Rep. Jimmie Lee, Co-Chair

Sen. Julie Denton
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
Rep. Tanya Pullin, nonvoting ex officio

LRC Staff: Cindy Murray, Jeff Schnobrich, and Benjamin Thompson

Budget Review Subcommittee on Justice and Judiciary

Sen. Sara Beth Gregory, Co-Chair
Rep. Jesse Crenshaw, Co-Chair

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

Rep. John Tilley, nonvoting ex officio

LRC Staff: Katie Comstock, Zach Ireland, Frank Willey, and Benjamin Thompson

Budget Review Subcommittee
on Postsecondary Education

Sen. Stan Humphries, Co-Chair
Rep. Arnold Simpson, Co-Chair

Sen. Gerald A. Neal
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. Derrick Graham, ex officio

LRC Staff: Perry Papka and Amie Elam

Budget Review Subcommittee
on Primary and Secondary Education

Sen. Stan Humphries, Co-Chair
Rep. Kelly Flood, Co-Chair

Sen. Gerald A. Neal
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: Jennifer Rowe, Chuck Truesdell, 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. Tanya Pullin
Rep. Sal Santoro
Rep. John Short
Rep. Jim Stewart

Rep. Hubert Collins, nonvoting ex officio

LRC Staff: Ben Baker, Joe Lancaster, 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; veteran's 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 2014 Interim, the Interim Joint Committee on Appropriations and Revenue held six meetings. The committee received testimony regarding a wide range of topics.

Year End Report for FY 2013-2014 for the General Fund and Road Fund

The state budget director, the deputy state budget director of the Office for Policy and Management, and the deputy executive director for Financial Analysis discussed the FY 2013-2014 year-end financial report for the General Fund and Road Fund. They also provided an outlook for FY 2015. The state budget director stated that there was a $90.8 million revenue shortfall for FY 2014, with individual income tax receipts $63 million under the estimate and Corporate/LLET tax receipts $17.7 million less than estimated. Property tax receipts were down $6.5 million, and coal severance and cigarette taxes were both $3.1 million below the estimate. Sales tax collections were $31.8 million more than the estimate.

The state budget director discussed the economy during FY 2014, stating that the difficult winter slowed growth during the first half of 2014. Overall state personal income tax collections fell 7.1 percent in the third quarter as taxpayers shifted income from tax year 2013 to tax year 2012 to minimize their expected federal tax liability. She provided further details of General Fund receipts, comparing growth rates for the past 3 fiscal years, and comparing actual receipts to the official estimate.

The state budget director discussed the General Fund budget reduction plan requirements, detailing how the notification process works and outlining the steps taken in implementing a reduction plan. Some savings were already included in the enacted budget and there was very little flexibility because of the timing of the shortfall. The actions taken to address the shortfall included $50 million in transfers of excess unappropriated restricted funds, $4.8 million in General Fund reductions, $11.9 million General Fund lapses, $3 million in authorized fund transfers in excess of those budgeted, and a $21.2 million transfer from the Budget Reserve Trust Fund. She provided further details regarding the transfers from unappropriated excess restricted funds.

The state budget director discussed FY 2014 Road Fund receipts, stating that the receipts were 1.4 percent below the official estimate, for a $22 million shortfall. The shortfall was addressed through the Road Fund budget reduction plan. Actions taken to address the shortfall included a dedicated fuels tax adjustment, Road Fund appropriation reductions, and authorized fund transfers in excess of those budgeted and capturing Road Fund lapses.

The state budget director addressed the outlook for future General Fund receipts, which need to grow by 3.9 percent to meet the official estimate for the fiscal year. She discussed the economic difficulties faced by states nationwide. The impact of cumulative cuts to the executive budget has been $1.6 billion over the past 7 years. Many agencies have experienced cuts of 41 percent since FY 2008, with an impact of service delays, more employee attrition, and loss of federal funds. She addressed the outlook for future Road Fund receipts, forecasting a decline in FY 2015 due to the implementation of the new car trade-in credit, a decline in taxable gallons of fuels, and motor fuel and motor vehicle usage tax declines.

Activities of the Cabinet for Economic Development

The secretary of the Cabinet for Economic Development and the executive staff adviser for the Office of Entrepreneurship discussed current economic development activities in Kentucky. The secretary discussed the declining manufacturing projects coming to Kentucky and emphasized the importance of fostering small-business development in the state.

The executive staff adviser for the Office of Entrepreneurship discussed entrepreneurship and small-business growth. According to data from the Bureau of Labor Statistics, Kentucky is ranked first among the states in the percentage growth of new business establishments, and fifth in entrepreneurial activity. The cabinet has established the Kentucky Innovation Network, which provides more than 500 Kentucky companies support and free services, including idea assessment, market research, prototype development, business strategy, and capital access. The network has 13 offices statewide, including the newest office in Pikeville.

The executive staff adviser for the Office of Entrepreneurship discussed the importance of angel investors to small business growth. Angel investors, or individuals who provide capital for business start-ups, invest an average of $20 billion in new companies each year. She discussed recent angel investor tax credit legislation, which expands the Kentucky Investment Fund Act tax credit to allow individual investors to receive the credit. The tax credit ranges from $3,500 to $25,000, depending on the size of the investment. She also discussed the Small Business Innovation Research Program, the Small Business Technology Transfer Funds Program, the Kentucky Export Initiative, and the Governor’s School for Entrepreneurs.

Master Settlement Agreement arbitration settlement

The Kentucky Attorney General discussed the Master Settlement Agreement (MSA) arbitration settlement, including the history and original provisions of the MSA. Under the MSA, states are required to “diligently enforce” the collection of nonparticipating tobacco company taxes and deposit these into an escrow account. Since 2003, the participating companies have protested, claiming that Kentucky has not met this requirement. In 2013, this protest was arbitrated, and Kentucky was found to be one of six states that did not diligently enforce the agreement. The Office of the Attorney General began settlement negotiations in November 2013 with the participating tobacco companies. An agreement was reached that will give Kentucky

45 cents on the dollar from disputed accounts, provide some certainty in receipt of payments owed the state in the future, and provide guidance to the state for future enforcement.

The state budget director and the deputy state budget director, Office of Policy and Management, discussed the budgetary impact of the MSA arbitration settlement. The state budget director stated that the settlement prevents $42.5 million in budget cuts to tobacco programs in FY 2014 and ensures that the enacted appropriations for FY 2015 and FY 2016 will be fully funded. The settlement provides an estimated $57.9 million over the next 3 fiscal years, removes the biggest element of uncertainty to MSA receipts over the next 10 years, and saves the annual expense of litigation/arbitration. She outlined the enacted budget reduction plan and highlighted the areas where proposed cuts have been restored to full funding.

The state budget director discussed additional funds anticipated from the settlement in FY 2014 and how they will be used. The expected excess receipts of $68.6 million will be used to offset the estimated shortfall in FY 2015 MSA receipts of $26.6 million. The remaining $42 million from the FY 2014 receipts will be reserved until the General Assembly takes further action to appropriate the funds. She gave an overview of MSA appropriations for the biennium in the following areas: agricultural development, early childhood development, and health care improvement.

Medicaid Expansion

The deputy secretary of the Cabinet for Health and Family Services and the commissioner of the Department for Medicaid Services provided an update on the expansion of Kentucky’s Medicaid program under the Affordable Care Act. The deputy secretary presented graphic information illustrating the rate of insurance coverage before and after Medicaid expansion. He noted that an independent study found that the expansion will lead to an estimated 17,000 new jobs, will provide $11 billion in new funding to providers, and will reduce uncompensated care expenses to hospitals by approximately $800 million. He stated that 28 hospitals had already reported reductions of 80 percent or greater in uncompensated care.

One new area covered under the Medicaid expansion and highlighted by the deputy secretary in his presentation is substance abuse services. He told the committee that, for the first time, providers are able to bill for a variety of services provided to address substance abuse. He noted that providing these types of services through Medicaid has resulted in reductions in expenditures under other cabinets and departments from the General Fund. In conclusion, the deputy secretary informed the committee that the white paper analyzing the Medicaid expansion in Kentucky is currently being updated and should be available in January 2015.

Kentucky Department of Revenue

The director of the Division of Collections for the Department of Revenue and the policy adviser for the Department of Revenue, Office of the Commissioner, provided an overview of the Division of Collections, the collections process, recent computer upgrades, and new compliance efforts.

Kentucky State Parks

The commissioner, the chief financial officer, and the director of resorts and facilities management of the Department of Parks gave an overview of revenues generated by the state park system in past fiscal years and discussed revenue projections for fiscal year 2015. The system achieved cost savings by reducing energy consumption and reducing personnel costs during the off-season. Personnel costs will increase during FY 2015, with parks employees seeing either a 3 percent or 5 percent salary increase as enacted in the 2014-2016 biennial budget. In FY 2014, the park system took in $47.5 million, down $1.23 million from FY 2013. The projected revenues for FY 2015 total $48.5 million. Projected increases are due to improvements in infrastructure and resort rooms, and updates to technology. Expenditures for these improvements were included in the enacted budget.

The commissioner discussed partnerships being implemented by the department. These include a partnership with the Department of Fish and Wildlife Resources for wounded-warrior hunts and using an expert on black bears in eastern Kentucky parks. The department partnered with the Division of Forestry for an ash tree harvest at General Butler State Park. Buckhorn Lake marina and eight other state marinas have been leased to private companies. The commissioner discussed revitalization efforts at several state golf courses and the installation of a 3D archery range at Kenlake State Park.

The commissioner discussed the importance of marketing in the continued success of Kentucky's state parks. She discussed the technological difficulties the parks face and how outdated technology used by the parks does not allow potential customers to use online hotel and resort reservation websites, such as Expedia, to make reservations. Updating the department's computing technology is expected to increase park revenues by $1 million annually.

The commissioner discussed the 2014 extreme winter conditions and their effects on the parks. Insurance covered most of the cost from winter storm damage, but several parks will incur repair costs.

Department of Public Advocacy Social Worker Program

The public advocate, an assistant professor from the Department of Behavioral Science and Center on Drug and Alcohol Research at the University of Kentucky, and a social worker from the Bowling Green Department of Public Advocacy discussed Kentucky's alternative sentencing and social worker program, stating that the program is nationally recognized. The public advocate discussed some of the state's prison problems, stating that rising substance abuse, high unemployment rates, and lower job skills have contributed to increased prosecution and incarceration. Deinstitutionalization of persons with mental illness has resulted in more people in prisons and jails with mental illness.

The public advocate discussed 2011 HB 463, which was enacted during the 2011 Regular Session to reduce unnecessary incarceration of individuals who present low risk of harm to the public and who could benefit from rehabilitation services. Attorneys are mandated to seek alternatives to incarceration for their clients.

The assistant professor discussed the Center on Drug and Alcohol Research's study of alternative sentencing plans. The study followed 20 client records for 12 months after the court's acceptance of an alternative sentencing plan. Each record included an estimate of the likely sentence that would have been imposed in each case and the actual sentence from the disposition of the case. Each record also included the actual time served during the 12 months after the court's decision. The study found that without alternative sentencing, the clients would have served an average of 153 days during the 12 months post-disposition of the court case. With alternative sentencing, the clients actually served an average of only 23.5 days in that same period. The net savings to the state per client for the year was between $3,687 and $5,608. The study showed that for every dollar spent on social worker alternative sentencing services there is a $4.47 to $6.80 savings to the state.

The assistant professor also discussed the cost savings from using treatment and recovery services instead of incarceration. A year of incarceration for an inmate costs between $12,742 and $18,166 on average. A year of public substance abuse treatment expenditure averages $2,300 per client. A completed stay in a recovery center costs about $5,800. The study data for community-based treatment and recovery programs show significant gains in the number of persons remaining drug- and alcohol-free 12 months after completion of treatment. Posttreatment success rates range from 45 percent to 80 percent, with the higher percentage success rates produced by long-term residential treatment centers.

The social worker provided examples of the assistance that department social workers provide to clients in formulating alternative sentencing plans and examples of outcomes achieved from implementing these plans.

Gatton Academy of Mathematics and Science

Professors from Western Kentucky University testified about the activities of the Gatton Academy of Mathematics and Science, located at the university.

Craft Academy of Excellence in Science and Mathematics

Professors from Morehead State University provided testified about program development for the Craft Academy of Excellence in Science and Mathematics, located at the university.

Internet Sweepstakes Cafés

Sen. Mike Wilson and the governmental affairs advocacy manager for the Kentucky League of Cities discussed legislation prefiled by the senator to address the recent proliferation of Internet sweepstakes cafés in the commonwealth. The senator stated that his legislation addresses ambiguities in existing law, making it clear that Kentucky prohibits Internet sweepstakes cafés. The governmental affairs advocacy manager described Internet sweepstakes cafés as businesses that sell Internet access or prepaid phone cards, and the opportunity to play computer-based casino-style games in which customers can win cash prizes. Each purchase of

Internet usage or minutes entitles a customer a certain number of sweepstakes entries. Customers determine whether they have won by logging on to a computer.

The governmental affairs advocacy manager said that the League of Cities has requested an opinion on the legality of Internet sweepstakes cafés from the Kentucky Attorney General.

Northern Kentucky Economic Development

The following individuals testified about economic development in Northern Kentucky:

- The executive director of the Northern Kentucky Convention Center discussed expansion of the center.
- The president of Northern Kentucky University discussed proposed expansions of the university.
- The chairman of the Northern Kentucky Convention and Visitors Bureau, the chief executive officer of the Northern Kentucky Convention and Visitors Bureau, and a representative of the Price Group Inc. discussed the importance of tourism to the Northern Kentucky region.
- The executive director of E-Zone discussed innovation districts in the commonwealth.
- The president of Gateway Community and Technical College discussed the need for an educated workforce to spur regional economic development
- Representatives from several real estate development companies discussed real estate developments in progress in Northern Kentucky and the economic impact of these projects.
- The executive director of the Catalytic Fund discussed the role that private-sector not-for-profit organizations can have in providing financing assistance and related services to developers of high-quality residential and commercial real estate projects in Northern Kentucky's cities.
- The mayors of Bellevue, Covington, Dayton, Fort Thomas, Ludlow, and Newport discussed ways to improve economic development in Northern 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 held one meeting during the 2014 Interim.

The president of the Kentucky State Fair Board provided an update on the financial status of the fair board. The president also gave an update on attendance, revenues, and expenses of the 2014 Kentucky State Fair.

The commissioner and the deputy commissioner of the Kentucky Department of Fish and Wildlife Resources provided an update on the elk program and its economic impact.

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

During the 2014 Interim, the Budget Review Subcommittee on General Government, Finance, and Public Protection held two meetings.

The chief deputy attorney general testified regarding pharmaceutical fraud cases settled in 2013, the establishment of the Substance Abuse Treatment Advisory Committee, and the settlement of the Tobacco Master Settlement Agreement litigation.

The deputy secretary of the Finance and Administration Cabinet provided an update on the progress of the Next Generation Kentucky Information Highway.

The commissioner of the Department for Local Government provided an overview of coal severance funds.

Budget Review Subcommittee
on Human Resources

The Budget Review Subcommittee on Human Resources did not meet during the 2014 Interim.

Budget Review Subcommittee
on Justice and Judiciary

The Budget Review Subcommittee on Justice and Judiciary did not meet during the 2014 Interim.

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 2014 Interim.

The Kentucky Department of Education gave an update on technology and preschool and flex focus funds. The associate commissioner discussed the expansion of broadband and other technology initiatives throughout the commonwealth. The director shared information regarding technology and improved education opportunities in Kentucky school districts. Another associate commissioner gave an update on flex focus and preschool funds for 2014-2015.

The president of West Kentucky Community and Technical College gave an update on the status of the Paducah School of Art capital project, as well as an overview of the West Kentucky College Academy dual-credit program and the Community Scholarship Program.

Representatives from Murray State University provided an overview of the university's Paducah Regional Campus and the Program of Distinction in Telecommunications Systems Management.

Directors from the Kentucky Department of Education gave an update on achievement gaps and successful intervention strategies.

LRC staff presented the Program Review and Investigations Committee report "Cost And Funding Of Higher Education In Kentucky."

Representatives from the Kentucky Center for Economic Policy discussed college affordability.

The president of the Council on Postsecondary Education discussed cost drivers at institutions of higher education.

Budget Review Subcommittee on Transportation

The Budget Review Subcommittee on Transportation held four meetings during the 2014 Interim.

The secretary and deputy secretary of the Transportation Cabinet spoke on the future of the Federal Highway Trust Fund, which was set to be exhausted in late August 2014 until congressional action restored funding through May 2015. Both testified that unwillingness in Congress to increase the federal motor fuels tax meant that $65.3 billion in transfers from the federal general fund was necessary to maintain current spending levels on transportation infrastructure to this point. Congress has not increased the federal motor fuels tax in 2 decades, and inflation has decreased the purchasing power of the 18.4-cents-per-gallon tax.

The secretary expressed hope that Congress would reauthorize MAP-21, the federal surface transportation funding legislation, in time to provide financial certainty for states as they plan for the summer 2015 construction season.

The deputy secretary spoke about options that other states are exploring to move away from an excise tax on motor fuels to a vehicle miles traveled tax, which would alleviate pressures on transportation funding sources caused by more fuel-efficient vehicles and alternative-energy vehicles.

The executive director of the Office of Budget and Fiscal Management and the innovative finance manager, Transportation Cabinet, provided updates on Road Fund revenues. Through September, total Road Fund receipts were $7.1 million ahead of FY 2014 levels, despite a projected decrease in the budget. Lower fuel prices during the October survey month, however, could lead to a drop in Road Fund revenues for the third quarter as a result of a lower motor fuels tax rate.

Representatives from Northern Kentucky, including the mayor of Covington, spoke about the benefits of public-private partnerships. P3 legislation passed during the 2014 session of the General Assembly, but the Governor vetoed it. Kentucky is one of only 10 states that do not have P3 legislation, relating to transportation projects. The Brent Spence Bridge in Northern Kentucky is in urgent need of repair or replacement. Opinions are divided concerning the use of tolls in finance the project.

Representatives of Kentuckians for Better Transportation spoke about the role of river ports and public transportation in Kentucky's economy. In each of the last two budgets, $500,000 has been appropriated each year for dredging and other maintenance-of-access needs, and all allocated funds were spent in the 2012-2014 budget. Local river ports charge fees for loading and unloading cargo but find the state appropriation vital to their capital improvements. Only one river port, in Owensboro, makes enough to return funds to its local government.

The innovative finance manager, Transportation Cabinet, also presented a financial update on the Louisville-Southern Indiana Ohio River Bridges project, including prospective toll rates.

Report of the 2014
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. 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
Rep. Ken Upchurch

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

Presented to the
Legislative Research Commission
and the
2015 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 2014 Interim.

Insurance

The commissioner of the Department of Insurance reported that the insurance market in Kentucky is very healthy. Two new health insurers are now selling plans in the state and the workers' compensation marketplace has had a decrease in claims for the ninth consecutive year, with the ninth lowest number of claims in the nation. She testified about the number of insurance companies, active licensees, and insurance fraud referrals in Kentucky during the previous fiscal year. The consumer protection division has recovered $3.5 million from among 4,243 consumer complaints received.

Pharmacy Benefit Managers

The executive director of the Kentucky Pharmacy Association stated that 2013 HB 107, relating to regulation of pharmacy benefit managers, has had no impact on transparency issues or the disclosure of the reimbursement calculation methods and requested that pharmacy benefit managers be required to comply. In response, the Department of Insurance representative stated that the department plans to require compliance and will deal with the issues on a case-by-case basis.

Specialty Prescription Drugs

Representatives of the National Arthritis Foundation requested that a cap be placed on copayments and coinsurance for specialty prescription drugs subject to a tiered formulary. Some health insurance plans are placing vital medications into new specialty tiers, requiring patients to pay a percentage, ranging from 25 percent to 50 percent of the drug's cost, rather than a fixed copayment.

Banking and Financial Institutions

The commissioner of the Department of Financial Institutions reported that Kentucky state banks are in good condition, based on such factors as loan growth and deposit growth. However, more than 16,000 pages of new federal regulations affecting banks are having a negative impact on the average community bank because of additional expenses involved for employees to keep up with the new rules. He stressed the importance of community banks' assets for Kentucky and said that community banks provide more than 50 percent of all small-business loans, more than 40 percent of loans secured for farmland, and more than 15 percent of residential loans. The commissioner said that he and other states' banking regulators told the US Senate in September that, under the dual national and state banking system, state regulators had been responsive and innovative during the recent recession. He emphasized that state regulators find the federal laws, aimed at reining in the large national banks that contributed to the recession, too burdensome for community banks, and that Congress should take the size of the institutions into account.

The commissioner testified about the status of deferred deposit transactions, commonly referred to as "payday loans." The online database, approved by the 2010 General Assembly, reports 2,192,018 transactions statewide with an average advance amount of $335.17, borrowed by 211,660 people, with an average fee of $55.38 (based on $15 per $100 borrowed) for an average of 20.2 days. Internet payday lenders, although unlicensed in the state, are making loans to Kentuckians and illegally collecting both principal and interest.

The president of the Kentucky Bankers Association (KBA) echoed the commissioner's concerns about the increasing federal requirements for all banks, both national and state. He reported that "enhanced, arbitrary capital enhancement" requirements have a detrimental effect on state banks, despite the history of maintenance of prudential core capital by state banks. In addition to reported burdensome federal requirements, he presented a request from the KBA urging the General Assembly to modify the formula used to determine the net capital from which the state franchise tax is calculated, recognizing and offsetting the arbitrary imposition of capital requirements by banking regulators.

KBA representatives also urged the General Assembly to consider legislation to reduce the number of court-ordered foreclosure sales of mortgaged property by authorizing the use of a "deed of trust" as an alternative to a deed and mortgage. The executive vice president and general counsel of the KBA stated that a deed of trust offers the same protections as a deed and mortgage, but in a deed of trust the purchaser agrees that, in the event of default, a trustee of the deed will notify the homeowner of the default. If not corrected, the trustee will, upon appropriate notice to the parties, conduct a nonjudicial sale. Approximately 38 states allow nonjudicial sales of real property, resulting in less cost to the former homeowner, to the lender, and to communities blighted by vacant properties that are not maintained properly, resulting in vandalism and reduction in the value of surrounding properties.

Report of the 2014
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
Rep. Larry Clark
Rep. Leslie Combs
Rep. Tim Couch
Rep. Jim DeCesare
Rep. Mike Denham
Rep. Bob M. DeWeese
Rep. Jeffery Donohue
Rep. Myron Dossett
Rep. C.B. Embry Jr.
Rep. Jim Gooch Jr.
Rep. Mike Harmon
Rep. Richard Heath
Rep. Richard Henderson
Rep. Dennis Horlander
Rep. James Kay
Rep. Dennis Keene
Rep. Thomas Kerr
Rep. Kim King
Rep. Martha Jane King
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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2015 Regular Session of the
Kentucky General Assembly

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. Wilson Stone
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 2014 Interim, the committee held two meeting in Frankfort and four meetings elsewhere.

Economic Impact of Aerospace/Aviation on the Commonwealth

The co-founder of the Kentucky Aviation Council, which was created in 1995 to address the needs of the aviation industry, gave a presentation concerning opportunities in Kentucky's aerospace industry. In February, the Governor said that aerospace components exports are greater than the state's automotive industry exports. It is the goal of the Aviation Council to make Kentucky the nation's premier manufacturing state.

A 1998 aviation economic impact study on airports described a $10 billion industry with 100,000 employees. New estimates suggest that the industry had grown to $12 billion with 130,000 employees before the most recent recession. In 2013, aerospace exports were almost 2 percent more than automotive exports. Employment in aerospace manufacturing has increased 63 percent since 2012, while product exports have increased 85 percent. Of the 71 categories of space products and services identified by Morehead State University, 52 are made in Kentucky.

The executive director of the Kentucky Institute for Aerospace Education (KIAE) said the program prepares students for a future in aerospace by working with students beginning in high school, through technical college and university-level education, and into the workplace. KIAE is a nonprofit organization whose mission is to increase student engagement in aerospace by improving science, technology, engineering, and mathematics (STEM) learning and providing an authentic connection to the work. The program results in college- and career-ready graduates. Currently, 32 schools in Kentucky and Tennessee participate in the program, with most being in Kentucky. The student graduation rate has been 100 percent the last 3 years. Students score 17 percent higher than the state average on the ACT and not only meet but exceed the benchmarks for college readiness in math and science. Among the program's students, 75 percent go into STEM fields upon graduation and 25 percent go into aviation.

The chair of the Department of Earth and Space Sciences Center, Morehead State University, discussed the space economy, noting that it is a $5.6 billion state industry. The Space Sciences Center's focus is on nanosatellites—small satellites that are easier to manufacture and launch. Projections indicate substantial growth in the field, and Kentucky is poised to be a major player. Morehead State's program has partnered with government agencies including NASA as well as aerospace companies, universities, and consortia.

The Governor and Kentucky congressional representatives were urged to lobby the US Department of Commerce to extend the Southwestern Aerospace Region manufacturing corridor into central and eastern Kentucky to include Louisville, Lexington, and Morehead to allow for greater opportunities for economic growth.

The vice chancellor of economic development and workforce solutions, Kentucky Community and Technical College System (KCTCS), gave an overview of how KCTCS is involved in aerospace and aviation in Kentucky. He said Somerset Community College has a successful 2-year aviation maintenance technology program approved by the Federal Aviation Administration. The program has an almost 100 percent job placement rate. It is a competitive, STEM-oriented program. KCTCS has a two-plus-two agreement with Eastern Kentucky University and other state institutions. Through the Workforce Solutions Unit, KCTCS provides workforce training for companies across the state. KCTCS has several Advanced Technology Centers on its campuses that partner with STEM-related companies linked to aerospace. They provide skill sets for employment by high-tech companies.

The chief flight instructor with Eastern Kentucky University Aviation explained the program's mission to prepare students for careers in aviation and to be a world-class aviation academic and flight training institution. Students are trained to be job ready either as flight instructors or flying on-demand air charter. The goal is to make Kentucky the state of choice for aviation education. The program curriculum was recently revised to mandate that all airline pilots are to have an Airline Transport Pilot Certificate. The EKU curriculum is an exact duplicate of the Naval Aviation Training Command. EKU collaborates with nine regional carriers. These regional carriers recognize the coming pilot shortage due to the new regulations. EKU offers postsecondary an aviation program with concentrations including aerospace management, professional flight, and aerospace technology.

The director of the NASA Kentucky Space Grant Program and the Experimental Program to Stimulate Competitive Research Program and University of Kentucky Systems Research Consortium explained that NASA has invested in Kentucky's aerospace workforce for approximately 25 years. NASA has invested millions in projects annually involving 14 academic institutions across the state. The program provides seed money for beginning projects; for example, $400,000 was invested over a 5-year period in developing autonomous aircraft, which in turn produced 300 graduates in engineering, many of whom found employment at GE Aviation and Belcan Engineering Group. She said the NASA Kentucky program is investing in the Institute for Aerospace Education in projects that involve authentic, hands-on STEM education for workforce development and faculty development for research capacity.

Research in unmanned aerial systems (UAS) is emerging now. In 2015, the FAA will allow commercial flights and sell services with UAS. The Association for Unmanned Vehicle Systems International released an economic development report in 2013 estimating an economic impact of $82 billion over the next 10 years in the US with an estimated $537 million economic impact and 600 additional jobs in Kentucky. This estimate was based on an understanding of the state's infrastructure, not the actuality of Kentucky's assets.

Research in Kentucky over the last 12 years has resulted in industry standard designs on unmanned aerial systems. Kentucky has more than 14 years of agriculture applications experience. Kentucky is a leader in UAS technology. She explained that a group of faculty and students joined together December 2013 to form a research consortium to share information and bring assets together to benefit business as well as each other, and more UAS manufacturing companies are locating to Kentucky. The training available at KCTCS has been an attractive feature of Kentucky. She said to support these developments, Kentucky needs UAS air space. Other states are turning to installing unmanned systems air strips, which must be located away from other airports.

The program manager at Belcan Engineering Group Inc. expressed support for the KIAE program. Belcan would rather hire graduates from Kentucky than from out of state, and he noted that the University of Kentucky produces a lot of engineering graduates, but many leave the state. The Lexington office of Belcan was created to keep graduates in state. He said it is hard to attract engineers to Kentucky. Promoting STEM education will help provide the state with engineers. He noted that a proposal has been sent to the Ohio legislature to set up an aerospace committee consisting of legislators and industry representatives to collaborate on aerospace development. Belcan recently learned of other aerospace initiatives in Kentucky and would like to be involved in a partnership or committee to promote collaboration and increase companies in the aerospace workforce.

Importance of Houseboating and Water Sports to Kentucky's Tourism Industry

The committee traveled to Lake Cumberland State Resort Park to receive testimony about the importance of the houseboating industry and water sports. Senator Girdler thanked committee members for passing legislation designating Kentucky as "The Houseboat Capital of the World." The first houseboat was built in Somerset in 1953. Lake Cumberland is one of the state's most important tourism engines and is as important to the region as Toyota Motor Manufacturing is to central Kentucky. The Lake Cumberland area receives more visitors than the Grand Canyon and Yellowstone National Park.

The park manager of Lake Cumberland State Resort Park explained that due to recent flooding, the park has experienced significant renovation in areas, and he commended the staff for their success in repairing and renovating the park so quickly.

The secretary of the Tourism, Arts and Heritage Cabinet said the staff at Lake Cumberland State Resort Park and several other state parks recently experienced weather-related problems including flooding and burst pipes. He noted their professionalism and hard work in dealing with a multitude of issues.

The secretary explained that regional and statewide tourism is an economic engine for Kentucky. In 2013, visitors spent $12.5 billion in Kentucky, supporting more than 175,000 jobs and resulting in nearly $3 billion in payroll and $1.3 billion in tax revenue, with $168.7 million in local taxes and far more than $1 billion in state taxes. Also in 2013, the southern Kentucky Lakes and Rivers Region generated $300 million in visitor spending, primarily due to Lake Cumberland.

State advertising primarily focuses on Kentucky's water and natural resources. Some targeted out-of-state markets include Cincinnati, Chicago, Charlotte, Nashville, and Birmingham. Traditionally, the primary markets were north of Kentucky, but new trends indicate southern visitors coming to the state in increasing numbers. This year the state parks system is celebrating its 90th anniversary, which many parks are integrating and promoting in their activities. Kentucky has more shoreline than Florida and more fresh-running water than any state except possibly Alaska. The cabinet has modestly relaunched international marketing efforts. During a recent trade mission to the United Kingdom, Holiday Virgin Airlines promoters were interested in houseboating as an activity that would appeal to their clientele. Houseboating is a great marketing piece for the state.

The commissioner of the Department of Parks said that Kentucky is the only state to have 17 resort parks. The parks system has faced some challenges, such as a 23 percent reduction in full-time staff and a delay in needed improvements, which include improvements in critical infrastructure, such as mattresses, televisions, and Wi-Fi access.

Senator Girdler recognized Rep. Larry Clark for his oversight of local option legislation during the 2014 legislative session, which will help Kentucky's state parks compete with other resort areas. He noted that Kentucky's marketing budget is $3 million annually, compared to nearby areas like Gatlinburg, which allocates $3.5 million per year for marketing, and Pigeon Forge, which allocates $8.5 million. Tennessee's statewide promotional budget is $14 million.

The president of the Kentucky Marina Association said that he operates State Dock at Lake Cumberland, which has a fleet of 90 rentals, of which 60 are houseboats. It is the largest fleet of houseboats in one location in the United States, with approximately $4 million in houseboat rentals yearly. There are three issues affecting the tourism marina industry. The first is taxation on documented boats. Until 2 years ago, this tax was largely unenforced. Counties had the option to waive the tax of 1.5 cents per $100. With the economic downturn, school boards decided to levy a tax. In 2010, the tax rate in Pulaski County was 8 cents per $100; in 2014, it is 66 cents per $100. There are disparities among counties, but most counties are increasing their tax rates. The result has been empty boat slips at marinas. Neither Tennessee nor Florida has a property tax, and Indiana's and Ohio's rates are low. After Florida went from a high to low property tax, its boating industry has flourished. A different tax structure would be more beneficial—taxing the purchase of used boats, for example. Registration fees and personal property taxes are very low in many other states. Some taxing authorities retroactively assessed taxes and penalties 5 years back.

The association president said boat owners faced taxation without representation by being taxed for schools, libraries, and services they are unable to use. While boaters cannot live on a

Corp of Engineers-maintained lake, they are taxed as residents even though they are from out of state. Marinas on the Tennessee side of Dale Hollow Lake are full while Kentucky marinas are not. To help resolve this problem, the Kentucky Marina Association asked that a task force be developed to address the tax issue. According to a study by the University of Michigan, one boat, not including rentals, contributes $21,310 to the local economy.

Another important issue affecting the marina business and tourism is the school year. The school calendar has changed such that many school years begin in the first week of August and end in the first half of May. The summer season does not begin until June and extends through August. Business is lost because the family vacation season is cut short. Because older children must return to school during the summer season, businesses cannot hire school-age teens. In 2013, houseboat vacations dropped from 316 in July to 184 in August—a decline of 42 percent. Ohio only saw a 5 percent decline. Somerset closed its water park because of a lack of summer employees.

The president of Stardust Cruisers gave an overview of the houseboat company, which is located in Monticello. Stardust cruisers have been shipped worldwide. There is a misunderstanding about average houseboaters. They are from average middle-class working households, and they use houseboating as their getaway. The dramatic increase in personal property tax has had a big impact on boat owners. The recession has been hard on the leisure business. Input costs in boat construction have increased dramatically. The $250,000 houseboat is almost impossible to build today with the increased costs. Companies also have trouble attracting and retaining skilled labor. It is very difficult to find qualified, drug-free employees. His company has been working with Somerset Community College to create a manufacturing training program. Kentucky's sales and personal property taxes affect new boat sales, making new ownership unaffordable for most families.

In 2006, there were 10 boat manufacturers with more than 1,000 employees in Kentucky. This year there are two with approximately 150 employees. The two companies are joining forces to better manage costs. In 2006, 60 percent to 75 percent of houseboats produced stayed in Kentucky. The average price was about $290,000. Today, the average price is approximately $425,000 because of input and commodity cost increases and availability. Kentucky's tax policies are causing people to drive through Kentucky and boat in Tennessee. In Knoxville, there is a waiting list to get a marina slip, while 25 percent to 30 percent of slips in the Lake Cumberland area are empty. In 2013, Stardust Cruisers sold one boat in Kentucky, while all other production went elsewhere.

The executive director of the Somerset-Pulaski Convention and Visitors Bureau spoke about tourism expenditures in Pulaski County. Last year, visitors spent $117 million, which was a decrease of 1.5 percent from 2012. Visitation to tourist destinations decreased. Lake Cumberland visitations in 2014 for Memorial Day and July 4th weekends were 630,550.

A brief review of tourism expenditures for the five counties surrounding Lake Cumberland was provided. After dam renovations began, they had to combat the untrue notion that Lake Cumberland was dry. The state and surrounding areas spent a lot of money addressing this issue. In regard to tourism advertising, budget cuts have significantly affected tourism.

Kentucky's tourism regions were normally allocated $111,000 for marketing and advertising from the state. These funds were matched with $137,000 locally. In 2014, funding was cut 69 percent. The region asked the state to use some of the allocation to advertise and perform marketing research. For the last 3 years, Kentucky has not been at boat and travel shows because of budget cuts, while surrounding states continue to participate. Kentucky convention and visitors bureaus assist the state by distributing *Kentucky's Official Visitors' Guide*. Because of funding cuts, local tourism regions have been unable to market events, affecting the number of visitors. Tourism is the purest form of "Made in America" that aids economic recovery. Tourism will never be exported, so it should be funded to compete with surrounding states.

The Kentucky Center for the Performing Arts

The committee traveled to the Kentucky Center for the Performing Arts, Louisville, to hear about recent economic development and tourism initiatives. The president of the Kentucky Center for the Performing Arts welcomed members to the center. She said that the center had recently been ranked 26th in the world in attendance, seeing more than half a million people a year. She gave an overview of The Kentucky Center Governor's School for the Arts, which is sponsored by the center with support and sponsorship with state funds. She expressed appreciation for state funds, which helped to provide a new roof for the center and also appropriations to increase the number of children able to attend The Kentucky Center Governor's School for the Arts.

Greater Louisville Inc.

The president and CEO of Greater Louisville Inc. (GLI) summarized the vision of GLI and how its goal is to advance the Greater Louisville region through job and wealth creation. GLI is a member-led business leadership organization that is present in 26 counties across Kentucky and Indiana with 1,900 paid members who employ 219,000 people. GLI implements economic development programs that boost job creation; supports laws and policies that create a business-friendly environment; and provides programs, products, and events that increase profits and lower costs for the Metro Chamber members and their companies.

The vice president of GLI highlighted plans for the public policy committees and the policies the company has supported in recent years. GLI has shown support for and advocated tax credits for angel investors, tax reform initiatives, and the local option sales tax. GLI has created an Indiana issues committee to better represent its members. GLI is creating committees for local, state, and federal issues.

Over the 15 years that GLI has existed, it has taken on 1,200 projects that have collectively generated 74,000 new jobs and $8.2 billion in new capital investments, including companies such as UPS, Ford Motor Company, and General Electric. More recently, GLI was involved with the Bluegrass Economic Advancement Movement (BEAM) and partnered with the Brookings Institute on a collaborative plan for economic growth in the region by getting a better understanding of businesses and industries that will thrive in the region and what economic forces help promote or stifle growth within the regional economy.

Some other programs resulting from GLI partnerships are Ford Next Generation Learning, where some high schools in Jefferson County were transformed into career-themed high schools, and the Degrees at Work program in conjunction with the Lumina Foundation, which helps to provide resources to businesses that want to assist their incumbent workers who want to pursue postsecondary education. GLI has assisted with KentuckianaWorks, which opened the Kentucky Manufacturing Career Center and Greater Louisville International Professionals and plans to open Where Opportunity Knox soon.

Institute for Product Realization: Connecting Education, Research, and Job Creation

The dean of the University of Louisville J.B. Speed School of Engineering testified about the Institute for Product Realization project, made possible with state funds and support from Representative Clark. The Cabinet for Economic Development, Greater Louisville Inc., and the mayors' offices of Louisville and Lexington, through the BEAM initiative, assisted with the project. The focus is to create an institution to assist in growing the manufacturing industry in Kentucky on a long-term basis.

The institute was compared to an ecosystem, which in order to prosper would require collaboration with colocated industries, strong support from the University of Louisville through human potential and research capabilities, and a global cocreation. He described the four areas that are going to support the Institute for Product Realization which include research and education, a launch pad, a cocreation platform, and a microfactory. Through the Institute for Product Realization, an Internet-based group composed of people from around the world will formulate ideas and designs for products. The product will then be built at the microfactory in Louisville; once it has been built, consumers will test it, either physically or virtually, and determine whether they would buy the product by giving direct feedback. If the feedback is positive, the product will be manufactured through a launch pad. By connecting to consumers immediately through the Internet, the cycle time between the primary idea and the manufacturing of the final product will be much more rapid.

Shaker Village of Pleasant Hill, Changes in Response to Business and Marketing Conditions

The committee held a meeting at Shaker Village, Harrodsburg, to learn about how it has adapted to changing markets and visitor demands. The president and chief executive officer of Shaker Village of Pleasant Hill explained recent changes to redefine promotional efforts at the village. He acknowledged the dedication of those who worked to restore Shaker Village and the not-for-profit organization that currently manages its 3,000 acres and 34 historic structures. In the 1960s, the site was restored and opened to the public with traditional cooking and costumed interpreters who performed Shaker-era craft making. With declining attendance due to a volatile marketplace and cultural shift, this model no longer served the needs of Shaker Village. To survive, the demands of a new marketplace must be met by creating an engaging experience for a new generation.

The leadership team at Shaker Village spent many hours considering changes to longtime institutional traditions. The team determined it was more important to put the needs of today's audiences ahead of organizational customs. In doing this, Shaker Village merged the best of the old with the unexpected. The Pleasant Hill Shaker story has not changed, but the manner in which it is told has. The leadership team chose a nontraditional marketing firm to take an inventive approach to rebranding Shaker Village and its collection of Shaker architecture and artifacts. Through targeted branding and marketing communications, the introduction of engaging events, and the development of a new visitor engagement plan, the new strategy was implemented. To reach more children and families, the team developed programs and activities, presented them in fun and approachable ways, and broadened the opportunities for loyalists and empty-nesters seeking tranquillity in a natural setting. New events were created, such as the Chamber Music Festival of the Bluegrass, an antiques show and crafts fair, the Harvest Fest, and smaller events targeting specific niches.

A new visitor engagement plan was developed to transition Shaker Village's daily programming from a traditional demonstration-based interpretation of Shaker history to an engaging participatory model through new seasonal programs and activities. Shaker Village has begun to retell the Shaker story through media outlets, social media, online presence, and new events. These efforts are paying off with increased occupancy rates, admissions, and dining sales.

No other site like Shaker Village exists that combines historic structures, exhibitions, demonstrations and collections, a nature preserve, farm and garden, along with dining, sleeping accommodations and retail sales. The Village's Historic Centre, the Preserve and the Farm and Garden staff are collaborating to development new programs. The Village is collaborating with outside partners to share expertise, staff, and resources to maximize reduced budgets to provide high-quality programs.

Importance of Public/Private Partnerships and Cooperative Programming

The vice president of marketing with the Lexington Convention and Visitors Bureau said with the assistance of the Kentucky Department of Travel and Tourism, the 15 regional counties work closely together. They meet monthly about tourism and collaborate on marketing initiatives to help meet their needs. Participants share information on local events and attractions in a regional marketing partnership. Money from the Tourism Marketing Incentive Fund helps fund items like bluegrassky.com, a one-stop shop for touring needs in central Kentucky, and a two-page advertising spread in US Airways *Inflight Magazine*. By working together, they can become a multinight destination. Lexington and Shaker Village have worked together on several projects such as hosting journalists and familiarization trips for tour operators. Shaker Village is well represented in the new downtown Lexington visitors' center.

A review of an advertising campaign featuring Lexington in northern markets was presented. The area including Lexington, Shaker Village, and the Bourbon Trail has had many positive stories portraying Kentucky as a world-class destination. However, these marketing initiatives are in jeopardy. Due to a spending authority issue preventing usage, $9 million was swept from a restricted fund of revenues received through the 1 percent transient room tax. Tourism is not only an investment for tourism issues but also an investment in education. Statistically, tourism provides more than $1 billion in tax revenues, is worth $12.5 billion to the state's economy, and employs 175,000 Kentuckians. Kentucky's greatest assets, scenic wonders, welcoming people, unique regional culture, history, and heritage cannot be outsourced. People have to visit to experience what Kentucky has to offer, which will result in jobs and growth.

The president of Shaker Village said the goal of Shaker Village is to become a major tourism destination for the state. To achieve this, the Village has worked with state and local agencies and constituents. The Village is the largest Shaker site in the United States. Much restoration is needed, so the newly established Development Office has launched a multimillion-dollar campaign to raise the funds needed for restoration. He asked for the commonwealth's support through funding mechanisms such as setting aside a portion of the Kentucky State Historic Preservation Tax Credit, as was recently done to support some for-profit ventures, or requesting a line-item appropriation for targeted projects. There is a significant need for appropriate transportation tourism signage because the site is very difficult to find. Promoting tourism by county affiliation rather than destination is an inefficient system that limits options for rural counties. He also urged clean-up of legislative language that ties alcohol beverage licenses to the physical boundaries of properties. This language prevents the Village from serving spirits on its popular 112-passenger paddlewheel boat.

University of Kentucky's Impact on the Economy of Kentucky and the Health of Its Citizens

The committee held a joint meeting with the Interim Joint Committee on Labor and Industry at the University of Kentucky to receive information on the university's impact on Kentucky's economy. The president of the University of Kentucky (UK) testified about recent developments at UK. He said that UK was awarded a $14.9 million contract from Patient-Centered Outcomes Research Institute to improve the quality of patient care in transition through a national, multi-institution partnership. This year the university experienced historic enrollment of 30,062 students, with the largest undergraduate African American, Hispanic, and international enrollment to date. The university reflects remarkable levels of academic quality and diversity.

Key areas of the institution's impact on the commonwealth include a $280 million investment that yielded a $3 billion academic, research, service, and health care enterprise. The university generates nearly $80 million in state and local income tax, resulting in 5,000 additional jobs in health and research, and $367 million in external grants that resulted in 9,427 new jobs. UK has self-financed $1.3 billion of construction.

Kentucky has significant health disparities when compared to national levels. The state has unacceptable numbers of instances of chronic, preventable disease. UK is uniquely positioned to serve the state with a physical presence in all 120 counties. It is one of eight institutions with programs in agriculture, pharmacy, engineering, and medicine on a contiguous campus, and one of 22 institutions with National Cancer Institute designation, Clinical Translational Science Award, and an Alzheimer's Disease Center.

The executive vice president for health affairs, University of Kentucky, explained that, upon arriving at the university 11 years ago, careful consideration was given to the direction of the medical complex and critical success factors. The conclusion was to focus on advanced subspecialty care—something that only major academic medical centers can do. The university worked with local regional providers from a public policy point of view as well as a business perspective. To be most effective, services should be provided on a local level from a medical and economic perspective. It was determined that critical success factors were efficiency, quality, and patient safety. To be successful, UK must become a referral center for all of Kentucky and areas in West Virginia, Ohio, and eastern Tennessee. Over the past 5 years, the university has aggressively developed relationships with hospital systems and medical providers throughout these areas. The success is reflected in the number of annual discharges. The Case Mix Index from the Council on Teaching Hospitals indicates UK's patient population is among the sickest populations of any academic medical center in the country.

UK should focus not only on its clinical program but on research as well, with emphasis on translational research. It must move the standard of care forward to offer cutting-edge services when compared to the Mayo Clinic and Vanderbilt University. UK set out to have a National Cancer Institute-designated facility through facility enhancement and aggressive recruitment. In 2013, The Markey Cancer Center received a National Cancer Institute designation. Kentucky retained a top cancer research team that was prepared to leave the state, which would have taken with it $17 million in federal support and teams of researchers. However, UK lacks adequate, modern space needed to recruit and retain the next talented team specializing in health disparity research.

Telecommunications Modernization

The committee concluded the Interim with a discussion of telecommunications modernization. The president of AT&T Kentucky spoke to the committee about 2014 SB 99, what the components of the bill involved, and the need for a similar bill in the 2015 legislative session. Emphasis was given to the rapid pace of technological change in telecommunications. In the span of barely a decade, rotary dial phones have been increasingly replaced with modern wireless and IP-enabled services that offer video and data services along with voice service. The speed of data transmission has also increased exponentially, which has served to render the physical distance between businesses less important. Now businesses in rural Kentucky can communicate with firms nationally or internationally as easily as they can with those in urban areas of the state. To bring modern communication services to all areas of the state is costly, and to help speed the process of this transition, the state's regulatory statutes need to be changed.

He emphasized that neither AT&T nor any other telephone company will unilaterally take out of service existing equipment used to provide telephone service. In rural areas, or exchanges with less than 15,000 housing units, this bill guarantees every rural customer the legal right to receive voice service from the provider, and that voice service must have the functionality required by federal law. At rural locations where the provider has already installed the facilities needed to provide basic local exchange service, nothing changes the day this bill passes—if those customers request basic local exchange service, the provider is still required to provide it. If one of those rural customers later decides to order a service different from the one they currently have, the provider can use modern IP enabled or wireless service to fill that new order, but if it does, the provider must tell the customer two things. First, it must tell the customer that it is using a modern technology to fill that new order, and second, the provider must tell the customer that they have 30 days to notify the provider if they decide they no longer want that new service. If that customer notifies the provider within 30 days that they no longer want the new service, the PSC can continue to require the provider to give basic service at that location. On the other hand, if that customer keeps the new service for longer than 30 days, the provider is no longer required to provide basic service at that location, but, as is the case for every rural location under the bill, the provider remains obligated to provide voice service with the functionality required by federal law. It was further emphasized that the bill would provide rural Kentuckians a second layer of protections above and beyond those provided by the rules of the Federal Communications Commission (FCC). First, AT&T must prove to the FCC that its new services give consumers what they want. Second, AT&T will have to prove that to every existing rural customer in Kentucky.

The president of the Kentucky Chamber of Commerce expressed support for modernizing telecommunications regulations, stating that Indiana and Tennessee have already done so and that Kentucky needs a level playing field in order to entice more investments and businesses to expand or relocate here.

The chief of staff and the deputy secretary for the Cabinet for Economic Development spoke about factors that influence business location and investment decision. One factor that is often important to many businesses is the availability and speed of modern telecommunications. A decade ago, high-speed broadband technology was not a common factor in business location and investment decisions; however, now it is often a "top-five" factor. It was also mentioned that the average Internet speed in Kentucky is approximately 7.5 Mbps, while the national average is 12 Mbps, and the national average in Japan is 125 Mbps.

The president of the Kentucky Resources Council expressed concern over the proposed changes to telecommunications statutes. He said that landlines are still a vital means of telecommunications, particularly in mountainous, rural areas, and that the proposal does not go far enough to guarantee continued landline access.

Subcommittee Activity

Task Force on Economic Development

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

Report of the 2014 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. Christian McDaniel
Sen. Gerald A. Neal
Sen. Katie Stine
Sen. Reginald Thomas
Sen. Johnny Ray Turner
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 L. 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: Jo Carole Ellis, Kenneth Warlick, Ben Boggs, Janet Stevens, Lisa Moore, and Daniel Clark

Presented to the
Legislative Research Commission
and the
2015 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. Jeffery Donohue
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 and Daniel Clark

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. Katie Stine
Sen. Reginald Thomas
Rep. Leslie Combs
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Rep. David Watkins
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Rep. Addia Wuchner

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

LRC Staff: Ben Boggs and Lisa Moore

Subcommittee on School Finance

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

Sen. Stan Humphries	Rep. Regina Bunch
Sen. Christian McDaniel	Rep. John Carney
Sen. Gerald A. Neal	Rep. Kelly Flood
Sen. Johnny Ray Turner	Rep. Jody Richards

LRC Staff: Janet Stevens, Joshua Collins, and Cindy Smith

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; educational television.

Committee Activity

The Interim Joint Committee on Education met seven times during the Interim. Three of the meetings were at the Capitol Annex in Frankfort, and four were site visits. The committee heard reports relating to primary through postsecondary education including career and technical education; independent postsecondary institutions; secondary school programs, such as districts of innovation and the Technology Education and Literacy in Schools; Head Start; school choice initiatives and charter schools; and dual credit.

Career and Technical Education Centers

The senior vice president of the Southern Regional Educational Board presented the report *From Two Systems to One World-Class System of Technical Centers*, which said that Kentucky's technical centers need equitable and adequate funding, accountability and support, and partnership with postsecondary and industry to become a world-class system.

Several recommendations were made to reach these goals including improving work-site learning opportunities, providing individual pathway programs, restructuring and expanding options regarding industry certification exams, increasing college and career readiness, providing extensive and intensive staff development, developing real-world assignments for students, collaborating on dual credit policies, and promoting career pathways with workplace options.

National Center for Innovation in Education

The executive director of the National Center for Innovation in Education (NCIE) said the vision for NCIE is that all children will graduate in a culture of high expectations, able to fulfill their full potential in further learning and work, to be contributing members of society, and to succeed in a changing world. The mission for NCIE is to support state efforts to test and scale up innovations in policy, practice, and structure that realign resources and human capacity throughout all levels of the system around the goal of supporting every child to succeed in college, career, and citizenship. NCIE will pursue that mission by bringing together leaders from the state and local levels to bridge the policy and practice gap in ways that build coherence and accelerate implementation toward the outcomes NCIE seeks.

Lindsey Wilson College

The president of Lindsey Wilson College (LWC) said LWC is one of the fastest-growing 4-year independent colleges in Kentucky and has one of the most diverse student populations. Enrollment has increased from 260 students in 1977 to more than 2,645 in 2013-2014, and more than 15 percent of the student body is composed of minority students. Over 300,000 square feet of facilities have been added to the campus in the past 8 years.

The average student debt for a student attending LWC is $18,683, which is 35 percent less than the average debt across the country, 16 percent less than the debt incurred at Kentucky's public colleges, and 7 percent less than the graduates of other Kentucky private colleges.

LWC was reaccredited by the Southern Association of Colleges and Schools (SACS) in December 2013. SACS has given LWC the authorization to begin offering a doctorate degree in counselor education and supervision. LWC offers a master's degree in counseling and human development and is recognized as offering the best small-college counseling program in the United States.

Association of Independent Kentucky Colleges and Universities

The Association of Independent Kentucky Colleges and Universities (AIKCU) is the member organization for the 19 private, nonprofit, SACS-accredited 4-year colleges and universities in Kentucky. There were 36,195 students enrolled in AIKCU schools in the fall of 2013, including 28,855 undergraduates, and 71 percent are Kentucky residents. AIKCU institutions enroll 14 percent of all postsecondary students and produce 22 percent of Kentucky's bachelor's degrees.

The AIKCU president said the average published costs at AIKCU institutions are less than southern and national private college averages. AIKCU institutions receive no direct state money, and students attending the institutions are eligible for state financial aid programs. In 2012-2013, 14,461 AIKCU students received $57.58 million in state grants. The average loan debt of 2012 college graduates is $22,380 for AIKCU students and $24,625 for Kentucky public university students, while $29,400 is the national average, including for-profit colleges.

Priority Schools

The associate commissioner of the Office of the Next-Generation Schools and Districts, Kentucky Department of Education (KDE), said there are three cohorts of priority schools and 39 priority schools in Kentucky. Preliminary data indicated that 21 of the 30 priority high schools were expected to achieve their college- and career-ready delivery targets.

The associate commissioner described hub schools. The purpose of a hub school is to capture its own best or promising practices and connect with other schools within its region. During the 2013-2014 school year, hub schools were visited by 625 representatives of 89 schools and districts. Some of the hub schools' professional learning topics were career and technical education, pathway/program improvement, Professional Growth and Effectiveness System, communication for capacity building, response to intervention, monitoring student data for gap closure, professional learning communities, and data analysis.

A school diagnostic review was explained as a performance-driven system that focuses on conditions and processes within a district that affect student performance and organizational effectiveness. The diagnostic review is carried out by a team of highly qualified evaluators who examine adherence and commitment to the research aligned with AdvancED standards and indicators. There were 19 diagnostic reviews conducted in the spring of 2014; of the 19 reviewed schools, 13 were found to be making progress through this comprehensive process.

Districts of Innovation

The director of the Division of Innovation and Partner Engagement, KDE, said HB 37, enacted by the General Assembly in 2012, enables local school districts to create new approaches to education by applying to the State Board of Education to be a district of innovation. The first cohort of districts of innovation was 4 districts out of 16 applicants, and the second cohort was 3 districts out of 4 applicants. The application process measures each application against a rubric and is not a competition between schools.

There were 26 applications for waivers of statute and administrative regulations contained in the applications of the three selected districts in cohort two. Of the 26 applications, 13 waivers were approved, five were denied, and eight were partially approved. The 13 waivers that were approved were in the areas of graduation requirements, class size, calendar, new technical schools, governance, and extended employment for teachers. The five waivers that were denied were in the areas of certification, career and technical education, and assessment and accountability. The eight waivers that were partially approved were in the areas of funding and assessment and accountability.

Comprehensive Transition and Postsecondary Program

The executive director, Human Development Institute, University of Kentucky, said research has shown that students with intellectual disabilities have enhanced career outcomes if they attend college.

The federal Higher Education Opportunities Act of 2008 provided a program called Comprehensive Transition Programs (CTPs) for students with intellectual disabilities. CTPs are typically for 2 years, including 4 semesters at 6 hours per semester. Depending on student needs, a course can be audited or taken for credit.

HB 45, enacted by the 2013 General Assembly, provides Kentucky Educational Excellence Scholarship (KEES) funds for a student who receives an alternate diploma, if the student enrolls in a Kentucky college or university with an approved CTP. The projected total amount of KEES funds that will be accessed this year for students with intellectual disabilities is $7,000. KEES funding for students with intellectual disabilities is based on attending college part time and can be applied to 8 semesters.

Lee County School District and the Technology Education and Literacy in Schools Program

The Lee County School District consists of two elementary schools, one middle school, and one high school. The Lee County Technology Center, adjacent to the high school, serves Lee, Owsley, and Wolfe County Schools.

The Lee County superintendent said the district is the largest employer in the county. Enrollment has decreased from 1,133 in 2011 to 1,054 in 2014, resulting in a decrease in Support Education Excellence in Kentucky (SEEK) funding and a reduction in staff. Lee County Schools employ 76 full-time certified staff and 78 full-time classified staff. The district is recognized by KDE as a proficient, high-progressing school district.

Lee County is part of the Kentucky Valley Educational Cooperative, a consortium of 18 rural districts, which is one of five applicants that will receive a total of approximately $120 million in the second round of the Race to the Top District competition. This grant will support locally developed plans to personalize and improve student learning, directly increase student achievement and educator effectiveness, close achievement gaps, and prepare every student for success in college and careers. The grant will also help teachers tailor their approach to meet their students' needs, allow them to collaborate in new ways, and provide students with resources that enable them to access a world-class education no matter where they are.

The chair of the Lee County Board of Education said the district has collaborated with other districts for distance learning opportunities, with area colleges for dual credit courses and new teacher and aspiring leaders mentoring, and with Microsoft through the Technology Education and Literacy in Schools (TEALS) project. Lee County is working to align the K-12 curriculum to the common core standards and has adopted the new dropout age of 18 in the belief that it is in the best interest of the students and the community.

The Lee County High School principal said TEALS is a grass-roots program that recruits, trains, and mentors high-tech professionals around the country who are passionate about computer science education and electronically places them in high school classes as volunteer teachers in a team teaching model where the school district is unable to provide high-quality computer science (CS) programs on its own.

The TEALS program can provide opportunities to local students that can lead to internships with Microsoft and careers in the CS field. Projects like TEALS can help build a sustainable local economy so people do not have to leave eastern Kentucky to find jobs.

The superintendent said the program is giving students access to a curriculum the school could not otherwise offer that will prepare them for the workforce. The goal this year is for students to earn between 700 and 800 college credit hours, and they are on target to reach 730 credit hours. Students not only experience improved test scores but also grow socially.

A Microsoft representative said the United States is facing a shortage of CS graduates, and only 1 percent of college graduates are obtaining CS degrees. By 2018, 1.5 million

CS-related jobs will be available, of which college graduates will be prepared to fill 29 percent. Research shows that students' positive exposure to CS in high school correlates to majoring in CS in college. Only one out of 10 schools in the United States offers such programming classes because there are not enough qualified CS teachers to meet the demand. TEALS addresses this problem by bringing CS courses into high schools across the nation as a service to schools, students, and teachers. Microsoft would like to implement TEALS statewide, but schools and administrators must be supportive and prepared.

Owensboro Community and Technical College

The president of Owensboro Community and Technical College (OCTC) said OCTC's four main focus areas are cost, convenience, quality, and careers. The president said OCTC, along with other postsecondary institutions, must align offerings with the needs of the community, region, and Kentucky. OCTC has started seven programs in the past 5 years and has closed five programs in the past 3 years. The programs that closed were not meeting the needs of the local economy. Most OCTC programs provide a pathway to a bachelor's degree, internship opportunities, and numerous transfer options.

Programs highlighted were the Automotive and Diesel Program, which has become an accredited program with award winning faculty, and the Veterinary Technology Program, the only 2-year program of its kind in Kentucky. The new Healthcare Facilities Leadership Program is the first in the United States.

Head Start

Head Start began in 1965 as an 8-week summer program for preschool children from low-income families. Since then, Head Start has become the country's premier preschool program. Head Start focuses on school readiness and takes a comprehensive approach for the child and family. Kentucky has 32 Head Start programs with an enrollment of 21,046 children. Kentucky Head Start programs partner with the Governor's Office of Early Childhood, Cabinet for Health and Family Services, and KDE.

The executive director of the Kentucky Head Start Association said the quality of Head Start and Early Head Start is the highest in the nation, with continuous quality improvement efforts, designated and individualized curriculum, and optimal levels of teacher/child interactions. Families who participate in Head Start are more likely to invest time and literacy activities with their children, both while enrolled and years after their children graduate from the program. A child who attends Head Start is less likely to need special education services or to engage in unhealthy behaviors and is more likely to achieve success in school and life.

Audubon Area Head Start (AAHS), in Owensboro, serves 16 western Kentucky counties. The program was a National Center of Excellence in 2010 and has been named a National Program of Excellence by the National Head Start Association since 2002. Every teacher in the AAHS program has an early childhood degree, and the program serves more than 2,500 low-income children.

The AAHS director said that, since AAHS has become a National Center of Excellence, it has been able to guide other Head Start programs in successful collaboration with school districts and child care. Also, AAHS has disseminated research-based preschool teaching practices across the nation to early childhood educators at local, state, and national conferences and has provided on-site training.

Education Savings Accounts and School Choice

A vice president of The Friedman Foundation for Educational Choice said Arizona and Florida are the only states that have education savings accounts (ESAs). An ESA offers parents educational options for their children. The savings account is controlled by parents, is funded by state-allocated education funds, and is available to pay for a child's necessary educational services and products.

A senior fellow with The Friedman Foundation for Educational Choice said Kentucky has experienced school staffing surges higher than the national average from fiscal years 1992 through 2011. He noted that Kentucky's student achievement did not rise during the period of the public school hiring increases, and the public school staffing surge had a significant opportunity cost.

Designing a school choice program can save the state money by designating state funds that follow the child to be less than the average state spending per student. He said this can be done without harming the students who remain in public schools while possibly benefiting them academically.

An endowed chair in school choice with the University of Arkansas said private school choice programs do not have significant effects on improving student test scores. Further, most research studies show modest positive effects in reading and none in math; the reason is not clear.

He said there are positive effects associated with offering private school choice programs. There are no findings that private school choice reduces the test scores of students, and it can increase graduation rates, specifically for inner-city students. School choice programs have also been credited with increasing student attainment rates in higher education.

Charter Schools

The state director of the Black Alliance for Educational Options (BAEO) said the group's mission is to increase access to high-quality education options for black children by actively supporting transformational education reform initiatives and parental choice policies that empower low-income and working-class black families. BAEO believes charter schools have the potential for providing an educational lifeline for many of Kentucky's most vulnerable children.

He said charter schools do not loosen accountability or academic standards or expectations for their students and do not add any new costs to the state's public education system.

The president of the Kentucky Chamber of Commerce said the chamber supports charter schools as a tool for school choice and urged Kentucky to pass charter school legislation in the 2015 regular session.

The chair of the Kentucky Charter Schools Association (KCSA) said public charter schools were created more than 20 years ago to improve the nation’s public school system as a way to help close the achievement gap. Because they are public schools, charter schools are open to all children, do not charge tuition, and are held publicly accountable to government entities and to the families they serve.

In general, public charter schools have more autonomy than traditional public schools, and as a result, they have more control over their budgets, staffing, curricula, and school operations. Additional freedom means that public charter schools can create innovative academic programs tailored to meet the unique needs of students and their communities.

The KCSA chair said achievement gaps between white students and students of color are significant across the commonwealth, and the data show that the gaps are not solely the function of socioeconomic differences. Research shows that high-quality public charter schools are making major strides toward eliminating achievement gaps among white students, students of color, and economically disadvantaged students, giving all students the education opportunities they deserve.

Dual Credit

Representatives of the Dual Credit Work Group from KDE, the Council on Postsecondary Education (CPE), and the Kentucky Higher Education Assistance Authority (KHEAA) presented the work group’s findings and recommendations regarding dual credit policies and standards and agency and institutional responsibilities. The work group recommended the creation of a joint Dual Credit Advisory Council to coordinate, monitor, and measure dual credit course standards and offerings and institutional and student participation.

K-Prep Assessment Results

KDE presented data on the 2014 statewide secondary assessment results. Overall student performance showed improvement from 2014 with the percentage of proficient and distinguished students increasing in most subjects at every grade level. A total of 641 schools and 95 districts were classified as either proficient or distinguished.

Additionally, the college/career readiness rate increased from 54.1 percent in 2013 to 62.3 percent in 2014. The 4-year graduation rate increased from 86.1 percent to 87.4 percent.

Fast-Pitch Softball Safety

Testimony was given regarding proposed legislation to require fast-pitch softball players who pitch or play third base to wear face protection.

Subcommittee Activity

Subcommittee on Elementary and Secondary Education

The Subcommittee on Elementary and Secondary Education met twice during the Interim.

Summer Food Service Program

The Summer Food Service Program provides meals and snacks to children in low-income areas when they are out of school. Meals are provided by sponsors at sites such as schools, community centers, libraries, camps, and churches or through mobile sites. This program has been underused nationally and in Kentucky because of obstacles such as a lack of sponsors or sites, lack of transportation to the sites for children, and lack of community awareness. Kentucky is working to increase involvement, and 12 new sponsors were added statewide in 2014.

National School Lunch Program

On a typical school day, nearly 494,000 Kentucky students received free or reduced-price lunches. A recent National School Lunch Program initiative is the Community Eligibility Option, which allows schools with high numbers of low-income children to offer free breakfast and lunch to all students without collecting applications or tracking eligibility. A total of 103 of Kentucky's school districts will be participating in the community option at some level next year.

New US Department of Agriculture "All Foods Sold in Schools" standards increase the availability of fruits, vegetables, and whole grains in the menu; set age-appropriate caloric limits; and reduce sodium content. The standards not only apply to school lunches but to all foods sold on the school campus during the day such as in vending machines and school stores. KDE staff noted that many of the new federal standards were already in place in Kentucky because of SB 172 that was passed during the 2005 Regular Session.

School Calendars

KDE staff provided data on how school districts used emergency provisions provided in last session's HB 211 to deal with the many snow days missed by schools across the commonwealth. Of Kentucky's 173 districts, only 5 were unable to achieve 1,062 instructional hours at each school and required a waiver of instructional time. Time waived ranged from 1.55 hours to 36 hours.

An overview of the nontraditional instructional pilot was provided. Thirteen districts have been approved to provide nontraditional instruction to students during the 2014-2015 school year when school is canceled for up to 10 instructional days. Two districts participated in the pilot in 2013-2014. All districts are eligible to participate, and a larger group of applicants is expected for 2015-2016.

Committee for Mathematics Achievement

The Committee for Mathematics Achievement is charged in statute to help develop a strategic plan to improve student achievement in math at all levels of schooling, and the Kentucky Center for Mathematics (KCM) provides intervention strategies and professional development.

The KCM works with teachers across Kentucky and helps them develop specialized expertise and leadership through rigorous, sustained, and job-embedded professional learning experiences. A KCM representative said the experiences lead to improved practice and the ability to improve student numeracy across the state.

Subcommittee on Postsecondary Education

The Subcommittee on Postsecondary Education met twice during the 2014 Interim.

Postsecondary Student Success Initiatives, Programs, and Metrics

CPE reported on postsecondary student success initiatives, programs, and metrics. State-level goals are being met in the number of graduate degrees conferred and number of transfers from Kentucky Community and Technical College System (KCTCS) institutions to 4-year institutions. Although statewide goals have not yet been attained, positive trends are observable in the total degrees and credentials conferred, associate and bachelor degrees conferred, associate and bachelor graduation rates, and students entering prepared for credit-bearing coursework. Efforts are under way to address the only negative trend, which is the associate and bachelor's degree graduation rate gaps for underrepresented minorities, underprepared, and low-income students.

Need-Based Student Aid and College Affordability

KHEAA reported on the financial aid programs available to students at Kentucky's postsecondary institutions. These include institutional, federal, state, and private funds. KHEAA reviewed the status of lottery-funded aid, KEES, the College Access Program Grant (CAP), the Kentucky Tuition Grant (KTG), and how funds are awarded. The CAP and KTG programs are significantly underfunded; in 2014, available allocations were exhausted by early February. As a result, more than 20,000 Kentucky students who were eligible did not receive the grants.

Kentucky Skills Network

KCTCS reported on the Kentucky Skills Network, which is a partnership of KCTCS, the Kentucky Cabinet for Economic Development, the Kentucky Labor Cabinet, and the Kentucky Career Center. The Network's mission has four purposes: provide a single point of contact for companies needing customized workforce training; streamline resources and reduce needlessly overlapping elements; create unified marketing and performance standards; and develop a pipeline of highly skilled workers through the Advanced Manufacturing Technician program. This program is accomplished in partnership with regional manufacturers using a dual-track, apprentice-style “earn and learn” model that combines classroom exploration with on-the-job application.

Although activities are under way, the Kentucky Skills Network is still in its early stages of development. More activities and aspects of the partnerships are expected to develop further over time.

Kentucky Commission on Proprietary Education

The Kentucky Commission on Proprietary Education reported on its progress since being established by HB 308 of the 2012 Regular Session. This legislation abolished the Kentucky Board of Proprietary Education and replaced it with the commission, which is authorized to hire an executive director and to promulgate administrative regulations for the oversight of proprietary education in the commonwealth. Currently, the commission licenses 159 schools, of which 115 are resident schools and 44 are nonresident schools. The commission itself comprises 11 members, with eight appointed by the Governor and the remaining three being the CPE president, the commissioner of education, and the secretary of the Education and Workforce Development Cabinet.

Mid-Continent University

CPE reported on the recent closing of Mid-Continent University and the status of its former students, faculty, and staff. The financial challenges facing Mid-Continent were first noted in 2010 when a routine federal audit revealed inadequate records regarding the $50 million in federal aid provided to students through the institution from 2007-2010. The institution was given 3 years to address the concerns and was unable to do so. This led to a loss of federal aid eligibility and eventual loss of accreditation by SACS. The school filed for bankruptcy in the spring of 2014. Of Mid-Continent’s 2,000 students at that time, 400 were able to graduate and 826 transferred to other institutions across the commonwealth. The majority of the faculty was adjunct in nature and thus employed on limited part-time contracts, which were not renewed. The small campus still has a limited administrative staff to maintain records, and members of its board of trustees are hopeful that the institution may re-emerge from bankruptcy as a small Bible college, which was its original identity in the early 1970s.

Subcommittee on School Finance

The Subcommittee on School Finance met one time during the Interim.

Support Education Excellence in Kentucky

Staff with the Office of Administration and Support, Division of District Support Services, Kentucky Department of Education, explained the Support Education Excellence in Kentucky school funding program. SEEK, implemented by the General Assembly in 1990, was designed to equitably distribute the combination of local and state tax revenues so that each student is provided an adequate education regardless of a school district’s wealth. SEEK is a tiered system composed of three distinct components: adjusted base guarantee, Tier I, and Tier II.

The adjusted base guarantee is an amount of revenue per pupil provided for each school district. The General Assembly establishes a base amount each biennium. The base amount for the current biennium is $3,911 for FY 2015 and $3,981 for FY 2016. The base amount is adjusted by a series of factors in each district that affect the cost of providing services to students. These "add on" categories are exceptional children, transportation, at-risk students, students receiving services in a home or hospital situation, and students receiving limited English proficiency instruction. Local districts pay part of the adjusted base guarantee by raising no less than 30 cents per $100 of assessed property value. The state's contribution is the difference between the local effort and the adjusted base guarantee.

Tier I is an option that allows districts to raise tax revenue above the minimum requirement, up to 15 percent of the adjusted base guarantee. This additional revenue is equalized at 150 percent of the statewide average per pupil assessment, for districts that qualify, and is not subject to voter recall.

Tier II is an option that allows districts to raise an additional 30 percent of revenue above the base plus Tier I revenues. These funds are not equalized by the state and are subject to voter approval.

Capital outlay funding is based on the aggregate days attended by pupils, multiplied by $100. These funds are included in each district's guaranteed base amount and are restricted for capital purposes. The General Assembly passed legislation to allow districts to use these funds for other purposes in 2010-2011 through 2015-2016.

State Education Funding Systems: A National Perspective

The school finance consultant with the Education Commission of the States provided a national perspective of state education funding systems.

Six states have adopted a Resource Allocation System. The system requires identifying education components, costing out each component, calculating the amount of resources that each district should receive, determining state versus local split, and adding outside funding. As the amounts of resources a district or school receives from the state are clarified, this system can be used to dictate the number of teachers and other resources that should be in a school. More states have not adopted this system for various reasons: It is seen as a "top-down" system, education components might be missed, and calculating the cost of each education component is time consuming for both the state and districts.

Thirty-three states use a Foundation Formula that starts with a base amount and provides additional funds for certain categories of students, including at-risk and special needs. A large number of states have adopted this system since it is easy to establish, it is easily adjusted to meet a state's or district's educational needs and economic circumstances, and it provides districts with greater autonomy in decision making.

Five of the remaining 11 states, including Kentucky, use a combination of the Resource Allocation System and the Foundation Formula, and the other six states use some other funding method.

Report of the 2014
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. Hubert Collins
Rep. Leslie Combs
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
2015 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; energy waste disposal; hydroelectric and nuclear energy.

Committee Activity

During the 2014 Interim, the Special Subcommittee on Energy held six 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 2015. The block grant application findings of fact were adopted by voice vote.

The committee did not consider any prefiled bills.

Natural Gas and Alternative Fuels

The committee held a joint meeting with the Natural Resources and Environment Committee in Owensboro, in conjunction with the Kentucky Gas Association's annual meeting. The Kentucky Clean Fuels Coalition reported on the use of natural gas as a transportation fuel. Local governments and private companies are increasingly using natural gas fleets to save on transportation costs. More private companies are switching their fleets to compressed natural gas. Refueling stations are a large investment, and many were closed in the 1990s. Therefore, many companies are interested in investing in their fleet stations. However, infrastructure investments continue for compressed natural gas refueling stations and some for liquefied natural gas.

Education and workforce training for auto technicians is increasingly important to give them the expertise for different fuels and new technologies. Because there are few technicians with expertise in clean fuels technologies, private companies are partnering with local community colleges such as Owensboro Community and Technical College (OCTC) and Elizabethtown Community and Technical College to provide training in all aspects of vehicles fueled by natural gas, propane, fuel cell, hybrids, and plug-in hybrids.

OCTC is using multicounty coal severance grant funds to leverage National Science Foundation grant funds. OCTC is in the process of developing a curriculum on renewable/alternative fuels and offering statewide training.

Natural Gas Reliability

Representatives from LGE/KU and Delta Natural Gas gave a report on the reliability of natural gas supplies for Kentucky. The winter of 2013-2014 was the 6th coldest on record. Louisville Gas & Electric Company (LG&E) stated that, given the duress of last winter, the systems performed adequately. LG&E has almost 400 miles of gas transmission pipeline, which serves 320,000 customers. To ensure the reliability of the gas supply, daily operational considerations include monitoring system pressures and weather developments, monitoring pipeline deliveries and end-use transportation deliveries, monitoring storage inventory levels and deliverability, staffing at compressor stations, and responding to gas trouble. Residential heating has priority for use of natural gas, and increased residential demand reduces the supply to commercial and industrial customers. Kentucky saw commercial curtailments last winter. However, East Kentucky Power does not anticipate curtailments this coming winter.

Rising Electric Prices

Representatives from the energy cooperatives and investor-owned utilities addressed the issue of rising electric prices and assisting low-income customers. Energy costs are increasing because of tougher environmental regulations; rising costs of copper, steel, and concrete; rising costs of labor/benefits and health care; and costs associated with winter 2014.

The winter of 2014 was the coldest winter in more than a decade, with 28 hours below zero degrees in January. Record low temperatures resulted in significantly higher utility bills than usual. Utilities responded to customers with payment arrangements and public service announcements and press releases to provide tips on how to save energy and avoid scams. All utilities offer budget payment plans, partial payment plans, 30-day medical extensions, and 30-day extensions based on a certificate of financial need. LGE/KU partners with Community Action, Community Ministries, the Salvation Army, and other local non-profits that assist in identifying customers in need. LGE/KU has a Customer Commitment Advisory Forum that meets every quarter in Lexington or Louisville to identify and address the needs of the most vulnerable customers.

Clark Energy and 15 electric co-ops have invested $1.7 billion on $4 million of assets over the past 10 years for clean-coal units and retrofits to existing power plants. Clark Energy's largest expense is purchased power. A breakdown of its costs is 69 percent for purchased power, 18 percent for operations and maintenance expenses, and 13 percent for long-term debt. To address the rising costs, Clark Energy has reduced its workforce, and its power supplier has joined the world's largest power grid. Clark Energy's improving finances have reduced its system interest costs. Also, Clark Energy is working with state and local officials to attract new jobs to the area. Clark Energy has residential and commercial programs to help customers increase efficiency and save on energy costs. Its programs for low-income customers include payment arrangements, budget billing, energy expos, free compact fluorescent light bulbs, and energy efficiency demos through the county extension office.

Challenges ahead for the energy industry include forced retirement of coal plants, costs of building affordable new power sources, and more restrictive EPA rules. According to an

LGE/KU representative, the strength of storms has become more unpredictable in knocking out utilities. Utilities are aware of changing weather trends and try to keep customers informed.

Ratemaking Process of Kentucky Public Service Commission

A representative from the Public Service Commission (PSC) informed the committee on the commission's role in the ratemaking process. Kentucky's ratemaking process is governed by statutes, regulations, and legal precedent. Kentucky Revised Statutes require that rates must be fair, just, and reasonable. Investors are entitled to earn a return on equity. As part of the ratemaking process, PSC considers the utility's revenue, return on equity, and rate design. Certain expenses are not allowed, such as promotional advertising and executive bonuses. The target rate of return for shareholders is between 8 percent and 10 percent. The Office of Attorney General has a statutory right to intervene on behalf of ratepayers, and residential customers are guaranteed rights under the Customer Bill of Rights.

Kentucky's Energy and Environment Landscape

The secretary for the Energy and Environment Cabinet (EEC) presented a history of Kentucky's coal markets and greenhouse gas (GHG) regulation. The secretary hopes the US Environmental Protection Agency (EPA) will provide flexibility on compliance options and timeframes for GHG rules. The proposed existing source rule appears to give Kentucky some flexibility. However, an adequate compliance plan will still be a challenge for Kentucky.

Section 111(b) of the Clean Air Act is the rule for new emission sources, and section 111(d) is for existing power plants. The EEC has submitted comments on rule 111(b). The deadline for comments on the proposed rule for new sources was May 9, 2014. The proposed rule 111(d) for existing sources was issued June 2, 2014, and establishes state-specific carbon dioxide (CO_2) intensities. The deadline for comments on the proposed rule for existing sources was October 16, 2014. The final rule for existing sources will be issued about June 3, 2015, shortly before this date the final rule for new sources should be issued. The secretary stated that this is a difficult timeline for the states. The cabinet had more flexibility and time to implement plans dealing with sulfur dioxide and nitrogen dioxide, which are far less complicated issues.

States will create an implementation plan by working with stakeholders and their legislatures. Ultimately, the EPA must approve any plans submitted for compliance with rule 111(d). If a plan is not submitted or not approved, a compliance plan designed by the EPA will be implemented.

Forty-nine states have different target or regulations for proposed rule 111(d). Vermont has no carbon-emitting power plants. Kentucky received the second lowest standard in terms of carbon intensity, and some contend Kentucky should be satisfied with that standard. The final goal to be achieved by 2030 is 1,763 pounds of CO_2 per megawatt hour.

The EEC secretary outlined the issues that would be addressed in comments to the EPA. An issue mentioned was that carbon capture and storage (CCS) is not commercially ready. The technology for extracting CO_2 out of the flue gas stream exists but is not economically viable.

The secretary said the rule inappropriately sets energy policy and constitutes unauthorized significant energy action. The EEC recommended an alternative standard of 1,700 pounds of CO_2 per megawatt hour because super-critical and ultra-critical coal combustion can get to that number. The EEC also has some concerns about properly considering costs and benefits. The EEC strongly argued in favor of energy efficiency being included in the range of options for compliance. The EEC is working to improve Kentucky's energy efficiency through partnerships with regional organizations and private corporations to assist with energy efficiency programs and consumer education programs.

The secretary stated that more than 20 stakeholder meetings to discuss rule 111(d) have been held and more are scheduled. Meeting participants have included utilities, environmental groups, the Kentucky Association of Manufacturing, and the Kentucky Chamber of Commerce. The rule 111(d) proposal needs considerable clarification. The EEC is asking questions of the EPA and talking to stakeholders about their interpretation of the rule. The Governor will be reviewing the secretary's comments, and draft comments will be shared with the stakeholders.

The secretary talked about the history of GHGs and climate change, going back to 1859 when a British scientist considered CO_2 a heat-trapping gas. Scientists use a variety of climate change indicators such as arctic sea ice, global surface temperature, and sea level. The secretary said all of the indicators do present evidence of climate change. How much change is caused by humans is a contentious issue.

Agriculture and Energy

Morehead State University (MSU) presented its research study on the willingness of Eastern Kentucky farmers to grow biomass for energy production. One goal of the Governor's Executive Taskforce on Biomass and Biofuels in 2009 was to have Kentucky's energy portfolio be composed of 25 percent renewable energy sources by 2025. As part of the study, a paper survey was sent to 1,000 farmers in 48 counties east of I-75. There were 198 responses. Thirty-nine percent of the farmers indicated a willingness to produce energy crops. The survey showed that marketing was the most disappointing aspect of growing biomass for farmers and that grants and incentive programs should be used to advance technologies and to supplement establishment costs. The farmers more likely to produce biomass for energy tended to be younger, with higher levels of education and larger disposable incomes.

Sustainable Energy

MSU also conducted an energy sustainability project to determine the carbon footprint of the university. Data were collected in the following areas: transportation, refrigerants, agriculture, purchased electricity, faculty/staff commuting, air travel, solid waste, waste paper, and wastewater. Purchased electricity followed by solid waste and refrigerants were the largest carbon emitters. MSU's carbon emissions compared favorably with those of other Kentucky colleges. A new course on energy systems and sustainability was developed to help students understand the multifaceted demands of the current energy field. The Department for Applied Engineering and Technology (AET) received funding from Siemens and MSU for renewable energy laboratory equipment. Several energy-related research and projects are in progress at the

AET department. Future priorities include teaching undergraduate- and graduate-level courses on energy systems and obtaining the funding for a Center for Research and Teaching of Energy Systems.

The Future of Science and Mathematics Education

A representative of the Craft Academy for Excellence in Science and Mathematics at Morehead State University testified that the academy is a 2-year, dual-credit residential high school for academically exceptional juniors and seniors in Kentucky. The Craft Academy is scheduled to open in August 2015. Selected students will complete a minimum of 60 college credit hours and earn a high school degree. The beginning target group is 60 students entering their junior year of high school who have expressed interest in careers in science, technology, engineering, and mathematics (STEM+X). Tuition, room, and meal plan are provided at no cost. Students may take up to 18 credit hours per semester. Upon approval from the assistant director of academic services, students may take more hours for a fee. Counselors and advisers will be available to support students academically, socially, and emotionally.

Space Science

Representatives for the Space Science Center, which is part of the Earth and Space Science Department at MSU, said the center is a $15 million research and teaching facility with a full spacecraft assembly building. MSU has approximately $2 million in contracts each year with NASA, the Department of Defense, FedEx, and other US firms, as well as companies from Italy and Russia. MSU is starting the first space science engineering program in eastern Kentucky and offers a master's of space science in space systems engineering. Faculty and staff are world renowned, and all faculty members have worked in the aerospace industry.

In 2013, aerospace-related products were Kentucky's number one manufactured export. Currently, 15 percent of Kentucky's gross domestic product is related to aerospace, which has become a $5.6 billion industry for Kentucky. The southwest Ohio and northern Kentucky area has been named one of the federally designated manufacturing zones with access to $1.3 billion in stimulus funds. The center focuses on technology, development, and operation of nanosatellites. The satellites are approximately the size of a loaf of bread and can be used for data transfer, financial transactions, homeland defense, tactical security, and GPS navigation. Five satellites built partially or completely at MSU are now in orbit. MSU recently received a NASA grant to send a satellite to the International Space Station in 2016.

Adding Solar to Utilities' Power Resources

The committee met in Berea to learn about the solar farm constructed at Berea Municipal Utilities (BMU). Berea College began providing water and electricity to the city in early 1900s. In 2005, the city purchased the water and electricity system from the college. The money generated by the utilities is segregated from the general fund and is used to pay bonded debt, to make improvements to utility infrastructure, and to keep rates low. BMU is a water, sewer, and electric utility and a member of the Kentucky Municipal Utilities Association (KMUA). BMU purchases most of its power wholesale from Kentucky Utilities. BMU and other municipals would like for the General Assembly to consider enabling legislation allowing them to form a joint action group to help municipals overcome the hurdles of intergovernmental agreements. This proposed legislation would be supported by KMUA. Also, KMUA would like the General Assembly to consider legislation to deal with outdated construction rules negatively affecting the Owsley Fork Dam upgrade.

The Berea Utility Advisory Board obtained a Department of Local Government energy efficiency and conservation block grant to fund phases I and II of the solar farm. The farm consists of 246 panels totaling 60 kilowatts (kW) of power. Utility customers lease the solar panels at a one-time cost of $750. Each lease is a 25-year term, and the lessee receives a credit every billing period for the wholesale value of the electricity generated by the panels. In July, 126 more panels were added to the solar farm. To date, the farm has produced 103,780 kW hours of electric power, creating $7,369 of credits for customers. Credits can be donated to charities or schools in the service area. Some members of the committee toured the solar farm after the meeting.

Broadband Speed and Access in Kentucky

A representative of the Commonwealth Office of Broadband Outreach and Development said the role of the office is to establish broadband mapping of access and availability, to be a broadband advocate and adviser in Frankfort, to help establish statewide broadband policy and direction, and to facilitate access to broadband resources. Kentucky's broadband struggles involve access, awareness, adoption, and affordability. Kentucky has 18 urban counties and 102 rural counties. In urban areas, 1.5 percent of the population is without access to broadband versus 23 percent of the rural population. On average, broadband speed is 10 megabits per second (Mbps) nationally, while Kentucky's average speed is 7.3 Mbps. Kentucky has little high-capacity fiber or copper cable in place. In terms of affordability, Kentucky ranks 39th in the country for price. The office has several initiatives to improve Kentucky's broadband situation: the Commonwealth Healthcare Network Fund, Next Generation Kentucky Information Highway, eLearning and Internet Access Centers, FirstNet, and Adoption Program for 13 eastern Kentucky counties. Next Generation Kentucky Information Highway will improve Internet speeds and should be completed in the next 18 to 24 months. The office is also working with broadband companies to create policies that would encourage investments and incentives.

Diversifying Kentucky's Energy Economy

A representative from the Center for Applied Energy Research spoke about Powering the Kentucky Bioeconomy for a Sustainable Future, a federal-and state-funded project. The National Science Foundation's Experimental Program to Stimulate Competitive Research (EPSCoR) awarded the University of Kentucky $20 million, and the state's EPSCoR program added $4 million to fund the project. The center will administer the program and work with all of the state's universities plus community and technical schools in Prestonsburg and Lexington. Schools will use the money to invest in research infrastructure, including faculty and students, equipment, and education. The goal of the project is lay the groundwork for a sustainable bioeconomy for Kentucky.

Propane Gas

The president of the Kentucky Propane Gas Association discussed the factors that contributed to the propane shortage in Kentucky and other states last winter. The president of the association and the director of the Division of Efficiency and Conservation, Kentucky Department for Energy Development and Independence, spoke about the measures propane customers can take to ensure adequate supplies for their farms and homes. An update on current propane supplies and a prediction for this upcoming winter were also presented.

Energy Project Assessment Districts

A representative of the Greater Cincinnati Energy Alliance spoke about how governments can establish energy project assessment districts (ePADs) to advance the efficient use of energy and water resources. A tax assessment is imposed on the real property being improved and is used to pay for the energy efficiency project costs. Legislation on ePADs was introduced in HB 404 of the 2014 Regular Session and passed out of the House.

Report of the 2014 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 Kratz Stine
Sen. Reginald Thomas
Rep. Julie Adams
Rep. Robert Benvenuti
Rep. Bob M. DeWeese
Rep. Kelly Flood
Rep. Joni Jenkins
Rep. Mary Lou Marzian
Rep. Reginald Meeks
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, Gina Rigsby, and Cindy Smith

Presented to the
Legislative Research Commission
and the
2015 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; 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 seven times during the 2014 Interim.

Behavioral Health, Developmental, and Intellectual Disabilities

Children's Behavioral Health Issues. Representatives from the Department for Behavioral Health, Developmental, and Intellectual Disabilities (DBHDID) and the Department for Public Health (DPH), Cabinet for Health and Family Services, testified that 20 percent of children and youth may have a diagnosable behavioral health problem, 10 percent may suffer from a serious emotional disability, 66 percent report at least one traumatic event by age 16, and 14 percent do not graduate from high school on time. Suicide is the second leading cause of death among youth ages 10 to 24 years. Sixty percent have behavioral health challenges and do not receive the help needed. Systemic barriers to effective care were presented.

DBHDID has a perinatal depression project pilot that identifies mothers who are pregnant or have recently given birth who meet criteria for a major depressive disorder. The DPH received federal grants for a home visiting program to serve more than just first-time parents in more than half of all counties.

Impact Plus Program. Representatives from the DBHDID and the Department for Medicaid Services (DMS), Cabinet for Health and Family Services, testified that the federal Center for Medicare and Medicaid Services authorized the state Medicaid plan to include services that were once unique to the Impact Plus program as well as the new substance abuse treatment benefits. Impact Plus providers will receive payment from the Medicaid Managed Care Organizations directly. The provider network is open to behavioral health service providers other than the Community Mental Health Centers. Beginning October 1, 2014, all behavioral health services for all children who are in need of intensive, community-based behavioral health services are authorized through the Medicaid program.

Representatives from Anthem Blue Cross Blue Shield Medicaid, Humana-CareSource, Passport Health Plan, WellCare of Kentucky, and CoventryCares of Kentucky also testified on their preparations for the changes in Impact Plus service delivery.

Traumatic Brain Injury. An estimated 214,000 individuals in Kentucky have brain injuries. The cost to taxpayers is approximately $113.7 million. There are limited options for persons who have severe neurobehavioral issues from a brain injury. The presenters requested that the Department for Aging and Independent Living establish a designated oversight office and a single point of entry for services for individuals with a brain injury. Additionally, the capacity to provide services to individuals in-state needs to be developed so that individuals do not have to be sent out of state for treatment.

Cabinet for Health and Family Services Budget

The executive director of the Office of Policy and Budget reported that all agencies are ending the year as expected and as budgeted for state fiscal year 2013-2014. The $35 million Medicaid administration budget baseline has remained the same or slightly less than in state fiscal year 2012-2013. The adult abuse registry, juvenile justice programs, and cybersecurity requirements enacted during the 2014 General Assembly will significantly affect the cabinet's budget for the next fiscal year.

Substance Abuse Addiction Treatment

Isaiah House. Representatives from Isaiah House Inc. testified on its residential, holistic treatment program for substance abuse. One of the treatment methods used is called Neuro-Electric Therapy (NET). NET is in FDA clinical trials, and Isaiah House is the only place in the United States that offers it. NET is a nonnarcotic and noninvasive treatment in which electrodes, powered by a 9-volt battery, are attached to the mastoid bone behind the ear.

Opiate Abuse. The secretary of the Cabinet for Health and Family Services and representatives from the DMS and the DBHDID testified about opiate abuse including data derived from Kentucky All Schedule Prescription Electronic Reporting, the prescription monitoring system. The number of prescriptions for opiates has been declining, but the number of deaths from opiate overdose has been increasing — primarily because of increased use of heroin. Kentucky has a much higher rate of hospital admissions related to heroin abuse than surrounding states. The numbers of infants born with neonatal abstinence syndrome and death rates for women of childbearing age have been increasing. Medical assisted treatment for substance abuse can be effective, but it needs close monitoring and therapeutic services to have a positive impact. There is a concern that individuals are being prescribed treatment medications inappropriately at great cost to the Medicaid program and the individuals seeking treatment. The cabinet has been working with the Kentucky Board of Medical Licensure to improve provider education and has strengthened administrative regulations to more closely monitor medical assisted treatment. The cabinet has also been working to engage other stakeholders such as medical licensing boards, law enforcement, pharmacists, and health benefit providers to more effectively treat substance abuse and prevent overdose deaths.

Medicinal Marijuana

Health care providers, citizens, and advocates asked members to legalize the use of medical cannabis so that individuals do not have to leave the state. It is illegal to bring marijuana into Kentucky.

Cannabidiol Oil. A neurologist from the University of Louisville testified about the difficulties encountered with implementing the provisions of 2014 SB 124 that allows the use of cannabis oil under certain circumstances for particular medical conditions. The problems include the illegality of transporting cannabis in any form across state lines, obtaining pharmaceutical-grade cannabidiol oil, and obtaining approval by the US Food and Drug Administration for clinical trials with cannabidiol.

Health Services

Access to Primary Care. The president and CEO of the Foundation for a Healthy Kentucky stated that primary care is an entry point into the health services system for all new medical conditions and is person-focused care, not disease-oriented care. Primary care treats all but uncommon or unusual conditions, coordinates or integrates care regardless of where it is provided, and assures optimized care use and health status equity. To meet the increased demand for primary care services, an additional 3,790 physicians, 612 dentists, 5,635 registered nurses, 296 physician assistants, and 269 optometrists are needed. Approximately 44 percent of rural counties experience a shortage of primary care physicians.

Several health care professionals discussed the importance of primary care physicians and the need to address the shortages. There is a need for greater use and support for telehealth; expanded loan repayment programs; tax credits or other incentives for health care professionals; and state funds for expansion of the physician, physician assistant, and advanced practice registered nurses programs.

Medicaid Expansion Overview. Representatives from the DMS stated that Medicaid is now the largest payer of health care services for residents. An independent study found that expanding Medicaid will be beneficial because 17,000 new jobs will be created, $11 billion in funding will go to providers, and the state will save $800 million in fiscal years 2014-2021.

Kentucky Telehealth Network. Representatives of the Kentucky Telehealth Network, Cabinet for Health and Family Services, testified about the resource centers located at the University of Kentucky, University of Louisville, St. Claire Regional Medical Center, and Baptist Health Madisonville. The telehealth centers provide statewide leadership focusing on collaborative efforts and public and private partnerships to increase the use of telehealth services. Telehealth benefits include reducing barriers to services, increasing efficiency for providers, reducing overall health care costs, reducing delays in care, increasing quality of care, improving health outcomes, and having virtual accessibility. The telehealth network permits health care providers and systems to deploy technology on their own but creates a structured environment that coordinates the infrastructure and service delivery system.

Child Protective Services

Staffing Caseloads. Representatives of the Office of Human Resource Management and the Department for Community Based Services (DCBS), Cabinet for Health and Family Services, testified that DCBS has 4,500 employees who are located in all 120 counties. In the past several years, the lack of raises, retirements, job burnout, and family reasons have caused the number of family service workers and social workers to decline. Problems in recruiting and retaining employees include competition with the private sector and other government agencies that offer higher salaries. Since 2012, the department has either maintained or increased the number of staff while staying within its budget. The number of high-acuity-level cases continues to rise because of mental health issues, substance abuse, and poverty.

Unannounced Home Visits. The committee heard testimony regarding changes that are needed in the law to ensure that random unannounced visits to the homes of alleged perpetrators of child abuse are consistently conducted in all counties. This would help prevent perpetrators from successfully hiding abuse in advance of a visit and would lead to greater protection for children.

Public Health and Disease

Ebola Outbreak. The commissioner of the DPH discussed the history of the Ebola virus outbreak and its epidemiology and transmission, the progression and treatment of the disease, and the actions to be taken if the disease spreads to the state.

Reportable Disease Surveillance. The board chairman of Health Watch USA, the senior deputy commissioner of the DPH, and hospital representatives discussed the reporting of health-care-associated infections and hospital-acquired conditions. The definition of a disease outbreak, timely access to data, and laboratory reporting of bacteria are important to promoting high-quality health care. Recent amendments to administrative regulations will improve the public reporting of communicable diseases, the list of individual reportable diseases, and public awareness of infections associated with health care. The administrative regulations update definitions and require electronic reporting of multidrug-resistant organisms by October 2016. The Kentucky Health Information Exchange will allow safe, secure electronic exchange of patient health information among health care providers and organizations.

Hospitals are working with the department to ensure that data reported to the public are accurate. Patients often have infections upon admission to a hospital. Although it is important to report these infections, they should not be categorized as hospital-acquired infections. Hospitals are also implementing electronic reporting requirements as required by the federal government and the department.

Northern Kentucky Board of Health. The director of the Northern Kentucky Board of Health addressed the board's concern that it has too many members to be effective due to population growth in the board's district. By law, the board is required to add a certain number of members per population. It has become difficult to obtain a quorum and find meeting places that are large enough to hold meetings. The law needs to be changed to ensure appropriate representation on the board with fewer members.

Pediatric Cancer Awareness. The committee heard testimony on the need for greater awareness of pediatric cancer, particularly research and treatments. Physicians from Cincinnati Children's Hospital Medical Center, Kosair Children's Hospital, and Norton Healthcare testified that cancer is the leading cause of disease-related death in children. Progress in curing childhood cancer has stalled, and funding has been cut. New opportunities include integrated research in the genomic mechanisms causing pediatric cancers, development of targeted therapies, and an expanded collaborative network bringing research advances to the bedside of children in all three hospitals. The challenge is getting support and funding for pediatric cancer research. The majority of research and treatment funding goes to adult cancers, but more years of life are lost when children die from cancer.

Incidences of HIV/AIDS Cases. The senior deputy commissioner of the DPH stated that deaths among HIV disease cases have decreased since 1983. Approximately 6,000 individuals are living with HIV, and they are living longer because of improved medical therapies. In 2012, data show that less than 1 percent of Kentuckians younger than 13 were diagnosed with HIV. Fewer babies are born with HIV because of improvements in the medications that pregnant women can take. The Centers for Disease Control and Prevention recommends that individuals between 13 and 64 years be tested for HIV.

Statewide Smoking Ban. The committee heard testimony on proposed legislation to implement a statewide smoking ban in public places.

Poverty and Nutrition

Kentucky Food Policy Network. Representatives of the Kentucky Food Policy Network, including the Community Farm Alliance, the Barren River Health District, the Letcher County Appal-TREE Project, and Grow Appalachia testified about the connections between poverty, nutrition, and community. More than 750,000 Kentuckians do not always know where to get their next meal. Thirty-five percent of food bank clients report having to choose between paying for food or medicine or utilities. Effective collaboration, coordination, and community-driven decision making are critical components missing from the food system. An application for a planning grant will be submitted to continue the facilitation of the Kentucky Food Policy Network and host a semiannual food policy summit.

Food Banks. The executive director of the Kentucky Association of Food Banks (KAFB) stated that the statewide network of seven food banks with 915 agencies operating 1,356 food programs feeds approximately 611,111 Kentuckians yearly. The KAFB submitted an application to the Kentucky Department of Agriculture for $640,000 to purchase produce and was awarded $641,443 in August that included donations from taxpayers. One in every four children goes to bed each night hungry.

Referred Block Grant Applications

Pursuant to KRS 45.353, the committee held legislative hearings on four block grant applications: FFY 2014-2015 Preliminary Child Care and Development Fund State Plan; FFY 2014-2015 Community Services Block Grant; SFY 2014 Social Services Block Grant Annual Plan; and FFY 2015-16 Temporary Assistance for Needy Families Block Grant.

Referred Administrative Regulations

In performing its statutory legislative oversight responsibility, the committee reviewed 38 administrative regulations upon referral from the Legislative Research Commission under the review process established in KRS Chapter 13A.

Referred Executive Orders

Pursuant to KRS 12.028, the committee held a legislative hearing on four executive orders upon referral from the Legislative Research Commission: Executive Order 2014-560 relating to Reorganization of the Cabinet for Health and Family Services; Executive Order 2014-561 relating to Establishment and Operation of the Office of the Kentucky Health Benefit Exchange; Executive Order 2014-618 relating to Advisory Council on Autism; and Executive Order 2014-906 relating to establishment and operation of Kentucky Office of Health Benefit and Health Information Exchange.

Report of the 2014
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. Suzanne Miles
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, Matthew Trebelhorn, Chandani Jones, Alice Lyon, Dallas Hurley, Matthew Doane, Dale Hardy, and Elishea Schweickart

Presented to the
Legislative Research Commission
and the
2015 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 trust and estates of persons under disability; descent, wills, and administration of descendants' 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; juvenile matters.

Committee Activity

The Interim Joint Committee on Judiciary held six meetings.

Kentucky Department of Corrections: Housing, Programs, and Reentry

The commissioner of the Department of Corrections (DOC) spoke of the Kentucky Correctional Facility Segregation Unit Audit that was conducted by CNA Analysis Solutions and Eastern Kentucky University (EKU). Overall, the group found that national trends regarding segregation units show placement into a segregation unit is often prolonged and unstructured. Furthermore, these trends demonstrate that segregation units across the country face elevated suicide rates, decentralized oversight, and incidents of excessive use of force. While Kentucky has a better segregation unit system than other states around the country, it still possesses many of the qualities found in these national trends. Kentucky's segregation population was approximately 6 percent of the total institutional population, which is below the national average of 6.5 percent.

The deputy commissioner of the Department of Corrections gave an overview of programs and contracts within the department. As of July 2014, DOC began 11 evidence-based programs for inmates in extended segregation services. These programs are modeled after the Moral Reconation Therapy program and include evaluations and incentives for good behavior while in segregation. The goal of these programs is to foster more staff interaction. Mental health services have been extended to inmates in segregation, where they meet with a licensed professional every 30 days.

The death of an inmate in January while in segregation was also addressed. The commissioner explained that the inmate suffered from mental health issues and asked to be removed from his medications. Not long after, he began a hunger strike and eventually was found unresponsive in his cell; his death was due to dehydration. The commissioner discussed the series of miscommunications that led to this event, as well as the steps DOC has taken to address these weak areas, including staff changes, placement adjustments, and identification of gaps.

The secretary for the Justice and Public Safety Cabinet discussed reentry services and statistics. He spoke about HB 384 and the positive effects the bill would have if passed in a future session. Representative Tilley added that HB 463 from the 2011 Regular Session has improved reentry services, lowered recidivism rates, and increased treatment availability.

Capital Punishment: Status, Cost, and Perspectives

The secretary for the Justice and Public Safety Cabinet said that 33 inmates are on death row in the commonwealth, with 32 male inmates housed in the Kentucky State Penitentiary in Eddyville and one female inmate housed in the Kentucky Correctional Institution for Women in Pewee Valley. Inmates convicted before 1998 have the option to choose either electrocution or lethal injection; inmates convicted after 1998 can be put to death only by lethal injection. Currently, a Franklin Circuit Court injunction prevents executions in the commonwealth.

The cost of maintaining Kentucky's death row at the Kentucky State Penitentiary is roughly $150,000 annually, or about $5,000 more per death row inmate than housing an ordinary prisoner. An execution costs approximately $80,000, but that does not include the cost of inmate appeals and court appearances.

Senator Neal and Representative Floyd spoke about their perspectives on capital punishment. Senator Neal stated that his views on capital punishment have changed for a variety of reasons, including: racial and socioeconomic disparities in imposition of the sentence, exonerations using DNA technology, and the cost of housing death row inmates while they appeal their sentences. Representative Floyd said that his opposition to the death penalty began after he learned that since 1976, more than 100 former death row inmates have been exonerated through advances in DNA technology. He said that he could not accept any amount of risk of executing an innocent person.

The executive director of the Kentucky Council of Churches spoke about the council, which represents 800,000 Kentucky Christians who are united in their opposition to the death penalty on various moral grounds. The executive director of the Catholic Conference of Kentucky provided the Roman Catholic Church's perspective on capital punishment, stating that humans are created in God's image and endowed with dignity that must be protected.

A professor from the Southern Baptist Theological Seminary stated that the Roman Catholic Church did not oppose the death penalty for more than 1,900 years. He said that a person could be anti-abortion and pro-capital punishment without being hypocritical and that the imposition of the death penalty is about justice, not expediency or cost.

A Kentucky Coalition to Abolish the Death Penalty (KCADP) member and a representative from Kentuckians' Voice for Crime Victims spoke about crime victim perspectives. The KCADP member recounted the death of his brother in Missouri. He stated that sentencing a murderer to life without parole was far less stressful on the families of crime victims because there would usually not be a long appeals process. The representative stated that the death penalty should be retained for only the most heinous crimes. She also explained the extent to which the murder of a family member affects the lives of surviving family members.

A representative of the Kentucky Association of Criminal Defense Lawyers gave a broad overview of US Supreme Court death penalty jurisprudence. He explained that guided discretion statutes were upheld by the Supreme Court as a way to minimize the risk of arbitrary capital sentencing; the American Law Institute created the concept of guided discretion for jury instructions in capital cases but has since abandoned such efforts. Kentucky's public advocate stated that the General Assembly should either fix Kentucky's current death penalty statutes using recommendations from the American Bar Association or avoid the possibility of error and abuse by eliminating the death penalty altogether.

Prosecutorial Bar Issues in Kentucky

A commonwealth's attorney, county attorney, and assistant deputy attorney general spoke for the prosecutorial bar. The commonwealth's attorney's most pressing issues were presented, which included eCourts, the Kentucky State Police Laboratory, restructuring the Criminal Code, DUI homicide and vehicular assault, global positioning system trackers, and the Safe Harbor Provision in KRS 529.170. Issues facing Kentucky county attorneys were addressed, which included staffing issues, drug abuse, Drug Court and Juvenile Drug Court, consumer fraud, and the need for revision in expungement law. The assistant deputy attorney general also spoke about the most pressing issues confronting the Office of the Attorney General, which are budget cuts and staffing structure.

Use of Vivitrol in a Drug Court Setting

An Ohio judge spoke about successfully using Vivitrol to treat opioid addiction. The benefits of Vivitrol include its inability to be abused — it contains no opioids and produces an immediate elevation in mood. He also explained the operation of the drug court over which he presides, and he said it is a standard four-phase drug court program. Vivitrol helps stabilize patients in drug treatment, but to be effective it must be used with other drug treatment therapies.

State of the Judiciary Address

The Chief Justice presented the State of the Judiciary address. He spoke of the changes that the Administrative Office of the Courts (AOC) has undergone. In November 2013, the AOC moved to its new location, and it now owns the building where it is located. The AOC saved $800,000 off the original purchase price and approximately $1 million per year in lease payments.

The eCourt program will upgrade technological infrastructure, replace the current systems for trial and appellate courts, and electronically store all court documents. By the end of 2015, the AOC plans to have this program available across the commonwealth. The Chief Justice discussed CourtNet 2.0, to which approximately 4,000 users have subscribed since it was launched in March 2013. The CourtNet 2.0 program provides real-time access to civil and criminal cases in Kentucky and is available only to members of the Kentucky Bar Association, judges, justices, court clerks, and offices within state government. It is expected to be available to all by the end of 2014.

In July 2014, all nonelected employees in the judicial branch received a salary adjustment under the Judicial Branch Compensation Plan. Nonelected court personnel will receive an annual raise for both years of the budget cycle. The Chief Justice expressed his concern about inadequate salaries for elected judges. Elected judges have not received a pay raise since 2008, causing them to earn 17.5 percent less than the national average.

In October 2010, Kentucky Drug Court was serving nearly 3,000 participants, but now that number is only at 2,366. This decrease is due to budget cuts, insufficient staffing, and modified schedules for drug testing. Three areas of improvement have been identified by the AOC in order to meet the needs of the program: high risk/high need, evidence-based practices, and increasing participant numbers. The Chief Justice stressed the benefits of Drug Court and suggested that a well-structured expungement process for graduates would give defendants an incentive to choose Drug Court.

As required by the Judicial Branch budget bill, a statewide judicial workload study began in October. This study will evaluate caseloads across Kentucky using a process that can quantify caseloads while considering jurisdictional idiosyncrasies. A Judicial Workload Assessment Committee has been appointed, and the AOC has contracted the National Center for State Courts.

Defense Bar Commentary on Criminal Justice Issues

The public advocate praised HB 463, saying it has helped bring reforms and cost savings without adverse effect to public safety. However, the full projected amount of savings has not been met because of the discretion exercised by prosecutors, judges, and the Parole Board. He suggested that, if the Parole Board paroled all of the individuals who scored low risk on their validated risk assessment, there would be $18 million in savings in the first year and even more savings in the following years. He also recommended adjustments for pretrial release. Pretrial release rates have increased 3 percent, saving millions of dollars, yet there are several low-risk individuals in county jails. He also suggested reclassifying minor misdemeanors to civil violations and creating a gross misdemeanor classification for many low-level felonies.

KSP Laboratories Improving Services

The Kentucky State Police (KSP) laboratory director spoke about the status of its laboratories. KSP has laboratories in Cold Spring, Ashland, London, Frankfort, Louisville, and Madisonville. KSP employs 130 laboratory staff, including 92 analysts; in one year, the analysts have worked 40,000 cases. After accreditation, the KSP laboratories realized they needed to overhaul their system. She expressed concern with the KSP laboratories’ $1,000 limit for repairs to their equipment and said that repair time is usually 4 to 6 weeks. A $10,000 limit would allow repair time to be cut to approximately 2 weeks. The new equipment that the KSP laboratories have received has resulted in increased efficiency. DNA cases are no longer outsourced, and new Y chromosome test techniques are completed in KSP laboratories.

She also spoke about laboratory equipment needs. The trace section is working with equipment that is so outdated that replacement parts are no longer available. New technology analyzes samples faster. If KSP laboratories could acquire this technology, cases could be solved faster. When the KSP laboratories cannot get results out at an acceptable pace, the courts are affected.

Penal Code and Parole Reform

The secretary for the Justice and Public Safety Cabinet spoke about Kentucky's penal code and parole reform. Kentucky's penal code is 40 years old. The secretary explained that the last effort to reform it was in 2010. The Task Force on the Penal Code and Controlled Substances Act was formed; the findings from the task force were used to create HB 463 in 2011. Although this effort substantially reformed Kentucky's drug laws, it failed to reform Kentucky's penal code as a whole. He stated that reform of the penal code is long overdue.

The Parole Board started in Kentucky in 1956 with three members; it now has nine full-time members. The Parole Board operates in two ways: two-person panels and file review. In 2014, the Parole Board reviewed 21,414 cases; under such a demanding caseload, an informed parole decision is difficult. Issues within the penal code often involve the Parole Board and Kentucky's indeterminate sentencing system. Because of this situation, he stressed that it is hard to know a specific amount of time an individual will serve in the system.

Uniform Fiduciary Access to Digital Assets Act

An attorney discussed the Uniform Fiduciary Access to Digital Assets Act as recommended to the states for adoption by the Uniform Law Commission. This act will allow an executor or personal representative to gain access to someone's digital assets once the person dies, and it will grant access to an attorney or guardian if a person becomes incapacitated. He stated that a statute is needed for two reasons: provider contracts and jurisdiction issues. Executors would not be able to get any more information under this act than they could gain under existing law. Also, it does not convert an account into an asset but allows an executor to have the same status as a user. This act has also passed in Delaware and is pending in many other states.

Civil Protective Orders

The executive director of The Mary Byron Project and the executive director of Greenhouse17 spoke about the need to expand civil protection for people in a dating relationship. In this past year, there were 31,000 survivors of domestic violence and sexual assault. Senator Westerfield spoke about the necessity of this expansion and his support for it. Although there are laws against assault, these cases take time that victims may not have. He said that currently people who are married, share a household, or have a child in common can gain an emergency protective order, but that the option needs to be extended to those who are in a dating relationship. Representative Tilley explained that the bill draft is not made up of a lot of new law but is in fact text that has been pulled from KRS Chapter 403. He stated that the process of addressing domestic violence would remain unchanged but with the addition of dating, stalking, and sexual assault victims. The draft allows the judicial branch by local rule to place jurisdiction where it chooses. Also, an expungement provision for this bill draft will be considered.

Report of the 2014
Interim Joint Committee on Labor and Industry

Sen. Alice Forgy Kerr, Co-Chair
Rep. Rick G. Nelson, 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. Lynn Bechler
Rep. Regina Bunch
Rep. Denver Butler
Rep. Will Coursey
Rep. Jeffery Donohue
Rep. C.B. Embry Jr.
Rep. Jeff Greer
Rep. Richard Henderson
Rep. Toby Herald
Rep. Dennis Horlander
Rep. Joni L. Jenkins
Rep. Thomas Kerr
Rep. Adam Koenig
Rep. Mary Lou Marzian
Rep. Charles Miller
Rep. Terry Mills
Rep. Tanya Pullin
Rep. Tom Riner
Rep. Jim Stewart III
Rep. Brent Yonts

LRC Staff: Carla Montgomery, Matt Ross, Adanna Hydes, and Sasha Allen

Presented to the
Legislative Research Commission
and the
2015 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Labor and Industry

Jurisdiction: matters pertaining to the workforce 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; industrial weights and measures.

Committee Activity

The committee held five meetings during the 2014 Interim. The topics discussed included various programs in the Labor Cabinet, the Education and Workforce Development Cabinet, University of Louisville, University of Kentucky, Louisville Chamber of Commerce, and the house boating and marina tourism industry.

Workers' Compensation

Black Lung Claims Progress. The commissioner of Workers' Claims testified about black lung claims before and after the Supreme Court ruling in Vision Mining that found the consensus procedure for black lung claims unconstitutional. As the department has begun processing the backlog of black lung cases through the university examinations, it has learned that the UK and UL medical centers have limited resources to process these claims. The department may contract with two or three facilities to assist with the backlog. There is sufficient funding for the current claims for the next year and a half. An actuarial review would have to determine the stability of the coal workers' pneumoconiosis fund and whether assessments will be needed.

Medical Fee Schedule. The medical fee schedule for workers' compensation has been updated through an administrative regulation effective June 6, 2014. The new regulation replaces the 2010 fee schedule and includes a number of updates.

Comp Scope. A representative of the Workers Compensation Research Institute explained the institute's mission to provide data and information to legislators and executive agencies, not to provide opinions or recommendations. Potential benefits of being a member state would be receiving benchmarking for specific state data and comparisons to a state's regional area. Member states may also be included in specific studies at the institute. Kentucky is not a member, but institute representatives are meeting with state officials to provide information.

Education and Workforce Development Cabinet Updates

Unemployment Insurance. The commissioner of the Department of Workforce Investment presented the status of the unemployment insurance trust fund and the progress of repaying the federal unemployment insurance loan. The initial loan balance was $1.1 billion, but the current balance is $339 million.

The goal for repayment of the unemployment insurance loan is 2015, 7 years earlier than planned, which may help employers save $130 million in 2016. The earlier-than-anticipated payoff target is due to the improved economy, being responsible by putting all unemployment insurance contributions toward the loan and borrowing only as needed to pay the benefits, and structural improvements that have been made through legislation. The structural changes resulted from House Bill 5 in the 2010 Special Session and House Bill 495 in the 2012 Regular Session, which increased the tax bill wage base, lowered wage benefit rates, and applied a waiting week in federal credit reduction. Until the federal loan is paid, there should not be any executive, legislative, or judicial decisions that would have a considerable effect on the unemployment insurance trust fund, such as new categories or unemployment insurance recipients or a reversal of the increase of the wage base.

Workforce Investment. The commissioner of the Department of Workforce Investment informed the committee members that there is an educational gap for new jobs among the workforce with 49 percent of the workforce obtaining at least a high school diploma and 38 percent of new jobs requiring at least that amount of education. The demand for jobs that require some college education or an associate's degree is 34 percent, with only 28.4 percent acquiring that amount of education. A bachelor's degree is required for 20 percent of new jobs, with only 13.3 percent of the workforce attaining that educational achievement.

The federal Workforce Innovation and Opportunity Act (WIOA) passed in July 2014. The WIOA contains four main tenets, including a streamlined workforce development system, greater value, better coordination, and improved outreach to disconnected youth. The workforce development system will be more customer driven, and the number of people who serve on state and local workforce investment boards will be reduced; customers will make up a majority of the boards. Steps will be taken to ensure investments are effective through accountability procedures.

The three main areas of importance of the WIOA for the Department of Workforce Investment are increased partnerships, work-based learning, and integrated education and training.

Labor Cabinet

Apprenticeships and Job Training. The deputy commissioner of the Labor Cabinet provided information on the apprenticeship program. The program has 2,291 apprentices, 800 employers, and 118 programs. These numbers are expected to increase. Additionally, the cabinet is working with the Kentucky Department of Education's Office of Career and Technical Education on the Track Program. This program is an apprenticeship program that aids high school students with their transition into the workforce by offering hands-on training, the Labor Cabinet's eLearning resource and online modules, and credit that can go toward college. The apprenticeships are largely in the manufacturing industry, but the Labor Cabinet hopes to expand into other areas.

Workplace Health and Safety. The director of the Division of Occupational Safety and Health (OSH) presented information highlighting the Labor Cabinet's safety programs, projects, and partnerships. One of the major programs is the Fall Prevention Stand Down campaign. The campaign's goal is to bring awareness to employers and employees about safety in the workplace and, in particular, fall hazards and preventions. Employers taking part in the program include government agencies, professional societies, consumer and labor management interest organizations, and subcontractors and independent contractors.

The Labor Cabinet hosted OSH Stand Down events where it showcased the eLearning program module that concentrates on fall prevention to employers and employees. The module is available online in English and in Spanish. At these events, information was provided to 480 employees from 25 employers. Online modules and other online resources helped reach 7,600 employees from 37 employers.

Business Postings. In response to aggressive marketing by businesses attempting to sell employers state-required employment law postings, the Labor Cabinet started a media blitz informing business that those postings are free and can be obtained from the Labor Cabinet. The postings are also on the Labor Cabinet's website and can be printed for free.

Greater Louisville Inc.

The president and CEO of Greater Louisville Inc. (GLI) summarized the goal of GLI, which is to advance the greater Louisville region through job and wealth creation. GLI is a member-led business leadership organization that is present in 26 counties across Kentucky and Indiana with 1,900 paid members who employ 219,000 people. GLI implements economic development programs that boost job creation; supports laws and policies that create a business-friendly environment; and provides programs, products, and events that increase profits and lower costs for the Metro Chamber members and their companies.

Institute for Product Realization: Connecting Education, Research, and Job Creation

The dean of the University of Louisville J.B. Speed School of Engineering discussed the Institute for Product Realization Project. The Cabinet for Economic Development, Greater Louisville Inc., and the mayors' offices of Louisville and Lexington, through the BEAM initiative, have assisted with the project. The focus is to create an institution to assist in long-term development of the manufacturing industry in Kentucky.

University of Kentucky's Impact on the Economy of Kentucky and the Health of Its Citizens

The University of Kentucky's president highlighted key areas of the university's impact on the commonwealth including a $280 million investment that yielded a $3 billion academic, research, service, and health care enterprise. The university generates nearly $80 million in state and local income tax, resulting in 5,000 additional jobs in health and research, and $367 million in external grants that resulted in 9,427 new jobs. UK has self-financed $1.3 billion of construction.

The executive vice president for Health Affairs for the university explained that, 11 years ago, careful consideration was given to the direction of the medical complex and critical success factors. The conclusion was to focus on advanced subspecialty care — something that only major academic medical centers can do. It was determined that critical success factors were efficiency, quality, and patient safety. To be successful, UK must become a referral center for all of Kentucky and areas in West Virginia, Ohio, and eastern Tennessee. Over the past 5 years, the university has aggressively developed relationships with hospital systems and medical providers throughout these areas. The number of annual discharges has increased significantly.

Fiscal impacts of UK Healthcare's expansion include a 95 percent increase in employee growth and 140 percent growth in personnel expenses.

Houseboating and Water Sports Tourism

The secretary of the Tourism, Arts and Heritage Cabinet, the commissioner of the Department of Parks, and the executive director for the Somerset-Pulaski Convention and Visitors Bureau testified regarding the economic impact of tourism spending in Kentucky and the southern Kentucky Lakes and Rivers Region. Investment in state park infrastructures and increased marketing funding are important to attracting more visitors and additional revenues for to the state. State funds allocated to tourism regions and then matched locally were drastically reduced in 2014. The reduction in marketing events has negatively affected visitors to regional events and destinations.

The president of the Kentucky Marina Association and the president of Stardust Cruisers discussed the houseboating industry. Several issues were identified as having a negative effect on the marina tourism and houseboat sales. There is an increased enforcement of higher property tax on boats. Several surrounding states have either no property taxes on boats or much lower rates. Marinas on the Tennessee side of Dale Hollow Lake are full while Kentucky marinas have empty slips. The differentials in sales and property taxes on boats have also affected houseboat manufacturing and sales.

The school calendar has affected summer tourism season visitors and employees. Family vacations are cut short. Teenagers who have summer jobs have to return to school earlier in the summer season, and many seasonal businesses have to cut back schedules and hours of operation because a lack of employees.

Legislation regarding proposed safety repairs and upgrades at marinas is viewed as costly. The marina association president said there are other options to address safety issues.

Report of the 2014 Interim Joint Committee on Licensing and Occupations

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

Sen. Tom Buford
Sen. Julian M. Carroll
Sen. Julie Denton
Sen. Denise Harper Angel
Sen. Jimmy Higdon
Sen. Christian McDaniel
Sen. Morgan McGarvey
Sen. R.J. Palmer II
Sen. Dan "Malano" Seum
Sen. Damon Thayer
Rep. Julie Raque Adams
Rep. Tom Burch
Rep. Denver Butler
Rep. Larry Clark
Rep. Jeffery Donohue
Rep. David Floyd
Rep. Dennis Horlander
Rep. Joni L. Jenkins
Rep. Adam Koenig
Rep. Reginald Meeks
Rep. Charles Miller
Rep. Brad Montell
Rep. David Osborne
Rep. Darryl T. Owens
Rep. Ruth Ann Palumbo
Rep. Sal Santoro
Rep. Arnold Simpson
Rep. Diane St. Onge
Rep. Susan Westrom

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

Presented to the
Legislative Research Commission
and the
2015 Regular Session of the
Kentucky General Assembly

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; trade practices.

Committee Activity

The committee met six times during the 2014 Interim, including meetings at Keeneland, Chrisman Mill small farm winery, and Kentucky Eagle Distributing Company. The committee heard testimony about a wide variety of topics.

Alcohol-Related Issues

Representatives from the Department of Alcoholic Beverage Control (ABC) said they have been working to develop legislation for consideration during the 2015 General Assembly. In addition to refining some existing issues, the legislation will contain a number of new items:

- Prohibit the sale of powdered alcohol. There is a public safety concern that the powder could be added to an alcoholic drink making the alcohol by volume significantly stronger, but immeasurable.
- Allow special precinct elections for nine- and eighteen-hole golf courses. Marinas may also be included. Presently, they are working on a consensus definition of a qualified marina.
- Permit a bed-and-breakfast to sell alcohol to guests. Guests would be able to purchase alcoholic beverages with dinner or take them to their rooms.
- There is a special, temporary distilled spirits and wine auction license that permits qualified charities to obtain a license to receive donated alcohol for auction fundraisers. The ABC will propose to add a malt beverage license that will permit charities to raffle malt beverages as well.
- Allow all local ABC licenses to expire on the same schedule as the state licenses. Local governments have set their own schedules, but the industry feels that it is burdensome to try to keep up with multiple license renewal dates.
- Distilleries have requested multiple changes to enhance their growing tourism industry, including raising the sample size to 3 ounces per day to allow the visitor to sample a larger variety of products, and allow distilleries to give a minimal novelty item that would be branded with the distillery logo.
- Distillers have also asked for authority in statute to allow master distillers to taste their product during the production of the batch.
- Package retailers are asking to expand the sampling license to allow retailers to offer a sample size of high-end product, rather than holding a drink license for sampling.

- Currently, beer sampling is not permitted in retail package stores. Out-of-state brewers are asking to go into a retail business to participate in malt-beverage samples, limited to 16 ounces of malt beverage per day, during regular business hours. This allows customers to sample high-end product from small farm wineries or brewers before they make a purchase.
- Small farm wineries have requested a license for "custom crushing," to allow two licensed Kentucky small farm wineries to contract with each other co-operatively to permit one winery to use their equipment to crush, produce, and bottle wine on behalf of the other licensed small farm winery.
- The ABC will seek to create a statewide server education program. The new program would certify the industry based on an existing national program to provide training, modified to cover Kentucky law. ABC will issue a certified servers card. There will be a fee for this card, and the card will be valid for multiple years, yet to be determined.

Representative Clark said that he felt that the clean-up language should stand in a separate bill request because of all the new items. Senator Higdon said the agency should consider a task force in the future to work on changes when there are a large number, in order to gain consensus. Senator Schickel said that, after learning more about the program and understanding that cities and counties do not have uniform regulations on server training, he realized that standardized training is necessary.

Representative Montell spoke about a bill he sponsored in the 2014 Regular Session and plans to bring again in the 2015 session. The bill would authorize a commercial quadricycle, a human-powered bicycle-like device on which customers could be allowed to consume alcoholic beverages. The bill would define a commercial quadricycle; would direct local governments to adopt an ordinance setting forth regulations for the operations of the quadricycles, such as licensing requirements, insurance requirements, disclosure and approval of area of operation, safety and equipment standards, inspection requirements, and restrictions on hours of operation; and would exempt passengers on the bike from laws prohibiting individuals from drinking in public places. If the bill passes, passengers could imbibe while on the bike but could not step onto the sidewalk with a drink.

The owner of Thirsty Pedaler said he has a 15-passenger bike that operates in Louisville, and he plans to expand to Lexington. Tours are prebooked, lasting 2 hours through the downtown area. There is a designated driver who has complete operational control at all times. The riders provide the propulsion by pedaling. There is no motor on the bike; however, there is a battery to operate the headlights, taillights, turning signals, overhead lights, and stereo system. Patrons bring their own adult beverages. The tour has three stops at various bars, attractions, or businesses that allow the passengers to get off the bike for a brief visit. Representative Montell said it is a great opportunity for more people to visit the city to experience what Louisville has to offer. Metropolitan cities around the country are bringing this business to their cities.

Senator McGarvey discussed a bill from the 2014 regular session that he plans to reintroduce in the upcoming session. His bill would create a special malt beverage temporary license for auctions, specifically charitable auctions. There is already a temporary license for charitable auctions of distilled spirits and wine. The charitable malt beverage license would comply with all the existing regulations. Additionally, the malt beverages would be warm and could not be consumed on the premises. The malt beverages would have to be awarded to someone over the age of 21. The Department of Alcoholic Beverage Control is in favor of this legislation.

Country Boy Brewing Company representatives testified that they are grateful to have the support of the committee for changing the classification of cider from wine to a malt beverage. Cider is the fastest-growing segment in the craft beer industry in America. Nationally, cider production has tripled in the last 3 years. Country Boy Brewing Company is a local microbrewery that has grown from no employees to 13 and has increased production from 500 barrels to 6,500 barrels this year. The company's 2-year projection is for 10,000 barrels of product. Recently, Country Boy partnered with Evans Orchard, in Scott County, to source apples to begin making Kentucky Proud Cider. The company has invested more than $100,000 in cider infrastructure and tanks, and has hired three additional employees since cider was legalized.

A representative of the Kentucky Distillers' Association discussed the strength of the distilling industry. Kentucky's distilling industry is responsible for creating 15,400 jobs with an annual payroll of $707 million. The average salary is $91,188. There are more than 5 million barrels of bourbon aging in Kentucky. Local communities benefit from the distillery operations with $12 million generated in taxes on the aging barrels in 2013. Distillery purchases of grain in Kentucky support nearly 1,360 farm jobs and $56 million in farm output. The Kentucky Bourbon Trail has increased tourism, with 2.5 million visits in the past 5 years. Kentucky taxes spirits higher than all but four other states. Tennessee, the number two whiskey producer nationally, taxes distilled spirits at about two-thirds of Kentucky's rate.

Medical Marijuana

The founder of Kentuckians for Medicinal Marijuana told the committee that 23 states, plus the District of Columbia, have passed medical marijuana laws; 18 states have some form of decriminalization of marijuana; and four states have decriminalized and regulated the sale marijuana to everyone. He went on to state that marijuana is an antioxidant and neuroprotectant and has been found useful in the treatment of strokes, Alzheimer's disease, Parkinson's disease, and a number of autoimmune diseases. He said the National Cancer Institute has found that the cannabinoids in marijuana appear to kill tumor cells related to brain, pituitary, breast, lung, liver, pancreatic, uterine, testicular, and colon cancer, while protecting healthy cells.

He also said that a study in the Journal of the American Medical Association found that states with medical marijuana laws had a 24.8 percent lower opiate overdose mortality rate, compared with states without medical marijuana laws. He said that legislation was being prepared for the upcoming session of the General Assembly that would provide for medical marijuana in Kentucky. He said the legislation would require the licensure of patients, caregivers, compassion centers and agents where the marijuana would be dispensed, as well as cultivation facilities and workers.

Senator Buford raised some concerns about the prospect of legalizing marijuana in Kentucky while it was still prohibited by the federal government. He said that if marijuana was to be dispensed for medical purposes, it should be dispensed from a licensed pharmacy, but he did not know what risk the pharmacy might face from federal action if it dispensed a substance that was prohibited by the federal government. Similarly, he pointed out that banks could be at risk of facing money-laundering charges if they accepted deposits of money from those selling medical marijuana. Senator Buford said there were a number of issues still to be resolved about the potential conflict between state and federal law if a bill authorizing medical marijuana is brought forward next year.

Offender Reentry

The secretary for the Justice and Public Safety Cabinet said approximately 21,000 people are incarcerated in Kentucky. Reentry is a vital issue because not everyone who has gone through the criminal justice system, served time, and been released from court supervision becomes a repeat offender. Removing barriers for those seeking employment is an issue that the Governor's Reentry Task Force is seeking to address.

One barrier to employment is occupational licensing. Offenders need the opportunity to receive an occupational license unless there is a connection between their offense and the occupations for which they are applying. For instance, people who have a background in fraud would not be suitable for financial institutions. However, a background in fraud would not necessarily be a barrier to a job in water filtration. Jobs help individuals become taxpaying citizens, help them support their children, and help their communities. Holding a job also means the state is not supporting them. If these barriers are not removed, and individuals cannot find work, they are more likely to reoffend.

Representative Tilley said HB 384 from the 2014 Regular Session sought to amend existing law. Denying someone the right to work must be based on a clear connection directly related to the crime committed. The bill applied only to public hiring or licensing institutions that the state controlled. The bill would have required an explanation, if a denial were made, of why there is a connection. Additionally, the applicant must be allowed an administrative hearing under KRS Chapter 13B. Federal exemption supersedes local law, as the bill noted. In the last 3 years, Kentucky has moved below the national average regarding reoffense, down from 41 percent to 36 percent. Nationally, 4 out of 10 offenders come back to prison within 3 years.

Representative Floyd stated that he did not know why there would be any objection to this bill. The commonwealth should lead the way, and employers should know that consideration of offenses should be relevant to the job being hired for. Representative Koenig said he thought it was a good idea; however, he was concerned about the employer's right to be aware of who was being hired, particularly with the expungement of a record. Representative Tilley said there would not be any type of expungement, and the employer would be aware of the record. This bill encouraged employers to give individuals a fresh start.

Senator Schickel commented that he appreciated the intent of the bill; however, he was also concerned about what employers have the right to know. The fact that the bill speaks to public employment and professional licenses narrows the scope, but there is still a concern that Frankfort is going to mandate that a professional association prove a connection before a license can be denied. Representative Tilley responded that an administrative board made up of officers trained to mediate in these situations would handle appeals from either party. Relating to the private sector, a license might be granted, but that would not guarantee employment. The employer would still have the option to hire an individual, but the licensure board would be required to license qualified applicants.

Charitable Gaming

The commissioner and general counsel for the Department of Charitable Gaming said they plan to ask the legislature to update statutes governing charitable gaming. They pointed out five specific areas for change:

- Amend KRS 238.505 to change the definition of “facility” and add a new definition for “electronic video gaming device.”
- Amend KRS 238.525 to allow an administrative violation for illegal gambling, in addition to the criminal penalties already provided.
- Amend 238.520 to increase licensing fees for manufacturers from $1,000 to $3,000 and for distributors from $1,000 to $2,500.
- Amend KRS 238.535 to change the reporting deadline to make it easier for charities to submit their year-end reports.
- Amend KRS 238.540 to clarify language regarding the secure storage of charitable gaming supplies and equipment.

Senator Buford cautioned that fee increases on manufacturers and distributors would simply flow down to eventually increase the costs on the charities, thereby reducing the amount of money actually retained for charitable purposes. The general counsel pointed out that Kentucky has some of the lowest fees among a number of states. Senator Buford requested that the department provide information on fees charged by the seven states surrounding Kentucky.

The chief operating officer of the Lancaster Bingo Company also addressed the committee and brought along demonstration models of electronic pull tab machines. The company hopes the legislature will consider amending KRS 238.505 and 238.545 to include electronic pull tab devices as an option for charities to use. Charities have seen their gross revenues fall in recent years, and it is hoped that the digital devices will appeal to a younger demographic and draw new players from a group that is currently gaming very little at charitable events. Other states have seen an increase in gaming receipts when electronic pull tabs were made available.

Inspection of Tents and Temporary Structures

The deputy commissioner of the Department for Housing, Buildings and Construction (HBC) said that, in August 2011, a stage collapsed at the Indiana State Fair, killing five people. Because of that event, HBC decided to look at the inspection process in Kentucky and found there was no consistent enforcement statewide. While larger events like the Rolex Kentucky Three-Day Event, the World Equestrian Games, and the Kentucky Speedway were inspected and permits issued, smaller events were held without inspections. Additionally, since 1980, the

Kentucky Building Code has required that all tents and temporary structures comply with the same requirements as more permanent buildings.

As a result, the Tent/Temporary Structures Advisory Committee was established. A group of approximately 18 people, including representatives from the Kentucky Horse Park, the Kentucky Fair Board, tent rental companies, and catering companies, as well as code enforcement officials. The task force developed a model approval program and consolidated existing temporary structure requirements to ensure public safety. A final report was delivered to the HBC board on November 15, 2012, for its approval. The state model program established a system that eliminated repetitive submission of engineering documentation for each site placement. It also preapproved tent models to streamline the approval process for building officials, the tent industry, tent rental companies, and consumers.

Senator Schickel said staff had updated him on the building code, which went into effect in early 2014. A new section of the code was created, relating to temporary structures. This section pulled regulations from various places in the building code and placed them in one section. However, there was also new language put into the section that did not exist prior to the revision of the building code. The revised code was then incorporated by reference into administrative regulations for the Office of Housing Buildings and Construction. It was not noted that new language for temporary structures had been added or a new fee structure established for the inspection program. The department has noted that the fees established for the tent inspection program are lower than the fees that the department could have been charged for inspections in places of assembly. However, it is not clear that these fees were previously charged for inspections of temporary structures throughout the commonwealth. These fees may be lower than what could have been charged, but in many instances they represent new fees that were not charged previously for an inspection that was not required before.

The general counsel for HBC said that when this regulation was filed in December 2012, the summary of material incorporated by reference did not include any of the changes in Chapter 430. The regulation filing was to transfer extensive changes of the 2007 Building Code to what is now the 2013 Building Code. Because the changes were recited in a 90-page document, that document was attached to the regulation. It is not the feeling of HBC that anyone tried to circumvent the regulation process. Senator Schickel commented that too often the process is not fully disclosed and business feels caught off guard. Even though tents may need to be inspected, full disclosure is important.

The director of the Division of Building Code Enforcement said that as long as an admission is not charged and the occupancy of the tent is less than 1,000, on public or private property, there is no requirement for a site placement permit. In consideration of small town festivals, there are two exemptions that will not require an engineer certification for tent placement. One exemption is for a temporary stage or platform that is less than 1,000 square feet with a weight limit of 8,600 pounds, limited to 12 individuals, plus lights, sound, scenery and equipment. The second exemption is for a temporary stage or platform not exceeding 600 square feet that is on a wheeled vehicle not designed as a temporary platform, if the weight per axle does not exceed the total weight of all persons and items on the stage.

The committee amended fire code to increase the permitting threshold from 200 square feet to 400 square feet for approval and permitting. All tents are also required to be anchored to withstand elements of the weather and prevent collapsing.

The minimum fee for a site placement was reduced from $250 to $125. The committee also reduced fees across the board for inspections on all sizes of tents and multiple tents in one location. In response to Representative Koenig, the general counsel for HBC said there are areas in the state where local jurisdictions have not been enforcing tent inspections. Therefore, people who have previously not been inspected will believe there is a new fee.

Keno and Plans for Kentucky Lottery Corporation

The chief financial officer for the Kentucky Lottery Corporation (KLC) said the KLC saw record sales in 2014 totaling $857.7 million, a 1.3 percent increase over 2013. There was a 2 percent increase in the 2014 transfer to the General Fund. In 2015, sales are projected at $935 million with a net income of $247 million and with $238 million projected to be transferred to the General Fund. Sales of scratch-off tickets in 2014 were $1.8 million less than in 2013. Also, a lack of major, sustained Powerball jackpots had a negative effect on that game’s sales. However, Mega Millions sales made up some of the shortfall with sales of $12.7 million over the previous year.

Keno began play in November 2013 with 394 retailers: 194 Keno-only retailers, and 200 traditional retailers. Sales for 2013 were $29.5 million, $1.5 million more than projected. Currently there are 510 Keno retailers: 269 Keno-only retailers and 241 traditional lottery retailers. A $24 million increase is expected in 2015.

The president of KLC said the decline in scratch-off ticket sales is troubling because that has been the dominant product since the inception of the lottery, with 60 percent of sales in the form of the scratch-off ticket. Keno has had some impact on scratch-off sales, but that effect is not anticipated to continue for the long term. Sales of Keno are typically in social settings, and KLC will continue to develop this market.

In October, KLC launched a third, national lottery game, based on the game of Monopoly. Lotteries from across the country participate in the weekly drawing. The initial jackpot was $15 million. Kentucky will win a share based on sales.

KLC is the sole funding source for the Kentucky Education Excellence Scholarship, the need-based College Access Program, and Kentucky Tuition Grant programs. These proceeds have been distributed to 569,542 Kentucky college students to help defray college expenses.

The KLC president said KLC has had discussions regarding an equine lottery game and offering that product in recent years. It is the opinion of KLC that it would require a law change. There is a question about whether KLC could legally split funds with the racing enterprises. Additionally, it is felt that this particular game will not have the benefits that the designer believes it will have. It is not in the current plans of KLC to offer that product. The KLC general counsel said that 100 percent of Keno revenue goes to scholarships, the way all lottery revenue is handled. In the equine lottery game, the racetracks would receive part of the proceeds even though the lottery would be the seller of the tickets.

The general counsel also noted that, in January 2014, KLC began to focus on iLottery, the sale of lottery products over the Internet. The iLottery system will be able to determine whether the player is in Kentucky and is 18 years of age, which will be verified with each wager. There will be the ability to set limits on amount and time spent wagering. Games offered initially would consist of the multistate draw games: PowerBall, Mega Millions, and the Monopoly game. In approximately 3 months, KLC will add other draw games and later implement an electronic version of scratch-off games.

The KLC president said that maintaining business with retailers is important to the lottery. The percentage of iLottery sales at this time is less than 1 percent and should not have a significant effect on retail sales.

The general counsel said KLC ensures it is in compliance with federal law. In 2011, the Department of Justice was clear that lotteries can engage in this type of Internet wagering if it is within each state's borders, is not sports wagering, and is consistent with the laws of the state.

EquiLottery

The president of EquiLottery LLC said that in July 2014 his company introduced a new concept in lottery gaming called EquiLottery. The game has not been taken up by any state lottery yet, but as planned it will be sold through lottery terminals. It will require software integration but no modification to existing lottery machines. The game will consist of quick pick only, on one race per day. Profit margins are in line with other lottery products, and there is potential to add approximately 15 percent new players to the lottery customer base. Gaming Laboratories International provided a revenue analysis estimating the game would generate $25 million in the first year through the Kentucky Lottery. By adding a multistate split, the amount of profit increases by $30 million annually. Calculating 10 states playing the Kentucky Derby in lottery terminals, a projected $97 million would be added to the handle.

EquiLottery has opined that the game would be an extension of the intent expressed in KRS 154A.065, relating to the contests involving horses that may be a basis for a lottery. The major difference between this game and existing games (such as Powerball and Mega Millions) is that the EquiLottery pari-mutuel pool is at a racetrack. EquiLottery players would purchase a $2 ticket. The money from the purchase is split with $1 going to the Kentucky Lottery pool and $1 to the EquiLottery pool. Part of the Kentucky Lottery dollar goes into a supplemental pool, paid into only by EquiLottery players and paid out only to EquiLottery players. The other dollar goes to the racetrack where the race is taking place and is applied as an exotic wager. A winning player receives a percentage from the supplemental pool and from the payout from the exotic wager. The EquiLottery race of the day is the last race on the card. The ticket will note where the race is running and where to watch the race. The ticket will be a quick pick that lists the numbers and names of the horses.

The EquiLottery president said because the lottery is a game of chance and not of skill, EquiLottery tickets are quick picks. Players do not pick the horses that they play; the selection is totally random. In response to a question from Representative Osborne, the president said EquiLottery would like to reengage conversations with Kentucky Lottery Corporation after this meeting.

The EquiLottery president said it is the belief of EquiLottery, after legal research, that the Kentucky Lottery Corporation has the authority to implement this game. EquiLottery believes this game is no different from PowerBall and Mega Millions. Senator Thayer commented that a letter from the co-chairs to the Kentucky Lottery Corporation to encourage their cooperation may be in order if the Lottery Corporation does not communicate with EquiLottery in 30 days.

Horse Racing Issues

Officials from the Kentucky Horse Racing Commission (KHRC) reported that in 2013, $5.8 million was paid from the Kentucky Thoroughbred Development Fund to supplemental purses at Kentucky tracks. As of September 2014, a little more than $3 million has been paid. A committee consisting of five members is appointed annually to advise KHRC on how the fund should be split for purses. In 2014, legislation amended the statutes to include allowance optional claiming races for a price of not less than $25,000. The intent was to provide another opportunity for horses to race in Kentucky. Also enacted in 2014 was legislation transferring $1 million from the Kentucky Equine Drug Research Council to the Kentucky Thoroughbred Development Fund to enhance purses.

The Kentucky Standardbred Development Fund, established in 1976, is a mirror of the Thoroughbred fund with a goal of encouraging owners to buy Kentucky horses, breed Kentucky stallions, and race Kentucky-foaled horses on Kentucky racetracks. In 2013, the advisory panel for the Standardbred fund recognized a need to amend regulations because of short fields. A new regulation was filed and approved in December of 2013 allowing foals of a stallion or a mare that stood in the state for 180 consecutive days to be eligible for purses.

The equine medical director for KHRC said that one aspect of the commission's regulatory duties is to monitor for emerging threats to the integrity of the sport. Cobalt is used in a method of blood doping that enhances the performance of a horse by increasing oxygen delivered into the body. Cobalt is a trace mineral that is a component of B vitamins. Cobalt is present in the body naturally; however, because it is not synthesized by the body, it would have to be ingested or injected to be in the animal. Because the body needs this mineral, regulation is necessary. After studying postrace samples from 900 horses, a pattern was developed to establish the normal level and what an enhanced cobalt level might resemble. Kentucky is part of an international collaboration to address this issue. A regulatory threshold for cobalt was to be recommended to the Racing Medication and Testing Consortium (RMTC) at its October 13 meeting.

The equine medical director said it is her opinion that individual racing jurisdictions should not establish thresholds without the consensus of the RMTC based on research.

The vice president of Keeneland Race Course welcomed the committee to the racetrack on the fourth day of the September yearling sales. He said business has been consistent and very strong. In the fall of 2015, Keeneland will host the Breeders' Cup. Construction is under way for a temporary luxury chalet. During the 2-day event, $26 million in purse money will be awarded. The economic impact for not only Keeneland, but the entire community, is expected to be significant. As with the World Equestrian Games, there will be a festival atmosphere with events in downtown Lexington. Keeneland will ask the legislature to reenact a statute that was used during the Breeders' Cup event in Louisville to exempt the pari-mutuel tax for the 2 days of the event. The executive director of the Kentucky Horse Racing Commission said it is the commission's responsibility to make sure that the Breeders' Cup events are held to the highest standard.

Licensure of Roofing Contractors

Rep. Steve Riggs said that during the 2014 legislative session he sponsored a bill concerning licensure of roofing contractors that passed the House but not the Senate. The roofing industry came to the legislature and asked for legislation to protect consumers from "storm chasers," who come into the state after a catastrophic event to take advantage. The number of complaints received at the Attorney General's office and the Better Business Bureau related to storm chasers has been increasing, tripling since 2011. There have been lawsuits, but tracking down businesses that did the work is difficult because they are often from out of state. Many other states license the roofing industry. The Department of Housing, Buildings and Construction could manage a licensing database with existing personnel. There are protocols for plumbing or heating, mandating licensing and insurance. For roofing, which could cost a home owner $7,000 to $10,000, there are no such requirements. The Home Builders Association has asked that new homes be exempt, and this exemption was included the legislation. Representative Adams commented that this legislation is not a government overreach since the industry itself came to legislators asking for the license.

Representative Riggs said the department would perform criminal background checks on persons applying for licensure as roofing contractors; this procedure would not apply to individual laborers. Senator Buford commented that the time to apply for a permit to repair a storm-damaged roof should be extended beyond the next business day. Additionally, if there is cause for litigation it should be in the court of jurisdiction where the violation occurred, rather than Franklin Circuit Court.

A representative for the Kentucky Home Builders Association said his association objected to the permit fee. The fee was just a fee for which they received nothing. It did not provide any inspections. Members feel that if they pay a fee there should be an inspection performed and not a per job permit fee.

Representatives from the Northern Kentucky Home Builders Association told the committee that their association was not in favor of the legislation. The association has a built-in network that provides assistance for homeowners after a natural disaster to avoid out-of-town businesses coming in and contracting for work. There is also concern that smaller businesses will have an extra burden if the bill were to pass. They said the bill contains burdensome requirements, such as time spent with additional paperwork, continuing education, and extra fees. Also, not all counties have local inspectors. Enforcement of the existing building code throughout the state would be a better effort than creating new categories of licensure.

Licensure of Clinical Alcohol and Drug Counselors

Representative Jenkins introduced a group of mental health professionals to speak in favor of a bill to add licensure to the existing certification of clinical alcohol and drug counselors. The group indicated that the Licensed Clinical Alcohol and Drug Counselor bill is intended to encourage another tier of practice within Kentucky. There are approximately 800 certified alcohol and drug counselors in the state, but an estimated 280,000 individuals need drug and alcohol treatment. If this level of licensure were added and the competency level of the profession were increased, more people would be encouraged to treat the disease.

The medical director of the Department of Behavioral Health and Developmental and Intellectual Disabilities said substance abuse is a growing epidemic that affects all aspect of state government from law enforcement to judiciary and education. It hinders economic development and affects families and children. Children commonly come into state custody as a result of dysfunction related to substance abuse disorders. Overdose deaths are increasing from heroin. The cabinet believes this issue has become urgent.

In January, Medicaid added a substance abuse benefit to the state plan. To obtain a provider number, independent licensure is required. Therefore, it is necessary to create a category called Licensed Clinical Alcohol and Drug Counselors that allows professionals to practice independently in order to gain Medicaid provider status and thus provide a qualified workforce to provide treatment to adults, children, and families. The Mental Health and Substance Parity Act requires private insurers to cover substance abuse treatment. The bill would create a board that will oversee the work of counselors and protect the public from someone who is not practicing in the scope of practice for the profession.

One of the mental health professionals said that all states, under the Mental Health and Substance Abuse Parity Act, are required to provide coverage for substance abuse treatment. Based on a January estimate of the number of active abusers, only a small number are seeking treatment, which makes it difficult to develop an estimate of demographics and total cost. An actuarial analysis is part of the negotiation with managed care organizations. Other states have been providing this coverage for quite some time. Representative Jenkins said the treatment is already being provided; however, with passage of this legislation there will be more qualified practitioners to provide the service.

The proposed changes would allow the licensed professionals to become credentialed and gain independent Medicaid provider status. Overall health costs are related to untreated substance abuse. Identifying and treating substance abuse early controls health care costs and prevents more expensive medical costs later. Certified Clinical Alcohol and Drug Counselors may provide services to Medicaid members in a community mental health center setting, but they are limited to that setting. However, if they gain independent provider status they may provide treatment outside the clinic.

Changes to Kentucky Board of Barbering Policies and Procedures

The administrator for the Kentucky Board of Barbering said the board had explored the possibility of not accepting checks for renewal fees because of costs and delays in issuing licenses while waiting for checks to clear. However, statute requires boards to accept payment for license renewal in the form of a check, so the board has decided not to prohibit checks. The board is exploring the possibility of online renewal. With changing demographics, many new licensees do not use personal checks, so a number of options are being considered.

The administrator said there are 5,000 licensed barbers. Some are independent contractors, and some are shop owners. All licenses are renewed annually in June. The change from the apprentice to probationary period has led to some difficulty because it takes away oversight of new barbers.

Representative Clark suggested that the board consider changing the license renewal program to a staggered system to avoid the burden of all licenses renewing on July 1.

Realtor Licensing Requirements

The president-elect of the Kentucky Association of Realtors said the association is asking for consideration of additional education requirements for real estate licensees who are entering the industry. The association would like to require 45 hours of postlicensing training within 2 years after a person receives a real estate license. Twenty-four other states require post-licensing education. Maintaining high standards and professional competency is more important now than ever. The proposed postlicense education requirements are designed to aid new licensees who have less selling experience. Research shows that 20 percent of new licensees have received complaints during the first 2 to 5 years after getting their licenses. The proposed legislation will protect consumers and encourage responsibility and accountability for the licensee. The proposed changes would go into effect January 1, 2016.

The president-elect said he, Senator Albert Robinson, and others met with the Real Estate Commission and various education providers and local associations, including LBAR, to develop the recommendations. Senator Robinson said the legislation is a consensus of the Kentucky Real Estate Commission, Realtors, and agents in an effort to resolve the problems that come up in the first 2 to 3 years of a real estate agent's career.

The president-elect said the legislation will affect only new licensees after January 1, 2016. New agents will then be required to complete expanded education within the first or second year of getting their licenses.

It was reported that 20 percent of the complaints received at the commission involve agents who have been licensed less than 5 years. From 2004 to 2013, 377 actions were taken; of those, 172 active licensees had been in the profession 10 years or less, which is about 45 percent. There were also 83 licensees within 6 to 10 years of licensing.

It was stated that prelicense education is theoretical education. The legislation proposes postlicense education that would involve more applicable business education.

Report of the 2014
Interim Joint Committee on Local Government

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Rep. Steve Riggs, Co-chair

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2015 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 usage; local air pollution control districts; urban service districts; library districts; city and county libraries; county law libraries; special districts not assigned to another committee.

Committee Activity

Briefing of the Auditor's Report on the Bluegrass Area Development District

The auditor of public accounts addressed the committee on the scope of the examination of the Bluegrass Area Development District (BGADD). The examination included activities from July 1, 2010, through September 30, 2013. This investigation did not impugn the other 14 area development districts (ADDs). Allegations, initially thought to be minor, related to activities of former employees and open records concerns, in addition to the concerns of Representative Susan Westrom. The examination was issued March 3, 2014.

Governance practices were not conducive to proper oversight. BGADD bypassed executive committee approvals that the bylaws required. For example, the executive committee was notified after the fact of the purchase of the $600,000 Trent Boulevard property for an offender reentry program. Open Records Act violations were also identified.

BGADD engaged in activities beyond its statutory authority; some activities appeared to create conflicts of interest. Several organizations created by the former executive director or others were used to expand the BGADD's scope: Bluegrass Industrial Foundation (BIF), Bluegrass Regional Recycling Corporation, Global Opportunities for Kentucky Inc., and Bluegrass International Trade Association Inc.

The auditor explained that the offender reentry program that BGADD created was not within its mission. BIF was created by the former executive director, and he headed it after leaving BGADD. BGADD leased space from BIF, effectively leasing space from itself without the financial benefit of ownership at the end of the lease term. BGADD provided financing of $1.1 million of the original $1.6 million building price.

The auditor's internal investigation occurred January through April 2013. Results identified possible criminal violations involving former BGADD employees. These were not reported to law enforcement. The immediately former executive director attempted to halt the investigation. In regard to the reentry program, 8 of 15 individuals housed at a location under contract with BGADD for program participants had not been enrolled in the program at any time. There were agreements to pay a BGADD employee up to $350 per month for housing that was already paid by BGADD with federal funds. A former employee, placed on administrative leave, was permitted unsupervised access to her office during this period. The employee entered the building 16 times, and BGADD subsequently identified 268 missing participant files, which were reported to the Lexington-Fayette Urban County Government police.

Procurement violations were found regarding the Trent Boulevard property, in which $200,000 worth of improvements was approved, and $500,000 in improvements was actually expended for the $600,000 building. About $465,000 worth of improvements was made from a single vendor without a contract or scope of work, and no invoices to support $63,000 in invoices paid to the vendor. Procurement violations were also found regarding implementation of a mechanism to avoid bid requirements related to aging grants by contracting with county governments but sending funds to senior centers directly. Senior centers were not created by the government and were not part of the county.

The auditor's examination found excessive and unnecessary expenditures. For example, breakfast and lunch meals were charged to BGADD when the employee was not in travel status; hotel, meal, and transportation charges for nonemployees and additional days were added to conferences for personal travel; hotel charges were for stays in the employee's hometown; and a $20,000 lump sum payment was made to the immediately former executive director without support.

Instances of federal grant noncompliance were found including grant funds requested for more than actual expenditures; excessive costs or unnecessary expenses were charged as indirect costs to help recoup some of those costs from federal grants; and employees were paid "bonuses" using unspent federal funds.

The auditor concluded by saying that the report was referred to eight agencies, including state and federal grantor agencies and law enforcement. BGADD provided a 60-day corrective action plan to the auditor's office in April; it is currently under way. BGADD is negotiating for ownership of its building.

Representative Susan Westrom told the committee that members of the River Park Neighborhood Association brought the issue of abuse by the BGADD to her. The members raised questions about the plan of the BGADD to start a felony reentry program in their neighborhood. After information requests were denied, they got an opinion from the Attorney General's Office that the ADDs were subject to the open records law. In addition, federal grants demand meticulous accounting; failure to meet that demand jeopardizes grant money.

The association members noted that the immediately former director was allowed to resign with a $138,000 check as a board corrective action. Part of the money was attributable to the fact that he is on a state pension. There is concern that, because of former leadership's role in other groups, BGADD's business model may have been disseminated to other ADDS relating to the treatment of federal funds. ADDs could be prohibited from receiving federal funds. The role of ADDs needs to be clarified. Board training is needed. ADD bylaws are not standardized and should conform to federal guidelines for federal money. Conditions for conflict of interest are related more to staffing, bylaws, and affiliated boards.

The association members told the committee that their greatest concern is that the bylaws are not being followed and that, without legislative intervention, the BGADD will never come into compliance with the auditor's recommendations. BGADD still has not gotten the message.

Public-Private Partnerships

At a meeting at the new Owensboro Convention Center, the executive directors of the Finance and Administration Cabinet Office of Procurement Services and the Office of Financial Management testified that public-private partnerships (P3s) are business relationships between government agencies and the private sector that provide new sources of project delivery and funding for public needs. They are typically used for transportation, housing, medical, and economic development projects and are predominantly procured through competitive bidding in a multiphase process. P3 contracts that include funding have an element of nonrecourse financing, with the risk often on the private sector. New sources of equity financing by the private sector are typically more expensive than traditional state bonding. Examples of P3 projects include the Next Generation Kentucky Information Highway, privatization of prisons, the state fuel testing lab, Medicaid managed care, and a pending construction of a new Frankfort office building.

A chief advantage of P3s is the ability to assign risk to the private sector. P3s may accelerate project development, streamline strategies, and create jobs. They provide new sources of funding. Project timing and costs may be more certain and condensed. There are also disadvantages. P3s may involve complex negotiations and high transaction costs. Risks to the public entity may be difficult to determine. The private sector controls critical assets, and detailed termination arrangements may be necessary.

The executive directors gave examples of P3s in other states that involved challenges. When Chicago privatized its parking meters under a long-term lease with Morgan Stanley, the meters were sold under value, rates escalated, and the city lost a $61 million lawsuit filed by Morgan Stanley. A 2006 Indiana toll road project led to a heavy increase in tolls because traffic was less than projected.

P3 contracts contain safeguards such as termination provisions to protect against bankruptcy, but it may not be possible to include sufficient safeguards. Problems will occur if use is low or revenue is insufficient to maintain a project. Although P3s provide flexibility and a quicker delivery method, the requirement for additional approvals and processes may diminish the advantages. P3s are a viable tool, but it is important to assess the risk and financing. The cabinet's default position is to require competitive bidding on P3 projects.

Local officials and business leaders testified about the positive influence of P3s in Owensboro and the surrounding region. The Daviess County president of Independence Bank, a $1.4 billion financial institution serving nine counties in western Kentucky, said the revitalization of downtown Owensboro was accomplished by combining local resources, commitment, and leadership to create P3s. The Owensboro Convention Center would not exist without the success of a local P3. The Greater Owensboro Economic Development Corporation (EDC) selected a nationally recognized firm, Gateway Printing Group of Austin, Texas, to develop the revitalization plan. Public and private sectors partnered to fund it. Commitment to the plan was buoyed by the community's involvement and by support and endorsements from the EDC, the Chamber of Commerce, and the private sector. The Daviess County Fiscal Court was a critical partner and significant financial investor, contributing $20 million for construction of the convention center. The Malcolm Bryant Corporation, a local development firm, partnered with Independence Bank to fund construction of the Hampton Inn and Suites Waterfront, a $20 million state-of-the art convention center hotel. Many credit this P3 as a stimulus to additional private investment. Envision Contractors and LinGate are involved in constructing the Holiday Inn/Boardwalk on the other side of the convention center. No state funds have been allocated for these projects. Other communities can replicate Owensboro's success through use of a business-friendly P3 structure, local decision making, and funding options such as a local option sales tax.

A representative of Malcolm Bryant Corporation said ground was broken for the Hampton Inn and Suites and the convention center in March 2012. These dual projects were the necessary links in success of the downtown revitalization project. Creative government leaders understand that partnering with private entities can improve operations and services without increasing taxes. Early success of the venture has surpassed projections.

The manager of the Hampton Inn and Suites testified that more than 75,000 people attended more than 123 events during the first 155 days of the convention center's operation. Global Spectrum, the convention center's management company, is bringing convention business back to the city. The two facilities need each other in order to prosper and are accomplishing their goals. Many people are visiting Owensboro and Kentucky for the first time, because of the combined efforts of the public and private sectors.

Area Local Government Issues

The Daviess County judge/executive discussed the positive transformation of Owensboro's downtown. He noted that local government is being run like a business, keeping tax rates and service fees as low as possible. The judge/executive noted his support of Local Investments for Transformation and said the tax, used for specific projects, would stop when the projects are fully paid. He discussed Decision 2002, an initiative in Owensboro for capital improvement projects that was given voter approval in 1997.

The judge/executive discussed KRS 91A.392, which was amended in 2000 to allow counties containing cities of the second class to add a special 2 percent transient room tax to finance fine arts centers. All money collected from the tax must be applied toward retirement of bond indebtedness. In 2003, Daviess County issued a $2.27 million, 25-year bond for work at the Riverpark Center and the Owensboro Museum of Fine Arts. By 2011, more than $1 million had accrued in excess of the bond requirement. Through an agreement with the city of Owensboro, excess money was used to retire the bonded debt on the Riverpark Center building, thus meeting the statute's requirement. The judge/executive asked that the General Assembly consider changing the law to permit excess money collected from the room tax to be used for projects without having to incur new debt.

The judge/executive discussed the need to rehabilitate historic buildings in Daviess County to comply with current building standards and the international energy code. The cost of meeting those requirements can be prohibitive, and it can be cheaper to tear down a building and build a new one. Without compromising safety, the General Assembly should look at making allowances for remodeling older buildings.

The mayor of Owensboro said that in 2013, Owensboro was one of only 10 cities in the United States designated an All-American city by the National Civic League. He noted several examples of revitalization and construction in the downtown and riverfront areas.

After taking office, the mayor proposed doubling the insurance tax from 4 percent to 8 percent to generate $60 million for downtown improvements. The county partnered by doubling its tax to create an additional $20 million during the recession. The Chamber of Commerce, the newspaper, and the economic development community were supportive. Because of the recession, costs would be down, but jobs would be created. The private sector invested a similar amount in downtown revitalization.

The mayor expressed appreciation for inclusion of funding in the state budget for Phase II of the Owensboro Community and Technical College's Advanced Technology Center. The city and county have each committed $1 million toward the project. He urged the legislature to consider giving Owensboro the ability to levy both a restaurant tax and a local option sales tax, the latter involving a public vote.

Militarization of Police

The chair of the Justice Graduate Studies Program at Eastern Kentucky University addressed the committee on police militarization. He noted he researched the militarization of police over the last 25 years. He said there should be a clear line between US military forces and civilian police forces, but the line is blurring significantly.

The Posse Comitatus Act of 1878 prohibited the military and civilian police from training and working together, thereby keeping them separate. The Reagan administration pushed for the Act's repeal, but it is still in place. However, amendments have allowed the military to aid civilian police when needed.

He noted the changes in special weapons and tactics (SWAT) teams throughout the years. In the mid-1980s, there were 3,000 SWAT deployments per year; by 2014, there were 60,000. The SWAT teams went from 98 percent reactive deployments to 85 percent proactive deployments, which were drug raids at private homes. This is not the norm for Kentucky. The issue is the normalization of a mindset.

The program chair discussed the three avenues for military grade equipment and weaponry: Department of Homeland Security/Department of Justice; Department of Defense's 1033 program; and asset forfeiture.

The military weapons have been abused by police and used inappropriately.

The Jeffersontown chief of police and president of the Kentucky Association of Chiefs of Police said he was testifying because of what happened in Ferguson, Missouri, where officers responded to protests and riots using military-style weapons against civilians. Police departments need equipment because the military will not be able to respond. The responders will be police, firemen, and emergency medical services. Tools need to be given to the officers so they can do their jobs. Most of the equipment that the Jeffersontown Police Department uses from the 1033 program is in the form of first-aid kits, stretchers, and knives. There are escalating instances such as the 9/11 attack on the Pentagon, local hostage taking, and weapons discharging in which other equipment might be needed.

He said it is important to hold officers accountable for misuse of equipment but not to prohibit them from using it properly; police officers do a good job 98 percent of the time. He urged the legislature not to take away the necessary tools that police departments need. He also urged leadership, training, and accountability.

The program chair concluded by saying that he cares about protecting the citizens and is not anti-police. Police serve on the front line in crime and on the front line in governmental legitimacy. He noted his concern that police and government lose legitimacy when there are responses involving massive levels of weaponry and when there are no-knock drug raids.

Kentucky League of Cities' Legislative Platform for 2015 Session of the General Assembly

The Kentucky League of Cities (KLC) first vice president, the mayor of Williamsburg, presented KLC's 2015 legislative platform.

911 Funding Shortfall. Cities and counties have been forced to use more general fund resources to maintain the 911 service. According to the FY 2013 Commercial Mobile Radio Services (CMRS) Board, local general fund dollars account for 40 percent of 911 funding. Local 911 landline fees make up 36 percent of 911 funding, with the state CMRS wireless fee accounting for 23 percent of local 911 fees.

KLC, along with the Kentucky Association of Counties (KACo) and the local and state public safety answering points, supported legislation last session that would have alleviated some of the financial pressures on local 911 operations and urges the General Assembly to support legislation during the 2015 legislative session that raises the statewide CMRS wireless fee to a reasonable level. Absent a fee increase, the General Assembly should no longer preempt local governments from assessing local fees on wireless subscribers.

City Revenue Diversification. Cities are struggling with stagnant and declining revenue streams and rising expenses. The current revenue restrictions force local governments to seek revenue based on the productivity of businesses and their employees. Some amount of diversification would more fairly spread the cost among citizens.

Revenue diversification includes the opportunity to expand the restaurant tax to all Kentucky cities.

KLC's board of directors strongly supports a constitutional amendment to allow voters to decide the issue of a temporary voter-approval local option sales tax for specific community projects. Last session, KLC and KACo agreed on enabling legislation that would allow cities and counties to proceed with ballot initiatives if the constitutional amendment on the local option sales tax passed the legislature.

Road Aid Funding Formula. While cities spend close to a quarter of a billion dollars a year on constructing and maintaining approximately 10,000 miles of city streets, only about one-third of that money comes from intergovernmental sources, such as the state municipal road aid program and federal grants. The General Assembly established the road aid funding formulas in 1948 for municipal road aid, county road aid, and rural secondary aid. The most urban areas are significantly affected by the fact that these antiquated formulas do not take into account lane miles, traffic counts, or other measures related to use or maintenance. Cities are asking for consideration of equitable reforms that will help get more funding to urban areas, including the more urbanized county governments, by including elements of road usage in the road aid calculations.

Drug Abuse. Cities and state policy makers must continue to explore avenues to address the destructive impact of addiction on the quality of life in the communities, through the adoption of policies to ensure adequate penalties for those who put drugs in the streets and policies that provide opportunities for treatment and rehabilitation for those who become addicted. KLC supports the bipartisan legislation that was proposed by Senator Katie Stine last session and is being proposed by Senator McDaniel for the 2015 legislative session.

Elimination of Kentucky's Prevailing Wage Law. Prevailing wage laws can cost the taxpayers of cities and other local governments 30 percent or more on their construction projects than a comparable construction project completed by entities not subject to prevailing wage. As taxpayers demand that all levels of government rein in costs, the elimination of prevailing wage means local governments can stretch dollars further for economic development and capital and infrastructure projects.

Amendment of Anti-Spiking Provisions in Retirement Legislation. Current law forces cities and taxpayers to pay additional money to the retirement systems for previous uncontrolled overtime costs and for increases in creditable compensation that occur after unpaid leave under the Family Medical and Leave Act and under workers' compensation. To address the anti-spiking provisions that continue to prohibit spiking abuses while balancing the need for legitimate increases in creditable compensation during the final years of employment, KLC believes a solution can be achieved through legislation similar to SB 142, which KLC supported in 2014 but which did not become law.

Police Officer Bill of Rights. City leaders oppose further expansion of the Police Officer Bill of Rights to include internal disciplinary matters that have been largely left to city officials as employers. In addition, cities would like clarification of police statutes because inconsistencies and contradictory provisions in these laws frequently result in needless litigation, which ultimately costs taxpayers.

Occupational Tax Crediting Between Cities and Counties. KLC opposes any extension and the expansion of the suspension of the occupational license tax crediting provisions.

Newspaper Publication Reform. City officials would like to see KLC continue to work in conjunction with the Kentucky Press Association to modernize Kentucky's newspaper publication laws 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.

Protect Home Rule and City Budgets. City leaders will vigorously oppose any bills that other interest groups will likely introduce that attempt to preempt local home rule authority or impose unfunded costs on the taxpayers.

Kentucky Association of Counties' Legislative Platform for 2015 Session of the General Assembly

The LaRue County judge/executive and immediate past president of the Kentucky Association of Counties outlined the administration of KACo and the selection process for issues. Each association participates on the KACo legislative committee and has one vote. The affiliates' list of priority issues include, for example: supporting stronger legislation to reduce heroin uses and treat addiction; supporting an increase in the training incentive for deputy sheriffs from the Kentucky Law Enforcement Foundation Program; returning a higher percentage of coal severance dollars to counties; stabilizing the state road fund through an adjustment of the floor on the gasoline tax; support for misdemeanor expungement reform; continuing to explore options for a dedicated source of fund for property valuation administrator offices; addressing the federal REAL I.D. Act's impact on the state; reaching an equitable agreement with cities in sharing revenues derived from an occupational license fee; and allowing low-level misdemeanants to participate in inmate work programs.

In a majority of counties' budgets, the perennial issues of jails costs and retirement funding are the largest line items. Employer retirement costs are becoming the largest expense for a few counties, supplanting jail expenses, which have been the greatest cost for several decades.

The two lead topics KACo continues to promote its legislative agenda are E911 funding and Local Investments for Transformation (LIFT). For the second consecutive year, a majority of counties have ranked E911 funding as the top priority.

E911 Funding. Current revenue sources for E911 funding include landline fees and wireless surcharges.

Neither of these sources of revenue is sufficient in its current form to cover the total cost of service. Local government general fund dollars are left to pay for the balance of funds needed, which amounted to approximately $32 million in FY 2013. That subsidy accounts for almost half of the revenues needed for 911 operations. While the number of wireless calls received outnumbers the landline calls two to one, the revenues received from wireless phones pale in comparison to landline fees and local general fund dollars. Counties need the ability to correct this imbalance.

Local Investment for Transformation. Last session's LIFT bills would have allowed local residents to request and then vote on a temporary sales tax increase to fund projects such as infrastructure improvements, senior citizen centers, parks, public facilities, or a compilation of projects residents deem important. LIFT legislation was also supported by KLC, the Kentucky Association of Economic Development, the Kentucky Chamber of Commerce, the present Governor, and all living former governors.

The LIFT proposal would allow citizens to go to the polls and review the list of projects that would be funded with a temporary sales tax not to exceed 1 percent that would sunset upon payment of the debt. Counties say the LIFT program is a valuable option to be used as needed, with full buy-in and approval from local voters on local projects.

Code Standards Relating to Reconstruction of Historic Buildings

The acting commissioner of the Kentucky Department for Housing, Buildings and Construction discussed the building code relating to historic buildings and noted that the code does make allowances for historic buildings. Changes in occupancy must comply with the building code (with the exception of the energy code, from which that historic building will remain exempt). Buildings officially recognized as historic are exempt from the 2012 energy code. Additions to historic buildings must meet the current building code. Alterations, renovations, and repairs are treated in the same way. Certain repairs to existing structures do not need to meet current code requirements.

The general counsel for the department explained the appeals process involved with code interpretation on the local level.

The executive director and state preservation officer of the Kentucky Heritage Council, the site development program manager, and the staff architect provided an overview of their council's history and mission. The executive director noted that 60 percent of their funds come from the federal government. They do not have the authority to place properties on the National

Register of Historic Places. The council has four main missions: site identification; site protection; site development; and administration of the Main Street Program.

Local governments can create local historic districts. These are different from national register districts and are not under the control of the council.

The council administers the federal Historic Preservation Tax Credit program, which began in 1976 and has leveraged more than $69 billion in private investment. Last year, Kentucky had 23 successful projects that used the elective federal program, ranking the state 12th nationally for use of the program. The federal government established rehabilitation standards for the program.

Kentucky has a historic preservation tax credit program. Unlike a similar federal program, it allows homeowners to participate. The council prorates the tax credit among all eligible projects to distribute the available tax cap, which started out as $3 million in 2005 and was raised in 2010 to $5 million. In 10 years, 832 applications representing $422 million in projected investment have leveraged more than $323 million in private investment to preserve more than 524 properties.

The council works closely with the Department for Housing, Buildings and Construction to identify solutions for integrating the code with the tax credit program. The executive director outlined characteristics and strategies for projects.

Administrative Regulation Review

The committee reviewed the following administrative regulations:

- 109 KAR 15:020 DLG: Budget Preparation and State Local Finance Officer Policy Manual
- 815 KAR 20:040 Plumbing: vehicle identification
- 815 KAR 20:050 Plumbing: installation permits
- 815 KAR 20:060 Plumbing: quality and weight of materials
- 815 KAR 20:070 Plumbing: fixtures
- 815 KAR 20:090 Plumbing: soil, waste, and vent systems
- 815 KAR 20:130 Plumbing: house sewers and storm water piping
- 815 KAR 20:191 Plumbing: minimum fixture requirements

Report of the 2014
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. Brandon Smith
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, Kelly Ludwig, Stefan Kasacavage, Lowell Atchley, and Kelly Blevins

Presented to the
Legislative Research Commission
and the
2015 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 saltwater wells; state and national parks; drainage districts; water pollution; air pollution; management of waste; protection of the environment; Energy and Environment Cabinet.

Committee Activity

The Interim Joint Committee on Natural Resources and Environment held six meetings between June and November during the 2014 Interim. No subcommittees were authorized. The committee discussed diverse topics, but transportation fuels and the future stock for baseload power generation were central themes. In particular, the committee examined changes in significant federal air rules that are affecting both the electric power and transportation sectors. The committee held three out-of-Frankfort meetings: in Owensboro to attend the annual meeting of the Kentucky Gas Association, in Catlettsburg to tour the Marathon Petroleum Company, and in Hawesville to tour Century Aluminum.

Natural Gas, Gasoline, and Future National Energy Demands

The committee traveled to Owensboro to hold a joint meeting with the Special Subcommittee on Energy. Representatives of the Kentucky Gas Association and Kentucky Clean Fuels Coalition discussed using natural gas as a clean fuel for transportation fleets. There are employee training opportunities as fuel switching occurs in the motor vehicle sector. Representatives from Owensboro Community and Technical College explained that there is a need for individuals to be trained to service renewable and alternative fuel vehicles.

A representative of Marathon Petroleum Company testified about the various fuel components sold under the Marathon brand including gasoline, biodiesel, and ethanol. The representative explained that the movement toward natural gas for various sectors does not signal the decline of the refinery business for gasoline and diesel fuel.

Representatives from Louisville Gas & Electric and Delta Natural Gas Company discussed the possibility of meeting new energy demands for their customers with natural gas as coal-fired generation is retired. Louisville Gas and Electric explained that companies would be able to maintain reliability by connecting directly to the interstate pipeline. Unlike other fuels, natural gas for generation is not stockpiled. Delta explained that all companies are looking to improve reliability of their systems.

The committee received testimony on the nation’s first public gas station. The City of Somerset purchased a local refinery and has a long-term contract for the wholesale purchase of gasoline from that refinery. The wholesale gas is then resold to the public. Several locally owned convenience stores and gasoline retailers have criticized the venture as a government-subsidized overreach into private markets.

Future State Implementation Plan on Carbon Dioxide and Future Electric Utility Rates

The committee reviewed the federal air rules that affect baseload generating plants. A representative from the Division of Air Quality discussed the features of the US Environmental Protection Agency's proposed carbon dioxide rule for exiting sources under the Clean Air Act Section 111(d). Kentucky has been working on a state implementation plan that will satisfy the requirements of the new rules, which may include some retirements of exiting coal-fired power plants. Kentucky will be required to meet statewide emission reductions of 1,884 pounds and put new gas-fired generation online to meet power demands.

The new clean air rules will affect Kentucky's manufacturing sectors. A representative from the Kentucky Chamber of Commerce commented that more than 50 percent of Kentucky businesses say power prices are critical to day-to-day operations. Century Aluminum representatives stated that federal air rules are raising electricity rates and placing the company in an economically disadvantageous position but that the company will continue to operate in Kentucky. Electricity prices remain the key component for company profitability, but now the concern has turned to reliability of electric service. Price and reliability work together to ensure that the customer is able to run businesses. If electric power service is not reliable, then businesses have to curtail production or shut down lines altogether.

Other Natural Resource Concerns

The committee heard testimony on how the state parks promote natural resources. The commissioner identified interagency cooperative efforts with the Department of Fish and Wildlife Resources. In the past few years, the Department of Fish and Wildlife Resources has launched an intensive effort to control depletion of trophy-size catfish being caught and sold to pay lakes. After promulgating administrative regulations, the department discussed recent legal action seeking to prevent those regulations from going into effect. Representatives from the Heritage Land Conservation Fund described the recent use of and concerns about future funding for the program.

Administrative Regulations

As of November 6, 2014, the committee had received 13 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 no prefiled bills for 2014 Regular Session.

Reports Received

The committee had received six reports as of November 6, 2014.

- Report of the Audit of the Kentucky Department of Fish and Wildlife Resources Statutory Audit.
- Report of the Audit of the Kentucky Department of Fish and Wildlife Resources Statutory Audit for FY 2013.
- Energy and Environment Cabinet, Division of Waste Management: 2014 Report on Revenues and Expenditures of the Hazardous Waste Management Fund.
- Tourism, Arts, and Heritage Cabinet, Kentucky Department of Fish and Wildlife: Report of the Kentucky Department of Fish and Wildlife Resources' Report from the Statewide Single Audit FY 2013.
- Energy and Environment Cabinet, Division of Waste Management: 2014 Hazardous Waste Management Fund Annual Report.

Report of the 2014
Interim Joint Committee on State Government

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

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
Sen. Reginald Thomas
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
Rep. Mike Harmon
Rep. Kenny Imes
Rep. James Kay
Rep. Martha Jane King
Rep. Jimmie Lee
Rep. Mary Lou Marzian
Rep. David Meade
Rep. Suzanne Miles
Rep. Brad Montell
Rep. Sannie Overly
Rep. Darryl T. Owens
Rep. Tanya Pullin
Rep. Jody Richards
Rep. Tom Riner
Rep. Bart Rowland
Rep. Steven Rudy
Rep. Sal Santoro
Rep. Kevin Sinnette
Rep. Diane St. Onge
Rep. John Will Stacy
Rep. Tommy Thompson
Rep. John Tilley
Rep. Tommy Turner
Rep. Ken Upchurch
Rep. Gerald Watkins
Rep. Jim Wayne

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

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Subcommittee Organization and Membership

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

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Rep. Mary Lou Marzian
Rep. Sannie Overly
Rep. Bart Rowland

Rep. Brent Yonts, ex officio

LRC Staff: Greg Woosley, Judy Fritz, Karen Powell, Terrance Sullivan, 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 US 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; absentee ballots.

Committee Activity

The Interim Joint Committee on State Government held five meetings during the 2014 Interim, focusing on Kentucky Retirement Systems litigation, public-private partnerships, Owensboro area local government issues, health care services in the state correctional system, Kentucky Employees' Health Plan, judicial redistricting, and the Kentucky Teachers' Retirement System bonding proposal.

Kentucky Retirement Systems Litigation

The executive director of Kentucky Retirement Systems (KRS) testified about three pending court cases involving community mental health centers that are seeking to withdraw from the Kentucky Employees Retirement System (KERS). Seven Counties Services Inc. (Seven Counties), a nonprofit mental health/mental retardation agency that serves seven counties in the Louisville region, filed a Chapter 11 bankruptcy action in order to discharge its debt to KRS. In May 2014, US Bankruptcy Court opined that Seven Counties qualifies as a private, nonprofit corporation, rather than a governmental unit, and is eligible to proceed with its bankruptcy case without state permission. The opinion also held that the relationship between Seven Counties and KERS is an executory contract and that Seven Counties may reject that contract and end participation in the system. After a KRS motion for a stay was denied, the KRS board decided to bypass US District Court and appeal the bankruptcy ruling in the US Sixth Circuit Court of Appeals. If Seven Counties is able to exit the system and shed its estimated actuarial unfunded liability of $90 million, costs would increase for other employers in the KERS-nonhazardous plan.

Bluegrass Regional Mental Health/Mental Retardation Board created a separate corporation — Bluegrass Oakwood — and asked Franklin Circuit Court to declare that employees hired by Bluegrass Oakwood are not required to participate in KERS. Franklin Circuit

Court ruled that Bluegrass Oakwood did not have to participate because there was no gubernatorial executive order to require participation. KRS appealed to the Kentucky Court of Appeals.

Kentucky River Community Care (KRCC) created a separate hiring agency, Go Hire. KRCC then terminated its employees and rehired them through Go Hire without KERS participation. KRS sued KRCC approximately 2 years ago in Franklin Circuit Court on the grounds that Go Hire was a sham creation to avoid statutory requirements. The case has been on hold, pending a decision in the Bluegrass case.

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Local officials and business leaders testified about the positive influence of P3s in Owensboro and the surrounding region. The Daviess County president of Independence Bank, a $1.4 billion financial institution serving nine counties in western Kentucky, said the revitalization of downtown Owensboro was accomplished by combining local resources, commitment, and leadership to create P3s. The Owensboro Convention Center would not exist without the success of a local P3. The Greater Owensboro Economic Development Corporation (EDC) selected a nationally recognized firm, Gateway Printing Group of Austin, Texas, to develop the revitalization plan. Public and private sectors partnered to fund it. Commitment to the plan was buoyed by the community's involvement and by support and endorsements from the EDC, the Chamber of Commerce, and the private sector. The Daviess County Fiscal Court was a critical partner and significant financial investor, contributing $20 million for construction of the convention center. The Malcolm Bryant Corporation, a local development firm, partnered with Independence Bank to fund construction of the Hampton Inn and Suites Waterfront, a $20 million state-of-the-art convention center hotel. Many credit this P3 as a stimulus to additional private investment. Envision Contractors and LinGate are involved in constructing the Holiday Inn/Boardwalk on the other side of the convention center. No state funds have been allocated for these projects. Other communities can replicate Owensboro's success through use of a business-friendly P3 structure, local decision making, and funding options such as a local option sales tax.

A representative of Malcolm Bryant Corporation said that ground was broken for the Hampton Inn and Suites and the convention center in March 2012. These dual projects were the necessary links in success of the downtown revitalization project. Creative government leaders understand that partnering with private entities can improve operations and services without increasing taxes. Early success of the venture has surpassed projections.

The manager of the Hampton Inn and Suites testified that more than 75,000 people attended more than 123 events during the first 155 days of the convention center's operation. Global Spectrum, the convention center's management company, is bringing convention business back to the city. The two facilities need each other in order to prosper and are accomplishing their goals. Many people are visiting Owensboro and Kentucky for the first time, because of the combined efforts of the public and private sectors.

Area Local Government Issues

The Daviess County judge/executive discussed the positive transformation of Owensboro's downtown. He noted that local government is being run like a business, keeping tax rates and service fees as low as possible. The judge/executive noted his support of Local Investments for Transformation and reminded the committee that the tax, used for specific projects, would stop when the projects are paid for. He discussed Decision 2002, an initiative in Owensboro for capital improvement projects that was given voter approval in 1997.

The judge/executive discussed KRS 91A.392, which was amended in 2000 to allow counties containing cities of the second class to add a special 2 percent transient room tax to finance fine arts centers. All money collected from the tax must be applied toward retirement of the bond indebtedness. In 2003, Daviess County issued a $2.27 million, 25-year bond for work at the Riverpark Center and the Owensboro Museum of Fine Arts. By 2011, more than $1 million had accrued in excess of the bond requirement. Through an agreement with the city of Owensboro, excess money was used to retire the bonded debt on the Riverpark Center building, thus meeting the statute's requirement. The judge/executive asked that the General Assembly consider changing the law to permit excess money collected from the room tax to be used for projects without having to incur new debt.

The judge/executive discussed the need to rehabilitate historic buildings in Daviess County to comply with current building standards and the international energy code. The cost of meeting those requirements can be prohibitive, and it can be cheaper to tear down a building and build a new one. Without compromising safety, the General Assembly should look at making allowances for remodeling older buildings.

The mayor of Owensboro said that in 2013, Owensboro was one of only 10 cities in the United States designated an All-American city by the National Civic League. He noted several examples of revitalization and construction in the downtown and riverfront areas.

After taking office, the mayor proposed doubling the insurance tax from 4 percent to 8 percent to generate $60 million for downtown improvements. The county partnered by doubling its tax to create an additional $20 million during the recession. The Chamber of Commerce, the newspaper, and the economic development community were supportive. Because of the recession, costs would be down, but jobs would be created. The private sector invested a similar amount in downtown revitalization.

The mayor expressed appreciation for inclusion of funding in the state budget for Phase II of the Owensboro Community and Technical College's Advanced Technology Center. The city and county have each committed $1 million toward the project. He urged the legislature to consider giving Owensboro the ability to levy both a restaurant tax and a local option sales tax, the latter involving a public vote.

Health Care Services in the Kentucky Correctional System

The deputy commissioner for adult institutions, Department of Corrections (DOC), testified about medical services for prison inmates and the department's response to the January 2014 death of a Kentucky State Penitentiary inmate who died from deliberate dehydration and starvation. The DOC critical incident review report concluded that the death occurred because of failure of interacting systems to address a correctable situation and the failure of staff to follow written standing orders and protocols. The report was referred to the Attorney General for review and possible investigation. DOC subsequently revised the hunger strike protocol and terminated the employment of personnel who violated policy and protocol. In the future, wardens and deputy wardens will be actively involved in monitoring hunger strikes. Treatment team protocol has been enhanced. An independent audit by the American Correctional Association was completed in June 2014. It revealed no concerns and indicated that protocols and policies are being followed and that staffing is appropriate.

DOC contracted with Correct Care Solutions in March 2014 to provide utilization management, the 340B pharmaceutical management system, all health care and psychiatric services and staffing for 12 DOC facilities, all specialist subcontracts, all offsite hospital network medical care, and all supplies and equipment. The annual contract budget is $46 million. DOC pays an average daily population rate of $9.60 per state inmate in DOC facilities, regardless of need for medical services. DOC contracts for medical services because the state pay scale makes it difficult to attract and retain state employees in the medical field.

The 2014 budget bill provided for a pilot program for conditional parole of infirm inmates. A medical review of all inmates determined that 11 met the criteria for conditional parole. DOC is trying to place them in nursing care facilities.

A correctional health care consultant, who is also a physician and assistant affiliate professor in the University of Washington School of Public Health, testified about contracting for correctional health care services and inmate hunger strikes. He said outsourcing can provide access to expertise on policies and procedures, negotiation, utilization management, and telemedicine. It can reduce costs through efficiency of operation and improved purchasing power. States or municipalities that operate inefficiently can probably save money by outsourcing to a good contractor but could save even more by operating efficiently. Outsourcing also has disadvantages. Costs may increase due to duplication of administrative personnel and services, misalignment of incentives, price hikes by vendors, or the target profit margin of the private company. There may be less flexibility to adjust to changing health care needs. Unanticipated contract termination by the vendor is a risk.

Political pressures may prompt a state to contract for services in order to give the impression of smaller government. Liability avoidance is not a valid reason to subcontract. Some states and municipalities believe they can save on malpractice costs by outsourcing, but vendor contracts usually incorporate liability risk in the contract price. The need to outsource can be avoided by making salaries competitive, taking legislative action to reduce hospital costs, adopting successful policies of other states, and using selective purchasing. National organizations can provide technical assistance. It is also helpful to partner with local departments of health, public hospital systems, federally qualified health centers, and universities.

When outsourcing, the state should be involved in approving a vendor's local and regional leadership. Contracts with a multiple-renewal option are preferable to long-term contracts. Requests for proposals should describe prison medical services in detail and focus on desired outcomes rather than detailed definition of structure and process.

The consultant commended DOC's critical incident review and subsequent action plan. It is his opinion that a patient safety culture seemed to be lacking at the prison. The 1991 World Medical Association Declaration of Malta on Hunger Strikers, updated in 2006, is the premier document guiding the conduct of physicians and medical personnel when presented with hunger strikes. The inmate was probably not a true hunger striker because he was mentally ill and incapable of making good decisions. DOC physicians, if allowed by law, ideally should be able to intervene in life-or-death situations to force feed someone who is mentally incapable. A process should be in place, ideally without need of a court order.

A social services planner at the Kentuckiana Regional Planning and Development Agency Area Agency on Aging and Independent Living spoke about the Healthy Reentry Coalition of Kentucky, a new organization that supports persons reentering the community from the criminal justice system. A former DOC employee who is also a member of the Bluegrass Reentry Council discussed her concern that inmate medical care had been mishandled at the correctional facilities where she worked.

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, discussed the 2015 plan year and 2014 accomplishments at the September and October meetings. In 2014, the Kentucky Employees' Health Plan (KEHP) began a 3-year strategy to promote personal health awareness and a better understanding of the true cost of health care. LivingWell and consumer-driven health plans (CDHP) were introduced. More than 81 percent of members chose a LivingWell plan. By July 2014, more than 137,000 had completed the health assessment required by the LivingWell promise, and almost 16,000 members received a biometric screening. Dispensing of generic prescription drugs increased from 80 percent to 83 percent during the first 3 months of utilization, saving KEHP $10 million during the first 6 months of 2014. The number of employees electing tobacco use plans increased 28.72 percent because of expansion of the product range, extension of the smoker rate to adult dependents, and explicit reference to the tobacco use surcharge in enrollment literature. KEHP achieved its health awareness and cost transparency goals for 2014.

Anthem Blue Cross Blue Shield, the largest insurance carrier in the state, will replace Humana as medical network and claims administrator in 2015. CVS/Caremark is the new pharmacy benefits administrator, with a national network of more than 67,000 pharmacies. WageWorks is the new administrator of flexible spending accounts (FSAs) and health reimbursement arrangements (HRAs). HumanaVitality and Compass SmartShopper will continue to partner with KEHP. More than 2,000 KEHP members have used Compass since the pilot program began in 2013, earning incentives of over $200,000. The 2015 requests for proposals brought significant savings to KEHP. For the first time, KEHP was able to keep premiums flat for the new plan year. Premiums are reduced for some tiers of the Standard CDHP plan. Plan options for 2015 are identical to those offered in 2014, and benefits will remain the same. Copays for mental health services and allergy injections are reduced. A cap on out-of-pocket pharmacy costs in the two PPO plans is a benefit enhancement associated with health care reform. For the first time, unused health care FSA funds up to $500 will carry over to the new plan year.

Because of changes in federal law, employees who waive health insurance coverage will be allowed to choose a waiver general purpose (stand-alone) HRA only if they are covered by another group health plan that provides minimum value. Members covered by individual policies purchased through Kynect or directly from an insurance company, and members covered by governmental plans such as Tricare, Medicare, or Medicaid, are no longer eligible. The stand-alone HRA violates the Affordable Care Act prohibition against annual limits because it is capped at $2,100.

The wellness approach is progressing and leading to a cultural change in member health awareness. Participation in disease management and wellness programs has increased. Medical and pharmacy trends are good. In the past, it was not uncommon for KEHP to incur monthly medical expense of $110 million to $115 million. In 2014, the cost has not exceeded $100 million in any month. The insurance fund may see small cost increases in 2016, but a major increase is not anticipated.

Judicial Redistricting

The Chief Justice of the Kentucky Supreme Court discussed Kentucky constitutional provisions relating to judicial districts and circuits and plans for future realignment of district and circuit boundaries. The constitution states that the General Assembly may redistrict the commonwealth, by counties, into seven Supreme Court districts as nearly equal in population and as compact in form as possible. The General Assembly last realigned appellate districts in 1972. The “one person, one vote” principle that the federal courts have imposed does not apply to the judiciary. Unlike the legislature, the state judiciary is not the body responsible for achieving representative government. Judges do not represent people; they serve people.

The constitution requires judicial circuits and districts to be as compact in form as possible, with counties contiguous and no county divided. The General Assembly has power to reduce, increase, or rearrange district boundaries, but the Supreme Court must first certify the need. The General Assembly may also change the number of judges in judicial circuits and districts but only upon certification of necessity by the Supreme Court. Family courts, a division of Circuit Court, are in 71 counties and serve approximately 85 percent of the state population. The constitution requires Circuit and District Court to be held in each county. These principles were adopted in 1972 in *Kentucky State Bar Association v. Taylor*, which opined that the “one man, one vote” principle should not and does not apply to the judiciary. The 1850 and 1891 constitutions instructed the General Assembly, when undertaking judicial redistricting, to consider population, accessibility, convenience, distance between counties, crowded dockets, and disproportionate workload of judges. Though not required in the current constitution, those factors remain important. Population does not impact workload in the appellate districts because cases are assigned statewide to the 14 Court of Appeals judges and seven Supreme Court justices.

The 2014 judicial branch budget bill (HB 238) directs the Administrative Office of the Courts (AOC) to develop and implement a weighted caseload system to precisely measure and compare judicial caseloads throughout the commonwealth on the Circuit Court, family court, and District Court levels for the purpose of recommending a plan to realign circuit and district judicial boundaries. The plan is to be submitted to the House and Senate judiciary committees by January 15, 2016. The AOC Judicial Workload Assessment Study Committee held its first meeting in October 2014. The National Center for State Courts will assist with the study. The study committee’s membership includes District, Circuit, and Court of Appeals judges, circuit clerks, and prosecutors.

The redrawing of appellate district boundaries can be done at any session of the General Assembly. AOC will need to work aggressively in order to complete the workload study and proposed realignment by January 2016. It will be necessary to define how cases are to be counted, since the method differs between counties and involves many in the legal community. To ensure validity of the process, it is important to be as open as possible and invite input from everyone involved. It is a difficult issue that will require statesmanship from both the judicial and legislative branches. Any proposed boundary realignment will not impact the terms of sitting judges.

The sponsor of SB 72 (2014 RS), which passed the Senate, said the current alignment does not afford equal justice under the law. The legislation would require the Supreme Court, in years when constitution section 33 requires legislative redistricting, to analyze the geographical arrangement of judicial circuits and districts and the assignment of judges relative to population or caseload. The Senate president has endorsed the legislation. It is also important that the General Assembly increase funding to the judicial branch, but this would first require assurance that resources are properly allocated.

Kentucky Teachers' Retirement System Bonding Proposal

The deputy executive general counsel and secretary of operations for Kentucky Teachers' Retirement System (KTRS) discussed a proposed financing plan for the KTRS pension fund. The plan would require issuance of bonds in the amount of \$1.9 billion or \$3.3 billion. As of June 30, 2013, the pension fund was 51.9 percent funded. In June 2008, it was 68.2 percent funded. One in four teachers is eligible to retire. Retired teachers do not receive Social Security benefits. A guaranteed 1.5 percent cost-of-living adjustment (COLA) is built into the contribution rate, but KTRS does not provide an additional COLA unless it is funded by the General Assembly. Because of tight budgets, additional COLA funding has not been available since the 2006-2008 biennium.

Judging from a 1-year return as of June 30, 2013, the pension fund ranked eighth among the 10 top-performing public pension funds. The 1-year return for FY 2014 was 18.1 percent, 2 percent higher than the average return of other public pension plans. The 20-year return was 8.2 percent, exceeding the KTRS 7.5 percent assumed rate of return. Investment return pays for approximately 70 percent of retirement benefits. According to a September 2012 report by the Legislative Research Commission (LRC) Program Review and Investigations Committee, KTRS average investment and administrative expenses are among the lowest in the nation.

In FY 2014, KTRS paid \$1.968 billion in retirement benefits. These benefits provide an economic stimulus within the state, since 92 percent of retirees live in Kentucky. The fixed employer contribution of 13.105 percent was sufficient in past years. Due to the flat 13-year market between 2000 and 2013 and the 2008 Great Recession, additional funding has been needed since the 2006-2008 biennium. The KTRS board is looking at possible benefit changes for new hires, but any changes would not address the existing unfunded liability, which was \$13.9 billion as of June 30, 2013.

Future investment return is expected to approximate the long-term assumed rate of 7.5 percent. The 18.1 percent return for FY 2014 was helpful, but additional funding will be required in order to stabilize the pension fund. KTRS has been asked to develop a short-term funding plan. One option is to repurpose money already budgeted to KTRS by issuing a bond to refinance a portion of the pension unfunded liability, which is growing by 7.5 percent yearly. Because interest rates are at a historical low, a bond could be issued at a rate substantially lower than 7.5 percent. This plan would allow time for the economy to improve, for revenue to grow, and for the commonwealth to develop a long-term funding plan. Bonding would pay the full actuarially required contribution for several years, improve the funded ratio, and reduce the amount of funding needed in future years.

New Governmental Accounting Standards Board (GASB) rules will require underfunded pension plans to report unfunded liability using a lower assumed rate of return, thus reducing the funded percentage. Under the new GASB rules, the KTRS assumed rate of return would be reduced to about 5 percent. Funded status of the pension fund would be reduced from 51.9 percent to 42.4 percent.

Teachers' pension benefits are guaranteed by an inviolable contract. KTRS is not enthusiastic about bonding, but the current interest rate environment is optimal, and bonding successfully addressed the medical insurance underfunding. The proposed bond issue would not create new debt but would refinance existing debt at a lower interest rate.

KTRS investment consultants do not foresee a repeat of the 2008 Great Recession. KTRS has been experiencing negative cash flow since 2008 and will need to sell approximately $1.3 billion in assets in FY 2014-2016. Investment strategy is becoming increasingly constrained by liquidity requirements. These constraints will lower future investment returns. Additional funding will help stabilize the deteriorating situation while a long-term solution is considered.

The president of the Kentucky Education Association (KEA) testified in support of the bonding proposal. She said the financial health of KTRS is a matter of grave concern. Teachers contribute 9.105 percent of gross salary to the KTRS pension fund. According to the state Department of Education, the average teacher salary in 2013-2014 was $51,000, with a pension contribution of about $4,644. Health insurance for retired teachers is not guaranteed, while most other public employees' health insurance in retirement is guaranteed by an inviolable contract. Under the "shared responsibility" plan enacted in the 2010 regular session, by July 1, 2015, every active teacher in the state will be contributing another 3 percent of gross income to prefund retiree health care, in addition to the 0.75 percent they already contribute. At that time the average annual teacher contribution to KTRS will total more than $6,556. Unlike other public and private employees, teachers cannot draw Social Security benefits and are wholly dependent on KTRS benefits when they retire. Teachers deserve and are willing to protect the KTRS defined benefit structure. KEA supports the proposed bonding plan. It will leverage money already appropriated to the pension fund to help address the unfunded liability in the short term, while a more permanent solution is sought for the long term.

The president of the Jefferson County Teachers Association (JCTA) testified that JCTA supports the bonding plan if it is framed as part of a long-term solution. JCTA has worked with KTRS to consider available options, and bonding was identified as the best option. It would repurpose existing budgeted funds and lower the interest rate on debt. A long-term plan to fully fund the system is equally important. Otherwise, the unfunded liability will increase significantly under the new GASB rules, and the state's bond rating will be adversely affected.

The Speaker of the Kentucky House of Representatives testified in support of the bonding proposal. He said discussion and research, including studies by Boston College and others, have convinced him that the KTRS proposal is fundamentally sound and has great merit if interest rates continue to be favorable. He urged the General Assembly to consider the plan and work with KTRS to craft a proposal that can be supported in both chambers so that the window of opportunity will not be lost. He also stated that a long-term plan is needed in order to receive full benefit of the bonding.

Subcommittee Activity

Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs

The Task Force on Elections, Constitutional Amendments, and Intergovernmental Affairs held two meetings during the 2014 Interim, focusing on the Report and Recommendations of the Presidential Commission on Election Administration, allocation of prison populations for redistricting, and the establishment and maintenance of election precinct data.

Presidential Commission on Election Administration

A member of the Presidential Commission on Election Administration testified regarding the commission's 2014 Report and Recommendations. He stated that President Barack Obama asked his campaign attorney, and the campaign attorney for both Mitt Romney and President George W. Bush, to form a bipartisan commission to study how election administration could be improved. Ten areas of study were identified, and a 10-member commission was established to conduct the study and make recommendations on how to improve election day administration and the voter experience.

The commission was made up of local and state election administrators, people from the private sector, and one former elected official. The commission held public hearings in Cincinnati, Ohio; Philadelphia, Pennsylvania; Denver, Colorado; and Miami, Florida. Members attended a variety of summer conferences around the country to gather feedback from election administrators to achieve the goal of improving the voter experience. The focus of the study was how to achieve the goals through local and state level changes and was not centered on proposing sweeping federal reforms.

The full report has a number of recommendations, but the four main recommendations are highlighted in the introduction, or executive summary, to the report. These recommendations are modernizing voter registration; increasing access to the polls; managing election day better; and improving voting system certification. The presentation heard by the task force focused on three of these topics and was slightly reorganized to include discussion on voter registration, "planning smarter," and better management of the election day experience.

Three improvements for voter registration were highlighted. Prior to the Help America Vote Act (HAVA), there was very little voter registration list matching among the states because few states had comprehensive statewide voter registration databases. However, HAVA mandated statewide databases, and today more than 30 states cooperate in the Interstate Crosscheck program to upload and compare state registration lists. A number of other states use the Electronic Registration Information Center system, which collects even more data to assist states in cleaning up voter registration lists. Both programs help the states maintain more accurate lists, which saves money, reduces delays on election day, and benefits candidates who request voter lists. Some states also allow voters to update voter registration information online — a recommended reform that leads to more accurate lists, saves time for voters, reduces errors, and is more cost effective than requiring paper updates that must be processed by county officials. A third highlighted improvement is the use of electronic poll books that help speed voters through lines, assist in redirecting voters to the correct voting precinct or polling location, facilitate data collection for planning purposes, and reduce administrative work and expense.

In the area of planning smarter, the commission member noted that a key failure of administration often involves a lack of understanding of how long it takes a voter to cast a ballot and how to appropriately deploy resources to process voters on election day. A significant improvement is a resource calculator, developed by the commission, that can help election administrators solve planning issues by using the number of voting stations, the anticipated number of voters, and the time required to vote to determine how and where to allocate resources.

The commission also studied how to lay out a ballot to reduce the time required for a voter to process and cast a ballot and developed best practices for election administrators. The commission found that absentee ballot tracking systems can make election day administration work more smoothly because a common holdup is with voters who are flagged as having requested an absentee ballot but who then choose not to return the ballot and instead show up at the polls on election day to vote.

In the area of managing the election day experience, the commission member stated that they studied how Disney World has worked to improve processing large crowds and the overall experience. One feature used is displaying a video that runs continuously throughout the waiting area for a roller coaster that demonstrates how to enter the car for the ride, which reduced wait times by 10 percent. Disney World also collects and uses data to estimate how many people are in the park at any point in time and riding particular rides, and if a variance is noted, the park can investigate any reduction in expected performance. Disney World has instituted scheduling of ride times ("Fast Pass") to allow park visitors to reduce wait times for certain rides, developed processes to remedy problems without holding up lines, and constructed activity centers for children to play in while waiting for child-centric rides.

In the context of elections, the commission member noted that election administrators could better use sample ballots to instruct voters on the process they are about to encounter (analogous to ride videos), experiment with allowing voters to schedule times to cast ballots with little or no waiting (like Fast Pass), appoint specific poll workers to deal with voter issues while allowing the line to continue progressing, and develop children's activities for polling centers that might make the experience better for parents who bring children to the polls.

Prison Population Allocation for Redistricting

The task force also discussed how prison populations are counted and allocated by the census and the effect that the current allocation has on redistricting. The executive director of the Prison Policy Initiative gave an overview on issues related to prison populations and how the census counts prisoners.

He stated that he had been working for the last 14 years to identify and quantify the problem that the US Census Bureau creates for states due to a century-old decision to count prisoners for the decennial census where they are incarcerated rather than at their last known residential addresses. There are more people in prison by absolute numbers based on a percentage of population than ever before, which creates a geographic problem in that the population comes from all over the state but is then concentrated by the census count in a small number of facilities that are often in rural areas and clustered next to other prison facilities. Taken together, the state and federal prison population could constitute a majority of persons in a House of Representatives district.

He testified that counting prisoners in the facility where they are incarcerated creates a demographic problem, in that African-American citizens are incarcerated in Kentucky at a rate five times higher than white citizens. As one example, 97 percent of African-American persons in Morgan County are incarcerated; this anomaly does not accurately reflect the population demographics in the communities where the prisons are located. The effect of the census count decision also results in shifts of relative vote strength and representation in redistricting. He gave an example from Anamosa, Iowa, where a man won a city council seat with only two votes because the district was almost entirely populated by a prison facility.

He advocated for a solution to count the prison population at the prisoner's last known residential address, either by the Census Bureau changing its policy or by the state requiring reallocation of the prison population back to that address. In the last few years, Maryland, New York, Delaware, and California have passed laws requiring prison population reallocation. Maryland and New York used the process in the post-2010 census redistricting cycle, which in both cases was upheld after legal challenges. Numerous local communities, including several in Kentucky, removed prison populations for local legislative redistricting in the most recent cycle.

He noted three key features of how a bill would accomplish reallocation: require the state prison system to collect basic demographic and geographic data on its incoming prison population; require the prison system to share that data with the LRC to allow the population counts to be adjusted; and require the state and local redistricting authorities to use the adjusted data for redistricting. The third requirement is especially important because local communities often believe they do not have the authority to reallocate on their own and are looking for guidance from the state legislature before undertaking the process.

He stated that the ideal solution is a statewide reallocation data set that would be used by state and local redistricting authorities. Funding formulas are largely not affected by state redistricting data, and therefore a reallocation data set would not affect local community funding. As to how federal prisoners would be counted, he stated that the bill could include a process to request data from the federal Bureau of Prisons to also reallocate that population, but the federal government cannot be compelled to comply with state law. He also noted that there is an administrative burden in attempting to reallocate local jail populations in all 120 counties, and that this burden may not justify including such a process, but if a regional or local jail were determined to be sufficiently important to state or local demographics, that additional process could be included.

Election Precinct Establishment and Maintenance

The task force discussed how election precincts are established and maintained, and what changes are needed to improve the process. For this issue, the task force heard perspectives from three groups: the State Board of Elections, the LRC, and the county clerks.

The discussion started with the executive director of the State Board of Elections. She summarized the role of the state board in reviewing county precinct establishment orders (PEOs). She noted that KRS 117.055 provides that counties shall establish precincts so that no boundary of a precinct crosses the boundary of a county, congressional district, state legislative district, justice of the peace or county commissioner district. Precincts must follow the boundaries of those districts and should follow city and school board districts where possible. The counties establish precincts by issuing a proposed PEO and submitting it to the state board for approval. Each PEO consists of three items: a written description of the boundaries of the precinct, a map of the precinct boundaries, and an estimate of the number of registered voters in the precinct. The map must be clearly labeled to identify the precinct boundary lines, and if the precinct boundary follows a city or school board district line this should be clearly noted.

The state board has 30 days from receipt of the PEO to determine that the proposed precinct does not cross any district boundaries; that city boundary, school board district, or other visible features are used; and that the precinct boundaries are clearly labeled on the supplied map. The counties submit paper maps, and the state board will follow the paper map and written description to check for these requirements. However, because the state board does not have geographic information system (GIS) capabilities, its review is based on the materials the counties submit, and as long as a county indicates that no district lines are being crossed, the state board accepts the PEO as filed. If the submitted PEO does not meet the statutory requirements on its face, it is returned to the county for resubmission or a request for exemption. At the same time that the state board is conducting its review, a copy is also sent to the LRC for an opportunity to comment on the PEO, pursuant to statutory authority. The executive director of the state board noted that one area of possible change could be a requirement that the state board not approve a PEO until the county addresses any comments made by LRC. She also stated that the state board has a limited staff and budget, and consequently, that her office's processing of PEO review is primarily paper based.

The LRC also reviews precinct orders and maintains the data for the General Assembly's use in the redistricting process. A legislative analyst with the State Government Committee staff provided a review of LRC's role. KRS 7.550 states that the LRC should comment on any adverse effect the proposed PEO may have on the commonwealth's participation in census programs. The LRC comments are largely focused on whether the proposed precinct boundary lines divide any existing census blocks. This is the case because the commonwealth receives census data at the whole census block level, which is the smallest area of data received and the fundamental building block of redistricting plans; splitting a block can adversely affect the redistricting process because the population in the whole block has to be accounted for in the resulting split-block portions. Accounting for these split-block populations takes a considerable amount of time and staff resources, and ultimately the process of building a split-block layer for precinct population data delays the General Assembly's ability to use the data for redistricting — at least if precincts are desired to be used in the process. There is currently no statutory prohibition on splitting census blocks with precinct boundary lines, and without a prohibition, counties frequently split census blocks, which results in numerous split blocks around the state.

The analyst noted that LRC depends on the counties and the State Board of Elections to provide precinct boundary data, and any lack of precinct data from either would result in the LRC database having inaccurate county precinct boundary lines for the General Assembly to use in the redistricting process. Also, the LRC has seen a number of common issues with PEOs that lead to county difficulties, rejected PEOs, and inaccuracies in the precinct layer maintained by the LRC. One common issue is that written descriptions sometimes do not precisely follow paper maps, which results from the written description process being difficult, tedious, and laborious work for many county clerks. Additionally, often the county boards of elections will create precinct boundaries that do not follow any underlying physical feature — such as a road or a stream — that can actually be seen on the ground or on a map. Also, some counties with sophisticated GIS departments may use their own local data layers to build precinct boundaries — such as a city road layer — that in some cases may be more current and accurate than the state layer used by the LRC or the Census Bureau.

Pursuant to KRS 7.550, the LRC maintains its database of precincts for the General Assembly to use in the redistricting process. The database is based entirely on the maps and written descriptions received from the counties over the years, and it is updated between decennial census cycles by reference to the PEOs received from the counties. The LRC undertook an extensive verification process with the counties prior to redistricting; however, a number of discrepancies were nonetheless seen after redistricting when the counties had to adjust precinct lines to meet new legislative district lines. The discrepancies were caused almost entirely by very slight precinct boundary differences that naturally resulted from the use of two separate databases of precinct boundaries — those created and maintained by the counties and those digitized and maintained by the LRC. These slight precinct differences can then cause the counties to create new "sliver" precincts — sometimes with very few or no voters — to be in technical compliance with the statutory mandate that no precinct line cross a congressional, state, or local legislative district line.

The analyst noted that one factor that causes the issue of these sliver precincts is the timing of local reapportionment and state redistricting. Statute requires counties to reapportion their local legislative districts beginning in May of the first year after the decennial census, but state legislative redistricting is often conducted in the first even-year regular session after the census, or in the year after local reapportionment. He stated that some merged governments are authorized to defer local reapportionment until after redistricting, which may allow the county to see where the congressional or state legislative district lines are located before drawing new local legislative district lines — thereby conforming the two sets of district lines to reduce the likelihood of the necessity of a sliver precinct.

The analyst noted that some states handle precincts a little differently from Kentucky. For example, in Tennessee, all precinct data is received from the counties and maintained by the comptroller's office. That office developed its own in-house GIS software package that it makes available to the counties at no cost, and it makes frequent on-site visits to nearby counties to assist them with precinct mapping if they do not have the capability to use the GIS software. For more distant counties, the comptroller's office partners with agencies akin to Kentucky's area development districts to ensure that every county can electronically map its election precincts and send that data to the state repository. The comptroller's office also hosts all of the precinct data on its website, which allows the public, candidates, and the counties themselves to continually access and fact-check the precincts used in its elections. Additionally, Tennessee mandates that no precinct boundary can split a census block, which makes receiving and using census data at the precinct level seamless.

The analyst also discussed a few legislative proposals and other possible changes to the way precincts are established and maintained or the way local reapportionment is conducted to make the state and local processes work more efficiently. In the 2014 Regular Session, SB 210 would have permitted the counties to modify local legislative district lines at any time to remedy the necessity for sliver precincts, and HB 115 would have permitted all forms of local government to defer local reapportionment until after state legislative redistricting. Another possible change that could drastically reduce the labor required to establish and maintain precinct boundaries is the elimination of paper maps and written descriptions in favor of all precincts being submitted by electronic maps. Kentucky could also create a central database of election precincts and standardize the data used by the counties and the state to essentially eliminate the discrepancies that result from the use of multiple databases. Finally, Kentucky could prevent census blocks from being split by precinct lines and undertake a greater participation in the Census Bureau's block boundary suggestion project to try to have more useful block lines created in areas where there may currently be insufficient blocks to use as the basis of precinct lines.

The task force also heard from county clerks to get their perspectives on how precincts are established and maintained, and how the redistricting process affects county government. The Kenton County clerk testified regarding her experience with precinct establishment and maintenance, and she noted that it was an overwhelming process in the wake of local reapportionment and state redistricting. She told the task force members that she wanted to look toward the next phase of how this data would be managed going forward. She noted that Kenton County always has a very complicated election ballot because of the number of small cities, unincorporated areas, and school boards in the county. To manage its elections, Kenton County started with 108 precincts before local reapportionment and redistricting, and while eight were eliminated, seven new precincts were created. Two of the new precincts have no persons within the precincts, and two more have only a hundred or fewer registered voters, which are the sliver precincts that must be created when small areas are sandwiched between state and local district lines because of the timing difference of the two processes. The Kenton County clerk also discussed the General Assembly's use of census blocks to construct districts and noted that the sheer number of blocks is overwhelming to counties without access to detailed census block maps. She testified that written descriptions are cumbersome and difficult to create for the counties, and she questioned whether the written description serves any useful purpose to citizens or voters attempting to locate in what precinct they live and vote. She urged the members to consider some process of standardizing the data that is used between the counties and the state, and to allow counties a means to better use the equipment, polling locations, and poll workers they have to reduce the cost of administering elections.

The Fayette County clerk also testified as to his experience with precinct data. He said Fayette County has faced many of the same challenges as Kenton County, and he noted that nearly every county will be forced at one time or another to create precincts with very few or no voters because of data discrepancies in precincts. He stated that the LRC and the General Assembly focus on the census block because that is the fundamental level of data used by the Census Bureau and that is reported to the state for redistricting. However, the Fayette County clerk said that the census block does not always work well for dividing counties into political districts or for drawing city boundary lines. Ultimately, he said that while the federal government has made decisions on where to create blocks based on collecting population data, those decisions do not necessarily reflect how cities and counties want to organize their political structures. Thus, the LRC perspective considers only the data at the census block level and does not want census blocks to be split for redistricting reasons, whereas the county perspective is based on dividing its area into precincts for political and administrative reasons, and the counties' major concern is that the General Assembly not split precincts with district lines. He noted that the core decision point is what level of data is going to serve as the basis for both the state and the county — whether that is the census block or another data point, such as the precinct. The Fayette County clerk suggested that one "low hanging fruit" remedy to the problem of sliver precincts is making an allowance for local governments to change their local legislative district lines after state redistricting to coordinate precinct lines with both local and state district lines.

Report of the 2014
Interim Joint Committee on Transportation

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Presented to the
Legislative Research Commission
and the
2015 Regular Session of the
Kentucky General Assembly

Interim Joint Committee on Transportation

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

Committee Activity

The Interim Joint Committee on Transportation met six times during the 2014 interim.

Implementation of Transportation-Related Legislation from 2014 Regular Session

The legislative liaison for the Kentucky Transportation Cabinet (KYTC), and the executive director from the Kentucky Motor Vehicle Commission, KYTC, discussed the implementation of transportation-related legislation from the 2014 Regular Session. The cabinet did not foresee problems with implementing the legislation passed in the 2014 Regular Session. Some regulations will need to be updated, with the passage of SB 23, which eliminated the hearing process for the issuance of household goods movers certificates.

The executive director from the Kentucky Motor Vehicle Commission testified that the commission intends to send letters to all automobile dealers, informing them of an insurance minimums change (HB 169) and the ability to make that change through the renewal process until December 31, 2014.

The KYTC legislative liaison stated that the permanent trade-in credit on usage tax for new vehicle purchases, HB 440 of the 2013 Session, would begin on July 1, 2014.

The KYTC legislative liaison testified concerning HB 290, dealing with disposition of traffic citations to minors, the cabinet has met with the sponsor, and there are minor changes for the court system and state police that need to be made before the intended implementation date.

Transportation Maintenance Activities and Snow and Ice Removal

The deputy state highway engineer, Division of Operations and Maintenance, KYTC, said the cabinet spent more than $75 million this fiscal year in snow and ice removal, after spending $42 million in fiscal year 2013 and $28 million in fiscal year 2012.

The deputy state highway engineer said he expects to spend more than the budgeted $16 million on pothole patching because of the rough winter. To ensure travel safety, the cabinet will try to ensure that potholes in travel lanes are patched before potholes on shoulders.

The deputy state highway engineer stated that the lighting of highways is included in the traffic budget and that the cabinet has used solar panels for remote traffic lighting, but because of some bad experiences, damage and theft of the solar panels, the cabinet has not used them for a few years. The possibility of using more solar panels is being looked into. If they are used again, they will be kept high enough so they are not accessible for possible damage or theft.

The deputy state highway engineer said the cost of dead animal pickup and disposal is assigned an activity code that is entered into the cabinet's operations management system to determine the cost of the pickup and disposal.

Concern was raised about the need to seek payment for damaged signs, bridges, and guardrails by the responsible parties' insurance companies instead of taking repair funds out of state funds. KYTC officials said repairing guardrails is not based on the history of when the cabinet was made aware of the needed repair, but instead is performed in order of perceived danger. The cabinet reviews all guardrail repair requests from the oldest request to the most recent, and ranks them according to the height of the drop, the traffic around the area, the wreck history around the area, the speed limit, and how many obstacles are in the area if someone were to leave the roadway. Two fund sources are used when a guardrail is brought to standard and for total new guardrail installation; however, the federal government does not participate in either fund source.

The deputy state highway engineer discussed how often contracts for snow and ice removal are reviewed for competitiveness, and said the cabinet issues 2-year contracts with an option for two 2-year renewals; therefore, the contracts usually last 6 years unless there is a reason to terminate the contract early. Many contractors are interested in renewing their contracts; if there is no issue, the cabinet opts to renew the contract rather than rebid. Contracts for the materials of salt and calcium chloride are bid every year using an open process.

The deputy state highway engineer testified that the cabinet coordinates with the Division of Environmental Analysis, KYTC, for environmental concerns such as loss of habitats and aquatic life before trees or brush are removed along roadways. Although the cabinet has used wooden guardrails in the past, it does not currently use them. The replacement of wooden guardrails is addressed on a per-project basis, and it is not a program or policy decision.

The deputy state highway engineer testified that the actions that the cabinet is likely to reduce as a result of the harsh winter and expenses occurring because of winter include tree and brush removal, signal operations, roadway lighting, panel sign repairs, and pavement strip patching. What cannot be reduced because of safety issues are the repairing of guardrails, pipes and ditches where water is backing up onto the pavement; removal of trees that fall onto the roadway; fixing of pavements as best as the cabinet is capable; and removal of snow and ice. The long-term impacts of the harsh winter include the preparation for a reduced level of service; less pavement striping every year, with more roads possibly being restriped every 2 to 3 years; less staff at rest areas; less litter pickup; less mowing per cycle; and less right-of-way mowed per mile.

Motor Fuels Tax Rate Adjustments for Quarter Beginning July 1, 2014

The executive director, Office of Budget and Fiscal Management, KYTC, said the Department of Revenue had not officially made an announcement about the new motor fuels tax rate at the time the meeting was held.

Based on the current average wholesale price (AWP) of gasoline being $2.634, the statute allows only a 10 percent growth over that AWP at the close of the fiscal year into the next fiscal year. Given that, there was an increase of 2.4 cents per gallon on the variable rate, increasing the total variable tax rate to a total of 26.1 cents per gallon for the first quarter of FY 2015. Combined with the other components of the tax, this will result in a total gas tax of 30.5 cents per gallon on July 1, 2014.

The Consensus Forecasting Group (CFG) anticipates that the first-quarter AWP rate would be 24.5 cents per gallon; therefore, there is a 1.6-cents-per-gallon increase over what CFG estimated in December. Annualized, this increases the amount to approximately $48 million. However, the rate is calculated quarterly, and the state will probably not realize this amount for all of FY 2015.

Changes in Vehicle Transfer Form Processes and Temporary License Tags

The commissioner of the Department of Vehicle Regulation said the department has made vehicle transfer records (VTR) forms available online, but it is still accepting the three-part VTR forms being used through the county clerks.

The commissioner of the Department of Vehicle Regulation said that the department does not have immediate plans to cancel the use of the three-part VTR forms and that the dealers could still use them. There were questions about the August 1, 2014, date that was stated in a memorandum to county clerks as the time of suspension of the three-part VTR forms. The commissioner said August 1, 2014 was initially the suspension date, but that date has been rescinded, and the suspension is not anticipated at this time. There is a plan to have a new date for the form usage to be switched, but the department is observing the scanning solution of the KAVIS system, which precludes several additional copies being made, and if that part of the system were to be implemented, additional copies may not be required to be made. If that is the case, the switch to online forms only would be considered. The director of Motor Vehicle Licensing said the forms should be able to be printed without a special printer or software.

Concerning lack of space for a mileage listing on the back of old titles, the commissioner stated the current VTR form should be used. The odometer disclosure statement is within the new VTR form.

Concerning changes in the printing of temporary tags, the commissioner of the Department of Vehicle Regulation said the department is now printing temporary tags in-house because of legislation that changed for temporary tag security; the printing change has also saved money. The change from a holographic security measure to a pantographic security measure was addressed in a regulation change. “Pantographic security measures” mean that if someone tried to copy a temporary tag, it would read “void” across it. The previous tags did not have that feature; therefore, they were more subject to fraud. The department slightly modified the texture of the temporary tags to accommodate the pantographic security measures. The state saves an estimated $70,000 a year in printing costs by no longer using Kentucky Correctional Industries (KCI) to print the temporary tags. KCI continues to make permanent license plates, and there are no immediate plans for that to change. The director of Motor Vehicle Licensing said switching the printing of temporary tags to in-house versus being printed by KCI saves money by having existing employees print them, rather than inmates, who require additional staff and administrative costs to oversee the operation.

The director of Motor Vehicle Licensing said the department had explored switching to a more slick and durable stock for temporary tags while still accommodating the security measures that the regulation requires, but switching to that stock would increase printing costs from approximately $50,000 to $300,000 a year. The department is continuing to conduct materials research on the temporary tags, including testing the longevity of the tags. Some dealers are using plastic sleeves to shield the tags from weathering at a cost of 9 cents per sleeve.

The cost to produce the current temporary tag is approximately 9 cents. However, the state will continue to charge $2 to citizens to obtain the tag. The current temporary tag is used as an inventory number. If law enforcement runs the temporary tag, there is no database to find out whether the tag previously belonged to another vehicle. Fraud would be easily monitored if there were such a database.

The director of Motor Vehicle Licensing said the temporary tags are valid for 60 days. Plate 2 Customer has a 30-day limit instead of 60 days, but because of KAVIS not being implemented, the department is still honoring the 60-day limit.

Because of this situation and the limit of one temporary tag per vehicle allotment, the department is not citing dealerships for the issuance of new temporary tags or the reissuance of temporary tags.

The committee adopted a resolution setting forth its will regarding the VTR forms being provided to all necessary entities by the department as stated in the KRS and keeping that process the same.

The executive director of the Kentucky County Clerks’ Association (KCCA), the Meade County clerk and president of the KCCA, the Fayette County clerk, and chair of the KCCA Transportation Committee addressed the issues from the perspective of county clerks.

The quality of the cardstock of the temporary tags is problematic, as they fall apart quickly. The plastic sleeve solution has pushed the cost of covering those sleeves to the county clerks or the dealers. The KYTC was encouraged to reconsider the quality of temporary tags, and suggestions were made that more money may need to be spent to provide a better product.

Concerning special software or licensing of software needed to print the VTR forms, several dealers use proprietary dealer management software that is designed to line up with the current forms. Changes on the new forms will require the software providers to reprogram the software. The Kentucky Auto Dealers Association (KADA) was unable to give any input on the changing of those forms.

Attention was called to KRS 186A.060, which asks the cabinet to work in consultation with all the entities and stakeholders in developing and maintaining the motor vehicle information system. It was suggested that the KYTC has not followed KRS 186A.060 in these instances because no meetings were held between the county clerks' leadership and the cabinet for managing the VTR form change.

The Kentucky state director of the National Federation of Independent Business, who also represents KADA, and the executive director of KADA testified to the poor quality of the temporary tags.

Deadlines for REAL ID Act and How the Act Affects Kentuckians

The director of the Washington office of the National Conference of State Legislators (NCSL) discussed impending deadlines of the REAL ID Act and how it affects Kentuckians. She stated that after the events of September 11, 2001, the 9/11 Commission was established, which issued a report in 2004 that referenced the driver's license and secure identification process and recommended that the federal government set the standards for the issuance of birth certificates and sources of identification. In December 2004, the Intelligence Reform and Terrorism Prevention Act of 2004 was adopted, implementing a number of the commission's recommendations. It also established a negotiated rule-making process to be run by the federal Department of Transportation, in consultation with the Department of Homeland Security (DHS), for driver's licenses and identification issued by states. A positive aspect of the process is that it brought all of the involved entities and stakeholders together to standardize driver's license and identification requirements. Five months later, after the negotiated rule-making process had started, the language establishing the process was repealed and the REAL ID Act was enacted. The REAL ID Act was added to an emergency supplemental spending bill and was not received well because of its lack of transparency. The REAL ID Act terminated the negotiated rule-making process and required DHS to develop standards for state-issued driver's licenses and identification cards. The requirements would apply to all 56 licensing jurisdictions, including US territories and the District of Columbia. REAL ID affects all of the approximately 240 million holders of driver's licenses in the United States.

REAL ID requires states to verify the validity of source documents (the documents that an applicant must provide to the DMV to apply for a driver's license), retain copies of source documents, and provide actual physical security of the locations where driver's licenses are issued. There are requirements for driver's license card design. Each person may have only one driver's license, not driver's licenses for multiple states. States must also verify individuals' lawful presence in the United States.

The final regulations issued in January 2008 were far less prescriptive than the draft regulations. The National Governors Association, NCSL, and the American Association of Motor Vehicle Administrators (AAMVA) worked together to provide DHS guidance with input from the states as to how to fulfill the requirements of the law and simultaneously ease the burden on states so that they could implement the REAL ID Act.

It was estimated that the cost to states to implement the final regulation would be approximately $3.9 billion over 11 years. Congress has appropriated only $263 million to cover the $3.9 billion mandate. While REAL ID costs are an allowable expense for states under their Homeland Security Grant Program funds, this would reduce the Homeland Security funds available for other purposes. The penalty for noncompliance to the REAL ID Act is that the states' citizens will not be able to use the states' driver's licenses as identification to enter certain federal facilities or board commercial aircraft.

In fall 2013, the enforcement schedule was released. The director of the NCSL Washington office discussed the phases of the schedule: phase one, dealing with restricted areas for DHS headquarters, specifically the Nebraska Avenue complex; phase two, dealing with restricted areas for all federal facilities and nuclear power plants; and phase three, which will not have full enforcement until January 2015. Phase three will involve semi-restricted areas for the remaining federal facilities, and phase four will deal with restrictions on commercial aircraft.

Concerning phase four, DHS is contemplating allowing individuals to use other forms of identification in addition to their noncompliant driver's license to allow them to board a commercial aircraft; however, no regulation has been put into place to allow that. If a state is noncompliant, its residents will still be able to board a commercial aircraft, but they will need another form of federally accepted identification, such as a passport or military ID. The Transportation Security Administration is the agency that designates acceptable forms of ID. Citizens may go through secondary screening with an extra level of screening at an airport if they do not have a compliant license or other form of federally accepted identification.

The director said REAL ID Act regulations and the law were written to give states a choice to have a two-tier system. The state can issue a REAL ID-compliant card, which can authorize only individuals who are lawfully present, or the state can enact a two-tier system for citizens who do not want or qualify for a compliant card, so that they can have a noncompliant card that is not good for federal purposes. The noncompliant card could not be used to board commercial aircraft or to access federal facilities. There will be a phase-in period during which a citizen could be from a compliant state but the license is not yet compliant because the reenrollment period has not been completed.

Even if Kentucky does not adhere to the REAL ID Act requirements, citizens would have access to the offices of their federal representatives and senators. The director was unsure whether the US Capitol could be accessed, but congressional offices would be accessible. It was clarified that someone does not necessarily have to be a US citizen to receive a driver's license in Kentucky, but if a visa were acquired, the person holding it could receive a license in the state until the visa expired.

The Department for Homeland Security is implementing only what Congress enacts, and Congress has not appropriated additional funds since 2011. Congress feels that states have received additional flexibility by being able to use Homeland Security Grant programs. The commercial aircraft portion of REAL ID will not be enforced until 2016.

The commissioner of the Department of Vehicle Regulation said the state will need to address how the Act will be implemented, whether licenses will still be issued through each county or through a regional or central issuance system, and whether the state will issue both a regular driver's license plus REAL ID-compliant licenses for those who wish to have a REAL ID only. Another option is to create a dual-license REAL ID. Kentucky is in compliance until October 2015 because of the extension that was given. It was mentioned that any changes that need to be made statutorily will need to be made in the upcoming Regular Session of the General Assembly.

Another issue that will arise because of REAL ID is the physical security aspect of circuit clerk branches. Several circuit clerk branches have actively begun the security assessment process to evaluate which branches are compliant within the security parameters of REAL ID and which branches will need security changes. This process could take time because of the number of older courthouses that more than likely will need updating.

Current driver's licenses will not look different after REAL ID, but the source documents that are needed to renew the licenses will change. Kentucky's current physical driver's licenses could be compliant with REAL ID. The department has already identified the fields within the driver's license itself and within the face where the REAL ID-compliant indicator would go. The department has identified where the "not for official federal use" language would be placed if needed.

There is a chance that some judicial centers will be REAL ID compliant with security but others will not. For those that are not, the security systems will need to be changed if Kentucky decides to become REAL ID compliant, and there is no way to know the cost of revamping the circuit clerk offices to meet REAL ID Act security requirements.

Road Fund and FY 2014 Close-out Report

The executive director of the Office of Budget and Fiscal Management, KYTC, said fiscal year 2014 ended June 30, 2014. The December Consensus Forecasting Group (CFG) estimated 2014 Road Fund revenue at $1.582 billion; the state actually collected $1.560 billion, missing the estimate by $22.2 million. Motor fuels taxes were $14.5 million below the estimate, motor vehicle usage taxes were $5.4 million below the estimate, and various other categories were $2.3 million below the estimate.

The executive director stated that $22.2 million shortage seems a little worse than it is because the budget was built on the December 2011 Road Fund estimate of $1.568 billion, and after the lapses, the budget had to be reduced by only $3.7 million, $3.4 million of which came from research because toll credits were used to match federal grants instead of being used for the Road Fund. State construction was reduced by $259,000. Road Fund revenues in FY 2014 compared to FY 2013 had growth of $68.8 million or 4.6 percent but had been expected to be 6.1 percent.

The particular expenditure lapses include $912,000 in aviation, $306,000 in revenue sharing, $4 million in highways, $2.6 million in vehicle regulation, $3 million in general administration, and $1.9 million in capital projects, all of which account for $12.7 million.

Status of Federal Highway Trust Fund

The deputy secretary and policy adviser for the office of the secretary, KYTC, testified about the Highway Trust Fund. Congress acted on the Highway Trust Fund by authorizing a transfer of $10.9 billion to the fund over the upcoming 10 months. MAP-21, the current federal transportation bill, was due to expire in September 2014. The transfer extends MAP-21 through May 31, 2015. The $10.9 billion comes through three avenues. One is pension smoothing ($6.4 billion), which allows corporations to reduce their contributions to retirement funds but make them up later. Since retirement fund contributions are tax deductible, they will be paying more on corporate earnings in the short term, with the idea that they will be made up over the long term. Restructuring customs user fees — fees paid to customs services for goods, services, and people who enter the United States — will account for $3.5 billion. Also, $1 billion from the leaky underground storage tank fund will be transferred into the Highway Trust Fund to make up the rest.

The last fully funded Transportation bill was TEA-21 in 1998, which expired in September 2003. Congress did not immediately reauthorize TEA-21, but there were 12 extensions before President George W. Bush signed SAFETEA-LU in August 2005. SAFETEA-LU passed, predicated on greater levels of funding than what the Highway Trust Fund has realized. There were more outlays from the levels of spending that were authorized in SAFETEA-LU than money coming into the Highway Trust Fund. Beginning in 2008, the crisis with the Highway Trust Fund became very apparent. Since 2008, $55 billion in nonhighway General Fund money has been transferred into the Highway Trust Fund to keep it solvent. With the latest action, that amount is now $66 billion. The Highway Trust Fund is a deteriorating revenue source. A long-term solution is needed.

Omnibus Revisions to KRS Chapter 281, Regarding Motor Carriers

The executive director of the Office of Legal Services, KYTC said KRS Chapter 281 omnibus revisions were introduced by Chairman Harris in the 2014 Regular Session as SB 177 and by Chairman Collins as HB 513. The revisions, which the cabinet will request again in the 2015 Regular Session, are intended to increase public safety and decrease barriers to entry in the motor carrier industry. The major proposed change is the elimination of the need for service requirements and the associated hearing requirements. This would extend the changes made for household good movers under 2014 SB 23, consistent with the federal court's ruling in *Bruner v. KYTC*, to encompass all certificates issued by the cabinet.

The revisions would also establish a certificate process that would mirror the qualifying process in SB 23, which includes aspects of insurance, background checks, motor vehicle applications, qualifications, and renewals. For example, the proposed revisions would require nationwide fingerprint background checks for all segments of the industry; extend the same standards for employment with respect to criminal convictions that SB 23 has extended to household goods carriers; require annual Automotive Service Excellence vehicle inspections for all motor carriers; grant concurrent regulatory control over taxicabs, limousines, and disabled persons vehicles to cities (currently in place for taxicabs only); adopt the US Department of Transportation's minimum amounts of insurance coverage required of interstate carriers and apply them to intrastate carriers of property and larger passenger vehicles (the cabinet intends to tier the requirements by seating capacity); reduce the minimum fine amount for operating without authority from $2,000 to $500 per violation; and codify requirements for transportation network companies (TNCs).

The revisions of KRS Chapter 281 will amend the statutory provisions, and then the cabinet will amend the existing administrative regulations. The cabinet intends to file an emergency regulation for regulation of the TNCs, which will be effective when filed, but the hope is to get the KRS Chapter 281 revisions passed in the upcoming Regular Session.

The executive director said that the regulation on TNCs should be promulgated by the beginning of October 2014 and that an emergency regulation is effective when filed. The deputy commissioner of the Department of Vehicle Regulation said the regulation would address the TNCs and would also address regulations that need to be changed because of SB 23. KRS Chapter 281 already issues permits under the definition of a motor carrier for anyone who owns, controls, operates, manages, or leases a vehicle used for hire; therefore it is already broad, and there will be no need to redo any regulations incorporating TNCs if the omnibus revisions to Chapter 281 are passed. The proposed revisions to KRS Chapter 281 will let the free market dictate who is in and who is out.

TNCs and Ride-Sharing Applications Such as Uber and Lyft

Transportation network companies use smartphone applications to connect passengers with drivers who use their personal vehicles to provide transportation services for hire. Examples of TNCs are Uber and Lyft. The TNC model begins when a person downloads an application to a smartphone and provides the company with information, including credit card information that is stored for paying fares. A passenger in search of a ride sends a request via the app, which searches for a driver in the area that is available. A driver accepts the request and travels to pick up and transport the passenger. No cash is exchanged; the passenger approves the ride, and the fare is charged to the passenger's credit card.

The commissioner of the Department of Vehicle Regulation said the department has the statutory authority to regulate TNCs under the KRS 281.011(1) definition of a motor carrier as "any person who owns, controls, operates, manages, or leases … any motor vehicle for the transportation of persons or property for hire." The cabinet's concerns regarding TNCs include insurance coverage, both personal and commercial; vehicle inspections; background checks on drivers; driver history records; and the impact on regulated for-hire motor carriers such as taxicabs and limousines.

KYTC organized two meetings this summer with regulatory agencies such as the Department of Insurance, the Attorney General's Office, Lexington-Fayette Urban County Government, Louisville Metro Government, Department of Workers' Claims, the Louisville

Regional Airport Authority, and the Legislative Research Commission staff regarding TNC operations. KYTC met with Uber in June to discuss its business model, and the other regulatory agencies subsequently met with Uber. KYTC also arranged a meeting with Lyft. At the November meeting, the commissioner stated that meetings with the taxi industry as well as other TNC companies had taken place to address all of the areas and concerns and regulations should be filed in December.

The commissioner said TNCs will apply for a certificate to operate in the commonwealth. Before a person is accepted as an Uber or Lyft driver, Uber or Lyft will coordinate a background check through a party that KYTC will approve.

The commissioner said that, once the driver accepts the ride, two types of insurance are in force. One is gap insurance, which provides coverage from when the ride is accepted until the driver picks up the passenger. Once the passenger is picked up, there is a commercial policy, with a limit of $1 million per incident, that goes into effect until the passenger is delivered.

Some public safety concerns surrounding TNC models involved not knowing how the business model works, how background checks are done, what kind of insurance they have, or what kind of mechanical inspections the vehicles undergo; therefore, the meeting with each company was a necessity in order to regulate them on the same level as taxicab companies.

The committee heard testimony from Uber and Lyft. They have similar business models, connecting riders to drivers through a free smartphone application. The application then uses the smartphone's GPS system to connect to the nearest driver, or the rider can void the GPS system and type a desired address for pickup. Unlike taxis, drivers for Uber and Lyft do not pick up passengers from street hails or taxi stands. Uber and Lyft fares are based on a time and distance charge, so the driver completing the fare has a smartphone running the driver app. It collects GPS information based on the time and distance of that ride. The receipt given to the rider breaks down the total fare. The companies do not accept cash. A rider can use credit cards, Google Wallet, or PayPal.

The drivers are independent. Part-time drivers have the option to work only a few hours a week and are considered independent contractors who receive 1099 forms to pay taxes on their income. Because they are independent contractors, unemployment insurance is not paid if drivers no longer work for the company. No cases have been raised to challenge that ideology. A Lyft public policy adviser said that, in anticipation of questions on the independent contractor issue, Lyft partnered with the Freelancers Union to form a co-op to which drivers can pay dues; it would grant them access to medical and other benefits.

Safety is the top priority for Uber and Lyft. Extensive background checks are conducted for drivers. Feedback is also requested from riders and drivers after every ride. The companies review the feedback, allowing quality to be maintained at an exemplary level. Both companies inspect vehicles. There is no fleet for either company; the drivers use their own vehicles.

Uber's general manager for the Kentucky and Ohio region said cities are embracing ride-sharing applications because they keep fewer vehicles on the road and ease traffic and environmental strains. The ride-sharing applications are also helpful in significantly reducing DUI rates and impaired-driving offenses. Ride-sharing applications also make cities more tourist and business friendly because of the ease of transportation to explore favorite destinations or meeting places.

Uber and Lyft have the same insurance policy and the same insurer. All trips are covered by a primary commercial insurance policy that provides up to $1 million in coverage for each incident that occurs from the moment a driver has accepted a trip and is en route to pick up a passenger until arrival at the destination. The $1 million insurance coverage is 10 times the amount required by taxi services in Louisville and 20 times the amount of $50,000 for total body injury that KRS 281.655 requires for taxis.

Uber and Lyft also hold a separate contingent insurance policy with $50,000 per individual and $100,000 aggregate limits, which is twice the Kentucky taxi insurance requirement, for the time between trips, when the driver has the smartphone application on and is waiting to accept a fare. The insurance policy covers bodily injury caused by uninsured or underinsured motorists, up to $1 million per incident. This coverage is not required for taxi services in Kentucky. Both Uber and Lyft have personal injury protection insurance of $10,000 per incident for the driver.

Uber met with KYTC, the Kentucky Department of Insurance, and the Department of Workers' Claims to educate each on Uber's business model. Uber provided copies of insurance policies to the Department of Insurance and met with the department to discuss those policies.

Lyft met with Louisville Metro Council and planned to meet with Lexington-Fayette Urban County Government and with the Department of Insurance and KYTC to share the Lyft business model.

Lyft is trying to break ground in the personal auto insurance industry, having met with Metlife to soon announce a new product line — essentially personal auto insurance with an endorsement or rider for Lyft drivers. Both Uber and Lyft are additional layers of transportation, offering consumers other options, and not a replacement for modes of transportation such as taxis. Seattle studied taxi services, and in the year the TNCs launched, taxis made more revenue than ever before because the new transportation options made people more willing to leave their cars behind.

The president of Procarent, Yellow Cab Kentucky, discussed the taxicab industry's concerns about TNC operations. Yellow Cab is a locally operated, family-owned business operated out of Louisville, providing career opportunities for more than 500 employees, including drivers, mechanics, cashiers, and general administration. It is concerned about the need to regulate the current TNC operations that are operating without any regulation. Yellow Cab is not in favor of more regulations or excluding any company from providing a service to Kentucky citizens, but it wants the service to be provided safely. Yellow Cab is concerned that Uber and Lyft have been operating for a period of time, but their insurance has not been in place very long, and thus there are big insurance gaps.

A person who uses Yellow Cab can text, call for a ride, or download the Yellow Cab application on a smartphone similar to the Uber and Lyft applications. Cash or credit cards are both acceptable payment options for Yellow Cab.

Yellow Cab uses both independent contractors and employees. Yellow Cab has previously faced significant insurance gaps as it has a percentage of drivers who operate their own vehicles and are subcontractors. Because these drivers operate using their own vehicles, they could be driving their vehicle for personal use or could be driving for a fare. Yellow Cab insures those drivers for commercial insurance. If the drivers are leasing vehicles from Yellow Cab, they are insured around the clock. If an Uber or Lyft driver were to take cash for a quick ride, against company policy, and an accident ensues, there was concern about what insurance takes effect, reiterating insurance loopholes that need to be addressed.

The Department of Insurance has been included in meetings with the involved agencies to share information and concerns, as well as the Department for Workers' Claims, so the issues about the independent contractors versus employees, and the insurance requirements are being addressed. The commissioner of the Department of Insurance said the department has been working closely with the other agencies and will not need an emergency regulation, but it will continue to work with all parties on all aspects of the regulations. Uber and Lyft have filed all of their policies with the department, and the policies already meet statutory requirements.

Report of Auditor of Public Accounts: "Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Cincinnati/Northern Kentucky International Airport"

The auditor of public accounts discussed the findings of the report "Examination of Certain Policies, Procedures, Controls, and Financial Activity of the Cincinnati/Northern Kentucky International Airport." The primary focus of the investigation and report was to evaluate the current government structure of the airport board, as well as examine some of the board's financial activity. Report findings led the Auditor to conclude that decades of waste and abuse and dysfunction between the board and airport management in recent years are largely a symptom of an outdated and flawed government structure that does not reflect the regional significance of the airport.

Cincinnati/Northern Kentucky International Airport (CVG) is routinely ranked one of the most expensive airports in the country and has lost approximately 500 daily flights and approximately 17 million passengers since 2005. The reduction is largely due to consolidation in the airline industry; however, the CVG board's continued dysfunction cannot be permitted to hinder the airport's ability to attract new carriers and flights, which help develop the regional economy. The airport generates more than 16,000 direct and indirect jobs for the region, as well as $2.7 billion in annual spending by CVG operations, construction, and visitors, and $92 million a year in taxes to Kentucky and Ohio. The auditor said that for too long CVG has operated as a political appendage of one person, the Kenton County judge/executive. The Kenton County judge/executive controls the airport that serves the metropolitan area of 2.1 million people and is critical to the economic vitality of the region and to two states, Kentucky and Ohio. The auditor proposed reform to bring much-needed accountability and representation that reflects all of the stakeholders of the regional asset. He suggested a complete overhaul of the CVG board structure and has made recommendations to the Governor as well as to the General Assembly to make statutory changes in the 2015 Legislative Session. The auditor said that the necessary reforms should be developed and driven by Northern Kentuckians and that his recommendations are a starting point to drive conversation to enact the reform.

The Kenton County judge/executive appoints all seven of the voting members of the CVG board, as well as a majority of the board's 11-member advisory committee, which does not have the power to vote. The board structure has created confusion and chaos among the board and advisory committee members, and it increases the risk of political influence affecting board member decisions. Auditors found a document created by the outgoing Kenton County judge/executive outlining criteria for ideal board members. Among those criteria was the current or future support of the judge/executive's campaign. The auditor recommended an 11-member CVG board with each member having equal standing and voting authority. Kenton County should have the highest number of board appointments to reflect the historical significance of Kenton County to the airport. The auditor's recommended board structure includes three members appointed by the Kenton County judge/executive with confirmation by the fiscal court; two members appointed by the Boone County judge/executive with confirmation by the fiscal court; one member appointed by the Campbell County judge/executive with confirmation by the fiscal court; two members appointed by the Governor of Kentucky; one member appointed by the Governor of Ohio; one member appointed by the mayor of Cincinnati, with confirmation of its council; and one member appointed by the Hamilton County Board of Commissioners.

The restructuring the CVG board was the first and most significant finding of the audit recommendations. The report also contains 11 additional findings and recommendations relating to contracts, travel, and spending. Auditors found that the CVG board engaged a contractor for $60,000 for public relations services that were not bid out, without first consulting the CVG staff. Several months after the contract was initiated, the CEO requested that all invoices for the PR firm be approved by the board chair because the professional staff could not attest to any work being performed by the contractor. The discord between the board and the management appears to have played a role in selecting a contractor that resulted in potentially duplicative services.

Auditors also found that the board engaged in the services of another contractor for $25,000 to duplicate the work of the auditor's office, and that no formal written contract had existed for decades between the board and its legal firm even though CVG spent millions of dollars on these legal services.

The examination found excessive spending on travel to industry conferences, including expenses associated with the outgoing Kenton County judge/executive and with board members and their spouses' meals. The CVG board spent more than $100,000 on travel and meals at four conferences. Ironically, the national association that sponsors the conferences indicates, as the primary best practice for running an effective airport organization, that no single entity should dominate the appointment process to any airport board.

The auditor added that extravagant spending and travel and other airport perks have continued for decades despite public and media scrutiny. The question remains as to why the issues have continued. He believes that the cause is a flawed and outdated government structure of the CVG board. He added that CVG is not listed as an asset or a liability to Kenton County on any balance sheet, and therefore the notion that CVG is a Kenton County asset is fiction; it is its own self-sustaining special-purpose government entity, and the Kenton County Fiscal Court is not even a secondary or tertiary recipient of the debt or the bonds promulgated by the airport.

The auditor stated that the power to vote is the power that is needed for all entities to have a fair voice in the operations of CVG. Advisory committee members may have input, but when they do not have the right to vote on issues, the input may become null and void. Currently, the only people able to vote on the governance of CVG are those board members appointed by one person, the Kenton County judge/executive.

The report found no criminal offenses or activities with criminal intent; however, the report has been forwarded to the Kenton County attorney for review of possible violations of ethics codes.

The auditor's recommendation is that Ohio citizens have three seats on an 11-member board, which would provide Kentucky with a continued constitutional majority. It is imperative to ensure that business communities on both sides of the Ohio River are integrated into running the airport. The ability to continue to develop the airport in the long term depends on ensuring that Cincinnati businesses are not using the Dayton or Columbus airports. Continued disagreements and mismanagement of the airport's operations may lead major airlines to decide not to use CVG.

At its November meeting, the committee received the Kenton County Airport Board's response to the auditor's report. The board will be implementing all of the auditor's recommendations under the board's control.

Proposed Legislation Regarding Procedures for Motor Vehicle Recyclers' Purchase of Vehicles

Proposed legislation regarding procedures for motor vehicle recyclers' purchase of vehicles was discussed. The goal of the proposed legislation is to simplify laws related to recycling automobiles in order to keep accurate track of vehicle ownership, reduce vehicle theft, and further the work of scrap recycling, which feeds raw materials back into manufacturing, while including all stakeholders in the drafting of the legislation and resolving any concerns.

The vice president and general counsel of The David J. Joseph Company and River Metals Recycling said there should be clear and effective laws and requirements for end-of-life vehicles, adding that the proposal has three advantages over current law. The first advantage is that it provides accountability for the buyer and the seller of an end-of-life vehicle; second, it provides traceability by recording VINs and putting them into the new federal database for stolen vehicles so they can be checked to make sure that they were not stolen before and after their purchase; third, the proposal provides workability. Several other states have enacted similar laws and are extremely pleased with the results.

The executive vice president of Pull A Part said hundreds of thousands of vehicles reach end of life every year in the commonwealth, and those vehicles are either going directly to a scrap processor or to a company such as Pull A Part. These companies arrange for the removal of some or all of the parts for reuse; the remainder of the vehicle is recycled. Currently, there are two ways that a vehicle can legally come to either industry: It can be sold with a title, or it can be sold under Kentucky law with what is called a hulk vehicle. The sale of a hulk vehicle does not require a title, but the vehicle must be mechanically inoperable. The definition of a hulk vehicle is poor and leaves potential for misuse.

There is a problem due to vehicle titles often being misplaced on older vehicles, or vehicles being transferred a few times without the transfer of the title. There should be a way to address problems for when a person is legally trying to recycle a vehicle. Problems arise such as how these companies are able to purchase the vehicle and how law enforcement is able to identify stolen vehicles. In either instance, no paper trail or reporting is required to the vehicle registrar or law enforcement. In 2009, Congress passed the National Motor Vehicle Title Information System (NMVTIS). The system has improved dealing with end-of-life vehicles and getting a database of those vehicles at a federal level. A problem that has arisen is that reporting is required by either a scrap processor or a parts recycler, but the only enforcement is at the federal level by the Department of Justice. Reporting must be done within 30 days of the purchase, but the potential 30-day delay is a problem. The proposed bill would allow for that enforcement by incorporating the federal law at the state level. Louisville and Lexington have recognized these problems in dealing with end-of-life vehicles and have adopted related ordinances that have better definitions and require a paper trail, reporting, and reporting to NMVTIS.

Highlights of the proposal include clear definitions, such as when a vehicle is no longer considered a vehicle; limiting the sale of end-of-life vehicles only to registered secondary metals recyclers or licensed automotive recycling dealers, only applicable to vehicles at least 10 years old; a requirement for a signed statement from the seller, and a requirement to get a copy of the seller's identification, vehicle identification information including the VIN, and a certification that the vehicle is owned by the seller and that the seller recognizes that there are criminal penalties for falsification of the document; the collection of the tag number of the vehicle that delivered the end-of-life vehicle, and the buyer's NMVTIS ID number; and creation of an online system requiring buyers to check the vehicle before purchase to determine whether it has been stolen.

The proposed bill requires the industry to hold the vehicle undamaged for 2 days after purchase, giving law enforcement time to investigate the vehicle to make sure it has not been stolen. The proposal classified falsification of the document itself as forgery in the second degree and creates penalties of $1,000 per vehicle if a recycler fails to keep the required records or to take required information or fails to report to NMVTIS.

The Kentucky Recyclers Association has had input on the proposed legislation. The Kentucky Association of Truck and Automobile Dismantlers, KYTC, and law enforcement are expected to be contacted along with other stakeholders before the proposed bill is placed before the committee in the 2015 Regular Session.

Reconstruction Methods Used for the Milton Madison Bridge

From the KYTC the project manager for Department of Highways, District 5, and the state highway engineer gave a presentation on the reconstruction methods used for the Milton Madison Bridge.

The project manager said the Milton Madison Bridge links the communities of Milton, Kentucky, and Madison, Indiana. A unique quality of the bridge is that the newly constructed bridge was slid into place, rather than shutting the connection down for the projected year that it would take to demolish the old bridge and construct a new one. Walsh Construction's design team constructed the new bridge alongside the old bridge. Examples of the existing substructure were drilled and evaluated to see what could be reused. The construction team drilled holes, put in rebar and a rebar cage around the existing structure, and then encased it in concrete. The next step was to take the larger structure and put in countermeasures to alleviate potential scour, the removal of sand or sediment around bridge piers that can compromise a bridge's structural integrity.

From the existing bridge, temporary ramps were tied on both ends for the flow of traffic. The new bridge was built downstream 15 feet away. After the new bridge was built, the old bridge was demolished. The pier caps were then completed, and the new structure was slid over, reconnecting it and placing it in its permanent place.

There are two bearings on every pier cap, which the floating bridge was sitting on. The deck was poured as one combined deck, so it all moved together. The bridge was then slid 55 feet to the final location using a sliding plate. During the movement of the bridge, a threaded bar was used as a brake to monitor the movement of the slide. There was a laser and target that would monitor and keep it within an inch of each target location to eliminate the potential for internal stresses into the structure. A time-lapse video showed the reconstruction of the new bridge and demolition of the old bridge.

The total cost of the bridge was calculated by an A + B – C type of bidding, which deducts the value of time in reduced closure from the actual cost of labor and materials. The project cost was $108 million, with a time value of $40,000 a day. By shortening the bridge closure from 365 days down to 10, more than $14.2 million in savings was realized.

The state highway engineer said there are no immediate plans to use the sliding bridge model for reconstruction on other bridges, but now that it has been tested successfully, the approach will not be ruled out in the future.

Guardrail Safety and Design

The KYTC secretary said that a product in wide use on US highways including Kentucky highways, the guardrail terminal (also known as an end treatment called the ET Plus), had been in the news and that its effectiveness had been questioned. ET Plus is a brand of one type of guardrail terminal that for many years has been authorized by KYTC for use on Kentucky's highways. The ET Plus guardrail end treatment system is manufactured by Trinity Industries of Dallas, Texas. On October 20, 2014, a federal jury in Marshall, Texas, determined that Trinity Industries had committed fraud against the Federal Highway Administration (FHWA) by altering the design of the ET Plus system without disclosing that fact to FHWA or to states using the system. As a result, FHWA ordered Trinity Industries to submit the ET Plus system to a new round of crash testing. The secretary of KYTC supported that action by FHWA, as did the American Association of State Highway and Transportation Officials, of which he is president. In the days after the directive to retest ET Plus, the secretary decided it would be prudent for KYTC to temporarily take the ET Plus system off the approved products list, pending the outcome of the new crash test.

On October 24, 2014, Trinity Industries announced it would take the ET Plus product off the market, also pending the outcome of the new crash test. On October 27, 2014, KYTC sent a memo to notify contractors and employees that the cabinet was delisting the ET Plus system as a permitted option for installation or replacement of type one guardrail end treatment. Now, like the FHWA and all of the other states, the cabinet is awaiting the completion of the crash tests. Once the results are in, the decision will be made for future use or removal of the ET Plus system. If there is evidence or a directive from FHWA that says the ET Plus system should be replaced, the cabinet will not hesitate to take the necessary action to make Kentucky's roads as safe as they can be.

The cabinet is now developing a plan to inventory and possibly replace the ET Plus system installations across the commonwealth.

The secretary said KYTC is investigating collisions with these end terminals. One reason the evaluation is taking more time than some might deem necessary is that two types of ET Plus system are in use. One system was installed in 2000 and the other was installed in approximately 2005 or 2006. The only way to know whether the system in question is being evaluated by the cabinet and the FHWA is to look at each system's serial number.

The secretary also said that he is unsure how many ET Plus systems have been installed in Kentucky, and that the cabinet is interested in recovering costs if replacement is deemed necessary.

Presentation From KYTC on Traffic Safety Statistics

The executive director highway safety, Office of Highway Safety, KYTC, said that since 2005, with cooperation from the General Assembly, KYTC along with several partners has made a huge difference in highway safety. One partner is The National Highway Traffic Safety Administration (NHTSA), which was formed in 1970 after fatalities reached an all-time high of

56,000 nationally. In Kentucky, the high number of fatalities reached 1,117 in 1973. Kentucky is in the mid-Atlantic region, one of the better-performing regions covered by NHTSA.

The executive director of highway safety said recognizable campaigns that the cabinet promotes every year include the "Click It or Ticket" campaign, the "Drive Sober or Get Pulled Over" campaign, and the recent "U Text, U Drive, U Pay" campaign against texting while driving.

The executive director also shared the daily fatality statistics report, which is broken down by area development district, highway district, and Kentucky State Police post. The report includes alcohol-related fatalities, for which Kentucky has one of the lowest rates in the country (19.3 percent of accidents). In the category of restraint belt not in use, victims in 52 percent of Kentucky fatalities were not wearing seat belts, down from 55 percent last year.

The executive director compared crashes using a 2005 base number. In 2005, there were 128,600 crashes in Kentucky; in 2013, there were 123,258. Injury crashes, however, declined 21 percent in that period, and fatalities are down 35 percent for that period. Last year saw a record low of 638 crash fatalities in Kentucky.

In 2005, the primary seat belt law was passed. The Kentucky State Police and all law enforcement agencies have enforced the seat belt law. As a result, in 2013, all of the agencies combined wrote more than 100,000 seat belt citations. That number has steadily increased since 2005. The observed seat belt use has gone from 67 percent in 2005 to 86.1 percent in 2014.

Development of KAVIS Motor Vehicle Information System; Relationship With Contractor

The KYTC secretary and the project manager for the Kentucky Automated Vehicle Information System (KAVIS) testified about the new system and the relationship with 3M, the former contractor for the project.

In developing KAVIS, the cabinet experienced poor quality of deliverables received from 3M and received a request from 3M for additional funding. The cabinet was unable to overcome these issues and elected to end the contractual relationship with 3M, effective May 14, 2014. At the time of testimony, the cabinet was in negotiations to obtain the source code to be able to complete the KAVIS project. The secretary testified that even though the decision to end the contractual relationship with 3M will affect the implementation date, the cabinet's focus was and is to deliver a high-quality project to the stakeholders, primarily county clerks, the Department of Motor Vehicle Licensing, and the Department of Revenue.

The secretary testified about three routes that the cabinet could pursue in order to continue to construct KAVIS. In order of preference, the first option would be to obtain the source code and complete the project as planned, using the cabinet staff to complete the project. The second option, if the source code is not obtained, would be to use the existing analysis that the cabinet has gathered throughout the project, and the stakeholders will assist the cabinet in developing a solution to meet the KAVIS needs. The third option would be to enhance the existing Automated Vehicle Information System (AVIS).

Concerning the third option of enhancing AVIS, the 3M project manager said the cabinet would consider ways to keep the mainframe application in place but would build a front-end solution to better enable processes within the county clerk offices and would also build online services for citizens that would use the mainframe as it exists, essentially making AVIS enclosed in the final KAVIS project.

The 3M project manager said that, in her opinion, funding-related issues have been the main cause of the issues with 3M and the cabinet in halting the KAVIS project. She said that, when considering the initial bid on the KAVIS project, 3M made some incorrect assumptions. After purchasing Archon, within 2 years, 3M grew from approximately 50 to approximately 300 employees. Because of that growth, 3M bid on Kentucky, as well as a few other states. Although the increase in resources sounded promising, that increase led to lack of experience among newer employees, while the more experienced employees were spread thin over several state projects. The company did not have processes to accommodate the increase in resources, which resulted in a large amount of turnover, and people being moved from various projects and pulled from KAVIS. The core personnel initially on the KAVIS project were Archon personnel who were very knowledgeable about the project, but they were eventually changed out to personnel who knew little about the project, causing a delay, which in turn caused the need for more funding.

The 3M project manager testified to ongoing project activities during the period of indecision in an effort not to waste time. At the time of testimony, the cabinet started identifying areas for correction in AVIS to improve the data quality, and it was also constructing a print-on-demand decal (PODD) and scanning analysis for early implementation with AVIS, so that county clerks could automatically print a decal with the registration transaction rather than having separate books of decals. The scanning analysis would allow county clerks to scan documents in-house for early implementation with AVIS. The cabinet has been identifying gaps in analysis and beginning assignment of resources to gather the missing requirements and has also been reviewing third-party components to enhance the KAVIS product.

The 3M project manager said KYTC is making an effort to maintain a relationship with the stakeholders of KAVIS. KYTC recognizes the amount of time and effort the stakeholders have put into the project, specifically the county clerks, as they have traveled to several parts of the state and brought in several resources to help the cabinet test the system components. The cabinet tries to keep the clerks and other stakeholders involved and provide them with as much information as possible. The 3M project manager reiterated that KYTC is dedicated to finishing the project.

The 3M project manager said county clerks, automobile dealers, the Motor Vehicle Licensing Department, the Department of Revenue, and the public are all stakeholders in the KAVIS project. The cabinet has tried to stay in touch with the Kentucky Automobile Dealers Association and the Motor Vehicle Commission throughout the process. There are a few other stakeholders that are referred to as secondary stakeholders in KAVIS.

Concerning the transfer process, KAVIS, and KADA's concerns with that part of the project, the 3M Project Manager said the KAVIS project and any proposed changes to the vehicle transaction form are separate issues. KYTC has some long-term future changes and enhancements for the vehicle transfer process in KAVIS, and KYTC worked with KADA, other dealers, and the Motor Vehicle Commission to design them. When KAVIS is implemented, those enhancements will be included.

KYTC established a service-based contract that was awarded to Xerox. Xerox owns the printer, equipment and the cabinet pays Xerox per print. If the print includes a decal, that print is a certain price; if the print is plain paper with no decal, it is a different price. The money that KYTC pays for prints goes toward paying for the printers, the maintenance of the printers, and ink. The cost of buying the paper would be an additional expense to the county clerk, as it is not covered under the price per print.

The cabinet has paid 3M only for deliverables received. The original contract was for $10.2 million, the additional change request was approximately $2.8 million, and the cabinet has paid 3M only $4,135,000 to date.

Concerning exploring negotiations with other vendors, the 3M project manager said KYTC is looking at other vendors for specific components of the application but not to complete the whole project. For example, the cabinet is not fond of the correspondence piece developed for KAVIS, and if the source code is obtained, they may seek a vendor for that component. The cabinet wants a system that meets the needs of all stakeholders, so it may search for vendors that can do specific pieces of the application.

The source code is 3M's intellectual property. The contract was designed, and the system was implemented so that the cabinet would maintain ownership of the source code and have it in possession so that it would be available to use; KYTC would own any modifications or enhancements it made to the code.

The 3M project manager said that the request for proposal issued for the PODD vendor included several specifications for testing of quality and verification that the decal would not peel off easily. A specific vendor is used throughout the industry for the decals.

If the cabinet is forced to enhance AVIS, it would stop the process of initiating the Plate 2 Customer application because AVIS is a very plate-to-vehicle application, and it would be possible but difficult to transition that system to a plate-to-customer system.

If the source code is not obtained, KYTC would be starting development from scratch but all of the analysis that has been gathered would still be used, making a large piece of the project ahead of schedule. The initial proposed completion date for the KAVIS project was December 2012.

At the committee's November meeting, the cabinet indicated via letter that it will take the second option of using the existing analysis that the cabinet has gathered, with the stakeholders assisting in developing a solution. The cabinet will take over development of KAVIS after the Finance and Administration Cabinet formally rejects the 3M software. KYTC will construct KAVIS in modules developed independently, starting with print-on-demand registration decals and real-time document scanning in 2015.

Prefiled Bills

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

Report of the 2014
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 Rhoads
Sen. Albert Robinson
Sen. Reginald Thomas
Sen. Whitney Westerfield
Sen. Mike Wilson
Rep. Johnny Bell
Rep. Robert Benvenuti III
Rep. Regina Bunch
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Rep. Denver Butler
Rep. Dwight D. Butler
Rep. Larry Clark
Rep. Leslie Combs
Rep. Tim Couch
Rep. Will Coursey
Rep. Ron Crimm
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Rep. Myron Dossett
Rep. David Floyd
Rep. Jim Glenn
Rep. Jeff Greer
Rep. Kenny Imes
Rep. Martha Jane King
Rep. Jimmie Lee
Rep. Donna Mayfield
Rep. David Meade
Rep. Terry Mills
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, Jessica Zeh, and Rhonda Schierer

Presented to the
Legislative Research Commission
and the
2015 Regular Session of the
Kentucky General Assembly

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

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

Committee Activity

Veterans

Department of Veterans' Affairs Annual Update. The commissioner and staff of the Kentucky Department of Veterans Affairs (KDVA) covered the areas of homeless veterans, services, veterans' homes, field operations, cemeteries, and news in their annual update to the legislature. The two homeless veterans programs are Lexington's Leestown Campus Homeless Veterans Shelter and Louisville's Interlink Counseling Services. There are 18,638 World War II veterans living in Kentucky.

There are other services that have no line-item funding, but it is possible to partner and collaborate with other agencies. The Veterans' Trust Fund has given $120,000 to the Transportation Cabinet over the last few years for a nonemergency Medicaid transportation program with a veteran's component. This program serves veterans who previously did not have transportation to a VA hospital, as well as those who have low incomes or are disabled.

KDVA is partnering with the federal VA to expand telemental health services, particularly in rural areas and at a facility in Corbin. Community mental health centers are providing space and the VA is providing the telemental health equipment and staffing. This allows veterans who live in the area to stay in their homes instead of traveling to Lexington. The department is looking into other areas of the state for partnership. Working with the Department of Behavioral Health, KDVA has established a veteran peer network in Louisville, Lexington, and Northern Kentucky. KDVA is looking to bring stronger mental health services to the veterans' nursing homes and met with the VA in September to discuss the possibilities.

The deputy commissioner stated that an interagency work group meets regularly to determine ways to reduce the unemployment rate among veterans. Veterans' unemployment rate in Kentucky is 7.2 percent. KDVA has partnered with the US Chamber of Commerce to host job fairs in Lexington and Louisville. The trust fund has also given money to host several job fairs, and Morehead University hosted a job expo in Ashland.

The Thompson-Hood Veterans Center in Wilmore has beds for 285 veterans and has 261 residents. The Eastern Kentucky Veterans Center in Hazard has 116 residents and stays at full capacity. The Western Kentucky Veterans Center in Hanson has 108 residents and has reopened a wing to improve access and admissions. There are a total of 438 beds in the nursing homes, and 78 beds are available. The available beds are mostly due to the vacancies in the Western Kentucky home. The Radcliff Veterans Center is scheduled to open in the fall of 2015.

The KDVA Field Operations Branch has 1,862 new applicants, has received 824 new claims, and has issued 88 tuition waivers this year. In the last year, field operations has submitted fully developed claims to the VA in two-thirds of the cases, helping veterans and dependents receive benefits more promptly. KDVA is working with the VA's appeals branch to create a fully developed appeal form.

Kentucky's veterans' cemeteries include the West, in Hopkinsville; the Central, in Radcliff; the North, in Williamstown; and the Northeast, in Greenup County. There is no residency requirement, and veterans from other states can be buried in Kentucky cemeteries. The next planned cemetery site is Veterans' Cemetery Southeast, in Leslie County.

Joint Executive Council of Veterans' Organizations Annual Update. There are several reasons for the large number of empty beds in veterans' nursing homes. The Joint Executive Council of Veterans' Organizations (JECVO) has coordinated and communicated with KDVA on opportunities to partner to improve problems among the nursing homes. JECVO met in September to explore admitting nonveterans and the potential ramifications. Other states have designated a percentage of beds to nonveterans. Nonveterans would have to pay full price for their stays in the nursing homes if they have the ability to pay. Medicaid or Medicare may pay for the stays if nonveterans are eligible. Nonveterans would not be eligible for the per diem and other resources that the VA provides for veterans.

Last year an additional $100,000 was designated through the state budget for the state honor guard program. There are only 13 or 14 World War II veterans in the Lexington, Frankfort, and Louisville areas, and only 4 or 5 Pearl Harbor survivors in Kentucky. JECVO works with 23 organizations that volunteer to help the veterans. There have been 918 volunteers who worked 79,190 hours. Material donations were equal to $670,714, and the organizations have 30 van drivers, 64 patient escorts to help patients in wheelchairs to get to doctor appointments, and 86 honor guard volunteers. Young volunteers are needed because many current volunteers are aging and becoming unable to volunteer. JECVO works diligently to take food and games to the 40 veterans who reside in the homeless shelter in Lexington.

Proposed Bowling Green Veterans' Center. Representatives of Warren County provided information to encourage the building of a new state veterans' center in Bowling Green. There are 22,000 veterans in the Bowling Green area, and there is a potential growth of 22,000 veterans just outside the area. The Community Blueprint Project focused on eight areas that would improve if a veterans' nursing home was built in Bowling Green: education, behavioral health, family strength, employment, reintegration, volunteerism, financial and legal aid, and housing. There was a kickoff meeting in 2013 and a follow-up meeting in 2014 with the Warrior and Family Support program, in the Department of Defense.

Warren County has excellent health care services to support centers and clinics, including a new primary care center that will assist the VA hospital in Nashville in service to the area. Warren County has two regional hospitals with emergency care services and more than 250 practicing and registered physicians who support a vast number of health care services. Services available in the area include transportation to a VA hospital in Nashville. The lack of travel support from rural areas is always a problem, the need for a facility is increasing, and congressmen from Kentucky will help Bowling Green get on the VA project list when the General Assembly passes support and funding.

The commissioner of the KDVA discussed the initial application required for state nursing home construction and acquisition grants, and members were provided a copy of an application from KDVA. There has not been a completed need assessment by KDVA since the Radcliff nursing home project began. The assessment should include demographic characteristics of the veteran population; the number of VA, state, and community-based nursing home beds and the occupancy rate from the previous fiscal year; waiting lists for existing state nursing home programs; plans for acute medical care/emergency care services as required by state nursing home residents; and availability of qualified medical care personnel to staff the proposed facility.

Services in Kentucky for Female Veterans. A female veteran who was an officer in the Kentucky National Guard stated that there is a need for women to have mentoring in the military and among female veterans. Many women in the military experience sexual harassment and military sexual trauma; therefore, mentoring relationships among women are critical.

Homeless female veterans face many issues, there are fewer places that cater just to homeless women, and frequently women also have children with them. Most often homeless female veterans are unaware of places where they can seek shelter. A majority of the existing facilities host men as well as women, and frequently the men may have issues of alcoholism or drug addiction, creating an intimidating and unsafe place for the women, many of whom are also survivors of sexual trauma. There are several facilities for homeless veterans in Louisville, but the locks are insufficient and the facilities are not specifically designed for women, much less female veterans. There is also a need to make women aware of their educational benefits and to provide more job fairs, small-business workshops, and child care for them during drill weekends.

The women's coordinator with the KDVA related that there are about 2.5 million female veterans nationally who have had multiple deployments, blurring combat and noncombat operations, which suggests that their needs may differ from those of female veterans of previous eras. The average age of female veterans is 49, and the average age of male veterans is 60. Compared to non-veteran women, a higher percentage of female veterans have a bachelor's degree or higher, and about 38 percent of female veterans work for local, state, or federal government, compared to 18 percent of non-veteran women.

The VA is improving services to make sure women who are eligible for VA health care can access services for their needs. There has been expanded research on the impacts of trauma, combat exposure, mental health outcomes of civil reintegration, and overall health care needs for women. The women's VA call center for benefits, education, and health care is 1-855-VAWOMEN. There are 248 homeless female veterans on record in the state.

The KDVA hopes to have a full-time position for a women's veteran coordinator by 2016, but budget levels prohibit a full-time position at this time. There are 33,000 Kentucky female veterans; the KDVA has only 1,900 claims by female veterans. The reason for the low number of claims is that female veterans often do not define themselves as veterans because some think they had to be in combat to be eligible for any type of benefit. The women's coordinator can spend only approximately 15 percent of her job time working with female veterans, and those in rural areas have no specific representation.

Veterans' Access to Health Care. The interim director to the Robley Rex Veterans Affairs Medical Center (VAMC) in Louisville stated that since 1952 the hospital has provided services for more than 150,000 Kentuckiana veterans living in 35 counties. It has medical, surgical, psychiatric, and substance abuse residential beds available. There are outpatient clinics in Carrollton, Dupont, Fort Knox, Grayson County, Newburg, and Shively. A new patient access center has opened to provide centralized scheduling of veterans new to Robley Rex VAMC. The hospital has hired additional clinical and scheduling staff to support additional outpatient clinics and has added a primary care team at the Scott County and Fort Knox community outpatient clinics. The interim director stated that new and established patients have less than a 30-day waiting period. The VAMC accommodates acute urgent patients as needed, and those patients are not included in the waiting period figure of less than 30 days because they are seen very quickly.

Veterans Access, Choice, and Accountability Act of 2014. A representative from the Robley Rex VAMC stated that the president signed the Veterans Access, Choice, and Accountability Act of 2014 into law on August 7, 2014. National mechanisms are being developed to ensure that the legislation is applied correctly and consistently. The VA medical centers will continue to use their existing authority to see that veterans receive care from other health care organizations when the VA is unable to provide it and will integrate the directives regarding the new law when they receive it from the VA headquarters.

Replacement Hospital. The Robley Rex VAMC is studying the environmental impact of the new medical center construction on the Brownsboro Road site to comply with the National Environmental Policy Act. From 2014 to 2016, design phases will continue to work out details to build the most efficient and effective spaces possible for veteran care. Construction will begin in 2016, subject to congressional approval and funding. The anticipated grand opening of the Louisville VA Replacement Medical Center is 2023. The new hospital will be located farther from the University of Louisville hospital and the doctors there that help treat VA patients, but other hospitals are transitioning further east. Thus, many of the doctors may actually be closer.

Polytrauma. The polytrauma program manager from the Robley Rex VAMC stated that the mission of the Polytrauma Traumatic Brain Injury (TBI) Program is to provide comprehensive traumatic brain injury evaluations and the necessary follow-up for veterans with TBI or polytrauma. Polytrauma consists of two or more injuries, one of which may be life threatening, sustained during the same incident that affect multiple body parts or result in physical, cognitive, psychological, or psychosocial impairments and functional disabilities. The TBI program team includes a polytrauma coordinator, social work case manager, medical doctor, nurse practitioner, neuropsychologist, patient administrative assistant, physical therapist, occupational therapist, and speech therapist. The clinic is primarily driven by returning combat veterans who screen positive on TBI, but it is open to all veterans.

PTSD Treatment Options. Staff from the Robley Rex VAMC described posttraumatic stress disorder (PTSD) protocols and options. The center treats four types of trauma: combat and war-zone trauma, traumatic grief and loss, military sexual trauma, and accidents. Common comorbidities with PTSD in veterans are substance abuse, depression, traumatic brain injuries, chronic pain, and insomnia. As of February 2014, there were 350,898 veterans nationwide with potential or provisional PTSD. Individuals with PTSD have elevated risk for substance abuse, suicide, relationship issues, homelessness, and risk of poor physical health. Patients who are presumed to have symptoms of PTSD or who are positive for PTSD on the initial screening receive a thorough assessment of symptoms. Other psychological testing is used when symptoms are complex and multiple diagnoses are under consideration. When assessing trauma exposure, the clinician considers the veteran's ability to tolerate the recounting of traumatic material, since it may increase distress and exacerbate PTSD symptoms.

Psychotherapy, trauma-focused therapy, eye movement desensitization and reprocessing therapy, and group therapy are the evidence-based treatments for PTSD. Other treatments include motivational interviewing, safety treatment, acceptance, and commitment therapy for anger. The center provides services for couples counseling, cognitive behavior therapy for insomnia, suicide prevention, in-home visits, compensated work therapy program, peer support, homeless services, substance abuse treatment, and veteran's court. There is no medication proven to specifically treat PTSD, but types of medication used for treatment include antidepressants, mood stabilizers, atypical antipsychotics, anticonvulsants, anxiolytics, and sleep aids. Telemental health includes individual therapy services and medication management services available to other VA outpatient offices and to the veteran's home.

OEF/OIF/OND Program. The case manager of the OEF/OIF/OND Program stated that the program's name is going to be changed soon to the Transition Care Management Teams as large-scale overseas missions end and evolve. The postdeployment health care team provides a seamless transition from the military to VA medical care through case management, referral, and health care services. The VA screens for depression, substance abuse, PTSD, military sexual trauma, and traumatic brain injury. The team includes a program manager, two social workers, two RN case managers, VA/Department of Defense liaison, transition patient advocate, chaplain, and program analyst.

Advocates for Medical Marijuana Treatment for PTSD. A veteran and a senior adviser for the Veterans for Medical Cannabis Access Group testified on how they favor medical cannabis treatment for PTSD. The veteran testified that it helped him get off multiple drugs he had been taking for a broken back and PTSD. The senior adviser for the medical cannabis access group stated that he works with veteran medical cannabis patients to help them with the VA system. He provided the committee with information on the VHA Directive 2011-004. The directive provides access to clinical programs for veterans participating in state-approved marijuana programs, which Kentucky currently does not have.

Brain Injury Alliance of Kentucky: Grant Update. The program manager of the Brain Injury Alliance of Kentucky (BIAK) indicated that BIAK has a goal to reach Kentucky veterans who have returned from overseas deployment with mild TBI. Concussions are the most common cause of mild TBI, and blast injuries are the most common cause of the combat concussions. It is important that soldiers report even the slightest brain injury. The military relies on self-reporting from soldiers before it will consider treatment, and many soldiers deny problems to get home faster. Existing problems may be overlooked by a family that is excited to be reunited with the soldier. Some co-occurring symptoms of TBI with PTSD are fatigue, insomnia, depression, irritability, and anxiety.

A brain injury is not considered mild when it affects employment, education opportunities, or family relationships, or when drugs and alcohol are used to treat the symptoms. The effects on society when TBI is not properly treated are unemployment, broken homes and domestic violence, substance abuse, homelessness, and incarceration. BIAK's goal is to reach as many veterans as possible with information about mild TBI, offer a confidential contact, connect them with the appropriate resource for diagnosis, help them learn the benefits they may receive, offer tips to cope with some of the symptoms, and offer a community of other veterans.

Epilepsy Foundation of Kentuckiana: Grant Update. The coordinator of veterans' services at the Epilepsy Foundation of Kentuckiana stated that the foundation works with veterans who experience seizures. One in 26 people will develop epilepsy. There are nearly 500 new cases every day, and the risk of developing epilepsy is increased in veterans. There is a significant probability that these veterans who experienced concussions or explosions during combat will develop posttraumatic epilepsy (PTE). Operation Outreach has a mission to raise public awareness of PTE in the OEF/OIF/OND veteran population, raise clinician awareness of PTE and psychogenic nonepileptic seizures, and assist veterans in connecting with services to improve their quality of life.

Veterans in the Criminal Justice System. The general manager of pretrial services stated that since 2010, the Administrative Office of the Courts (AOC) has identified more than 25,000 veterans who have been arrested and charged with a crime. The pretrial service officers ask three questions to determine whether an arrestee is eligible for services: whether the person has prior or current military service; whether the person is a veteran; and whether the person has been in combat. By asking all three questions, AOC is more likely to capture a person who is potentially a veteran and eligible for services. After getting the information, AOC asks permission to provide the information to the Veterans Justice Outreach Coordinators (VJOs).

The AOC has identified areas with high concentration levels of veterans in the criminal justice system to initiate the veterans' treatment court program, and the general manager of drug court services provided a handout that gave an overview of the county programs in operation. The current programs are in Campbell, Hardin, and Jefferson counties. Christian and Fayette counties have started pilot programs using drug court funding until they can get federal funding. Northern Kentucky is a tier one program that is a fully funded veterans' treatment court.

The supervisory coordinator for health care for homeless veterans stated that the US Department of Veterans Affairs Veterans' Justice Outreach is a systemwide effort to ensure access to services for the veteran population at risk for homelessness, substance abuse, mental illness, and physical health problems. There are 300 law enforcement officers in Kentucky who have been trained to work with PTSD, TBI, and the veteran/military culture since 2011. There are six VJOs that cover the entire state. The VJOs receive a list of veterans in the court system each day, and there are currently between 475 and 500 veterans on the list. These services are not part of the 18-month Veterans Treatment Court program, but they work with the veteran treatment courts. The primary role of the VJOs is to identify unenrolled veterans and link them to the VA.

Military Affairs

Revisions to the KY Code of Military Justice. A colonel from the Kentucky Army National Guard discussed the revisions to the Kentucky Code of Military Justice. He stated that it does have common law offenses but the revisions give much greater flexibility and covers newer offenses such as cyber stalking and harassment through technology. Previous penalties given were as little as 6 months, and those penalties now are up to 10 years, which gives a greater level of deterrence. The revised code allows the Kentucky National Guard to take personnel action for inappropriate conduct off duty as well as on duty. Having additional victim advocates has improved awareness in the new code and the newer penalties related to sexual crimes, and victims trust it enough to come forward.

There is a training period and video of the revised code for all new members of the National Guard. Existing members are all briefed and given the new set of rules. The new code has made members of the guard aware that they are responsible to guard standards at all times. There are six sexual assault advocates and 60 trained victim advocates. The colonel stated that it would be beneficial to have 70 victim advocates, which would allow one victim advocate for each armory throughout the state.

Supplemental Programmatic Environmental Assessment. The executive director of the Kentucky Commission on Military Affairs indicated that the nation's reductions in Army strength have affected Fort Campbell and Fort Knox. There is about a 1 percent decrease in head count at Fort Campbell and a 42 percent decrease in the active component force at Fort Knox. Fort Campbell is being considered for an additional maximum cut of 16,000 soldiers and Fort Knox for an additional cut of 4,100. Approximately 8,500 letters have been sent to the Army on behalf of the installations. He encouraged all levels of elected officials to tell the Army about the importance of the installations. The combined economic impact of the loss at Fort Knox and Fort Campbell is $6 billion. A resolution was adopted urging the Department of the Army to avoid further cuts at Fort Knox and Fort Campbell.

Public Protection

Ebola and Kentucky Tobacco Plants Used in Pharmaceutical Research and Treatments. The commissioner of the Department of Public Health discussed the Ebola virus. She stated that it was first recognized in 1976 near the Ebola River Valley. Outbreaks typically occur in tropical regions of sub-Saharan Africa. Mortality rates of these outbreaks range from 25 percent to 90 percent. The 2014 outbreak in West Africa is the largest to date. The outbreak in West Africa is caused by the Zaire Ebola virus, which can cause the most severe illness and has higher case-fatality rates. Transmission of the virus occurs through direct contact with infected body fluids. The virus typically runs its course in 14 to 21 days. There are no specific FDA-approved vaccines or antiviral or other medications for treatment of the Ebola virus. The commissioner stated that experimental treatments have been proven effective in animals but have not been studied in humans. ZMapp is a preparation of antibodies manufactured in tobacco plants. It has been used as an experimental treatment, but it is too early to know whether it is effective. Drug manufacturers have begun safety and efficacy studies. There are no cases of the virus in Kentucky.

There is currently a very low risk of Ebola in the United States. Airline passengers are screened for symptoms before leaving countries with ongoing outbreaks of the virus. State health departments and partners are working at US ports of entry to prevent introduction of the virus into the population. US military will be deployed to provide equipment and other assistance to contain the outbreak.

An overview was given on the use of tobacco in the research and production of pharmaceuticals and the role that the Governor's Office of Agricultural Policy has played in funding startups involved in that research, such as Kentucky BioProcessing, whose product has been part of the experimental Ebola treatment. Kentucky has embarked on diversification efforts for tobacco to develop proteins for treatment of cancer and other illnesses. Kentucky BioProcessing extrapolates proteins from tobacco plants to create vaccines and antiviral medication. This could be a great potential for tobacco farmers; however, these specific tobacco plants must be grown indoors to survive.

Report of the 2014 Administrative Regulation Review Subcommittee

Sen. Ernie Harris, Co-Chair
Rep. Mary Lou Marzian, Co-Chair

Sen. Perry B. Clark
Sen. Sara Beth Gregory
Sen. Alice Forgy Kerr
Rep. Robert R. Damron
Rep. Jimmie Lee
Rep. Tommy Turner

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

Presented to the
Legislative Research Commission
and the
2015 Regular Session of the
Kentucky General Assembly

Administrative Regulation Review Subcommittee

Jurisdiction: Review and comment on administrative regulations submitted 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 42 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, 2013, through November 14, 2014, executive branch agencies filed 78 emergency administrative regulations (an increase of 26 percent over the prior year) and 568 ordinary administrative regulations (an increase of 15 percent over the prior year). Of the ordinary administrative regulations filed, 103 were new, 374 were amendments to existing administrative regulations, and 91 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 before its monthly subcommittee meetings. Of those ordinary administrative regulations reviewed, one was found deficient, 292 were amended to conform to KRS Chapter 13A and other appropriate statutes, and 99 were approved as submitted by the agency. Additionally, 12 administrative regulations were withdrawn by the promulgating agencies during this period. These totals do not include 119 administrative regulations scheduled for review during the subcommittee's December 2014 and January 2015 meetings.

The one administrative regulation found deficient became effective notwithstanding the finding of deficiency based on a written determination made by the Governor. This administrative regulation was 907 KAR 1:604, Recipient cost-sharing, promulgated by the Cabinet for Health and Family Services, Department for Medicaid Services.

The subcommittee staff and the regulations compiler conducted 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, 2014. The *Kentucky Administrative Regulations Service* was made available both in a bound 13-volume set and in a one-CD format.

Report of the 2014
Capital Planning Advisory Board

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

Sen. Whitney Westerfield
Rep. Tom Riner
Charles Byers
Jane Driskell
Laurie Dudgeon
Ben S. Fletcher III
Carole Henderson
John Hicks
Sherron Jackson
Mary Lassiter
James W. Link
Mark R. Overstreet
Katie Shepherd

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

Presented to the
Legislative Research Commission
and the
2015 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 2014 Regular Session of the General Assembly, the Capital Planning Advisory Board has held three meetings. The meetings convened in May, August, and October and focused primarily on the review of authorized capital construction and information technology projects.

Construct Replacement Of Eastern State Hospital

The May meeting was held at the new Eastern State Hospital in Lexington. Staff of the Cabinet for Health and Family Services (CHFS) testified regarding construction and maintenance of the new facility. Construction of the hospital began in September 2010 and was completed in May 2013 at a cost of $118,135,000. The 300,000-square-foot facility replaced the old Eastern State Hospital, which was built in 1824 and was the second oldest psychiatric facility in the country.

The new complex, situated on 29 acres at the University of Kentucky Coldstream Research Park, consists of an inpatient facility with 239 patient beds, a 17-bed unit for patients with acquired brain injuries, and a long-term care unit. Four personal-care homes are provided for patients who will eventually return to a community setting. The hospital is managed and operated by University of Kentucky HealthCare at a cost of $43 million annually.

Eligibility Systems Integration Services project

CHFS staff testified regarding the Eligibility Systems Integration Services project. This information technology project will integrate the cabinet's intake and eligibility programs through the development of a single eligibility system. The current system, Kentucky Automated Management and Eligibility System, is a 20-year-old legacy mainframe system that is obsolete and not fully integrated.

The project was initially included in the cabinet's 2014-2020 capital plan as its number two priority ($11,378,000 general funds and $46,122,000 federal funds, Plan Version 3). It was later removed from the agency's capital plan and authorized during the Interim with federal funding.

Next Generation Kentucky Information Highway project

Commonwealth Office of Technology and Finance and Administration Cabinet staff discussed the Next Generation Kentucky Information Highway project. In collaboration with various state, local, and federal entities, the goal of the project is to position Kentucky to be a national leader in high-capacity Internet service connections. The initiative will move Kentucky much higher than its current national ranking of 46th in high-speed broadband Internet availability.

The $70 million project was authorized in the 2014-16 executive budget with federal, bond, and private funds. Phase I will develop an integrated, dark-fiber optical network consisting of about 3,000 miles of fiber infrastructure statewide. (Dark fiber refers to fiber-optic cable that has been laid but is not yet in use.)

Kentucky Business One-Stop Portal

The Secretary of State's Office and Finance and Administration Cabinet staff discussed progress of the Kentucky Business One-Stop Portal (KyBOS) project at the August meeting. 2011 SB 8 authorized the portal project and established the KyBOS Portal Advisory Committee to make recommendations for the creation, operation, and management of the project.

The ultimate goal of the portal is to provide a single, unified entry point for business owners to access necessary state services when establishing or relocating a business to Kentucky. Phase I was authorized in the 2012-2014 executive budget with $5,000,000 bond funds reallocated to the Secretary of State's Office from the Department of Revenue Comprehensive Tax System project. Phase 2 was authorized in the 2014-2016 executive budget with $4,143,000 bond funds and $2,600,000 general funds.

Program Review and Investigations Committee Information Technology Study

The staff of the Legislative Research Commission's Program Review and Investigations Committee discussed an ongoing study relative to the state's information technology resources. State agency leaders and technology managers were surveyed via electronic questionnaire or personal interview. Because of the Capital Planning Advisory Board's role in the capital planning and budget process, board members were also surveyed. Member responses indicated that the current joint planning process for information technology, construction, and equipment is adequate and appropriate, given the board's statutory role. One respondent noted that while the current planning process is appropriate, a more frequent planning/review process would better accommodate the rapid nature of changes in technology.

Suggestions for improvement to the capital planning process included the following:

- Increase the capital project thresholds from the current $600,000 to $800,000 or $1,000,000. An increase would allow the planning process to focus on the review of larger infrastructure projects and would provide agencies the flexibility to acquire smaller information technology systems and equipment as needed.

- Agency capital plans should better highlight when an information technology system could offer enterprise-wide benefits in addition to agency/programmatic benefits.

- Increase the list of recommended information technology projects in the capital plan from ten to 15. (Members currently recommend 15 projects in two other categories, Construction-New and Construction-Maintenance/Renovation.)

Tax Increment Financing for Postsecondary Construction Projects

The board met at Western Kentucky University (WKU) in Bowling Green, received information on tax increment financing for WKU construction projects, and toured capital construction projects. The WKU Gateway to Downtown Bowling Green tax district was established in 2007 via agreement among the City of Bowling Green, Warren County, and the Commonwealth of Kentucky. Under the terms of the agreement, the district receives 80 percent of the increases in payroll, property, sales, and other tax revenue it generates through new development within the district. As of June 30, 2014, capital investment in the district surpassed the required goal of $150 million 6 months ahead of schedule.

The district encompasses 383 acres and 52 blocks. Twenty-eight projects have been completed or are under construction, including the Augenstein Alumni Center, Alumni Square Parking Garage, WKU Student Life Foundation Apartments, the Medical Center/WKU Health Sciences Complex, and Hyatt Place Hotel. Plans are under way for one new project, the WKU College of Business.

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
2015 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; 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, 2013, and October 31, 2014. The committee met nine 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
Department of Military Affairs	Construct Addition to Building 300	$760,000 Federal
Department of Military Affairs	Construct Rappel Tower at Joint Support Operations Counter Drug Center	$662,600 Federal
Department of Military Affairs	Construct Weapons Repair Shop	$656,744 Federal and restricted
Department of Military Affairs	Expand Water Service Project	$750,000 Federal
Department of Military Affairs	Field Maintenance Shop No. 9 Interior Repairs	$775,000 Federal
Department of Military Affairs	National Guard Memorial	$1,397,700 Private and General Fund
Department of Military Affairs	Roof Replacement	$696,200 Federal
Department of Military Affairs	Truck Wash Facility	$698,730 Federal and restricted
Department of Parks	Beech Fork Covered Bridge Upgrade	$1,939,300 Federal

Agency	Title Of Project	Scope/Fund Source
Education and Workforce Cabinet	Kentucky Statewide Longitudinal Database System	$636,000 Federal
Office of Employment and Training	IT System Improvements	$750,000 Federal
Office of Employment and Training	State Identified Prevention Strategy Upgrade	$990,000 Federal
University of Kentucky	Construct Football Training Facilities and Practice Field	$45,000,000 Private
University of Kentucky	Center for Applied Energy Research Slipstream Project	$1,600,000 Federal
University of Louisville	Delia Baxter Building Renovation	$2,500,000 Private

The committee approved one scope increase for an unbudgeted capital project during the Interim. The Department of Veterans Affairs requested a $43,900 increase for the Eastern Kentucky Veteran's Center – HVAC Humidity project to address problems with moisture and service platforms. The revised project scope was $708,600 and was paid from restricted funds.

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 12 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
Department of Military Affairs	Expand State Emergency Operations Center	$25,900	$9,825,900
Department of Military Affairs	Install Backup Generators	$150,000	$1,150,000
Kentucky State Police	Demolition and Construction of Training Academy Building	$2,275,000	$4,275,000
Transportation Cabinet	Laser Crack Measurement System	$120,000	$600,000
Transportation Cabinet	Video-Logging Roadway Feature System	$120,000	$600,000
University of Kentucky	Acquire Campus Security System	$200,000	$5,000,000
University of Kentucky	Construct Academic Science Building	$12,000,000	$112,000,000

Agency	Project Title	Increase	Revised Project Scope
University of Kentucky	Construct/Expand/Renovate Ambulatory Care Facility	$1,400,000	$21,400,000
University of Kentucky	Construct/Replace/Upgrade Student Housing Phase II-C	$85,000,000	$362,000,000
University of Kentucky	Construct Student Dining Facility	$35,000,000	$35,000,000 (fund substitution)
University of Kentucky	Expand/Renovate Commonwealth Stadium and Nutter Training Center	$10,000,000	$120,000,000
University of Kentucky	Patient Care Facility	$5,500,000	$613,100,000

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. The committee did not review any energy savings performance contracts during this reporting period.

Review of Bond-Funded Loan/Grant Programs

Economic Development Bond Projects. The committee reviewed and approved two grants from the Economic Development Bond 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, job maintenance, or both.

Economic Development Bond Grants Approved

Grantee	Company/Project	Amount
Inter-Modal Transportation Authority	Bilstein Group: new production plant	$1,000,000
McCracken County Fiscal Court	SRS Industries LLC d/b/a Whitehall Industries: new facility to produce components for automotive industry	$300,000

Kentucky Infrastructure Authority Projects. The committee reviewed and approved Kentucky Infrastructure Authority loans and grants to local government entities for public infrastructure projects.

Fund A (Federally Assisted Wastewater Revolving Loan Fund). The committee approved three loans totaling $24,477,063.

Fund A Loans Approved

Borrower	County	Amount
Lexington-Fayette Urban County Government	Fayette	$19,837,063
City of Owensboro	Daviess	$3,975,000
City of Vanceburg	Lewis	$665,000

Fund A Loan Increases. The committee approved five Fund A loan increases totaling $13,056,172.

Fund A Loan Increases

Borrower	County	Amount
City of Flatwoods	Greenup	$40,000
Lexington-Fayette Urban County Government	Fayette	$10,159,970
City of London f/b/o London Utility Commission	Laurel	$606,202
City of Owensboro	Daviess	$1,450,000
Sanitation District No. 1	Perry	$800,000

Fund B (Infrastructure Revolving Fund). The committee approved seven loans totaling $4,318,300.

Fund B Loans Approved

Borrower	County	Amount
City of Grand Rivers	Livingston	$263,000
City of Greensburg	Green	$350,000
Greenup Joint Sewer Agency	Greenup	$2,000,000
City of Hickman	Fulton	$55,000
City of Lebanon Junction	Bullitt	$200,000
City of London	Laurel	$1,100,300
Paradise Park Regional Industrial Development Authority	Muhlenberg	$350,000

Fund B Loan Increases. The committee approved two Fund B loan increases totaling $143,500.

Fund B Loan Increases

Borrower	County	Amount
City of Elkton	Todd	$32,000
City of Greenville f/b/o Greenville Utilities Commission	Muhlenberg	$111,500

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 approved two Fund C loans totaling $4,200,000.

Fund C Loans Approved

Borrower	County	Amount
City of Glasgow	Barren	$3,000,000
Northern Madison County Sanitation District	Madison	$1,200,000

Fund F (Federally Assisted Drinking Water Revolving Loan Fund). The committee approved nine loans totaling $12,708,431.

Fund F Loans Approved

Borrower	County	Amount
City of Carrollton f/b/o Carrollton Utilities	Carroll	$963,931
Cumberland Water District	Cumberland	$1,268,000
City of Flatwoods	Greenup	$325,000
City of Hardinsburg	Breckinridge	$1,190,000
Henry County Water District #2	Henry	$2,800,000
City of Midway	Woodford	$215,000
Northern Kentucky Water District	Kenton	$4,000,000
City of North Middletown	Bourbon	$680,000
Western Lewis-Rectorville Water and Gas District	Mason	$1,266,500

Fund F Loan Increases. The committee approved four Fund F loan increases totaling $9,905,631.

Fund F Loan Increases

Borrower	County	Amount
City of Danville	Boyle	$4,467,849
City of Harrodsburg	Mercer	$1,014,472
City of Mount Vernon	Rockcastle	$423,310
Northern Kentucky Water District	Kenton	$4,000,000

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. The committee did not review any State Property and Buildings Commission bond issues during this reporting period.

Postsecondary Institutions. The committee approved six new bond issues for postsecondary institutions.

Bond Issues

Bond Issue	Use	Amount
Morehead State University General Receipts Refunding Bonds, 2014 Series A and B	Current refund Morehead State University General Receipts Refunding Bonds, 2014 Series A and B	$27,460,000
Northern Kentucky University General Receipts Revenue Bonds, 2014 Series A	Renovation and expansion of Albright Center and acquisition and renovation of new residence hall	$47,375,000
University of Kentucky General Receipts Bonds, 2014 Series A	Commonwealth Stadium/Nutter Training Center and Academic Science Building	$190,255,000
University of Kentucky General Receipts Bonds, 2014 Series B	Gatton College of Business and Economics	$38,665,000
University of Kentucky General Receipts Bonds, 2014 Series B	Advance refund ALCo Series 2005A Notes, partially advance refund UK General Receipts Revenue Bonds Series 2005A, and partially current refund UK Consolidated Educational Buildings Refunding Bonds Series P, Q, and R (Second Series)	$88,145,000
University of Kentucky General Receipts Bonds, 2014 Series C	Commonwealth Stadium (private use component)	$10,055,000

Kentucky Economic Development Finance Authority. With Kentucky Economic Development Finance Authority (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 one KEDFA conduit bond issue during the reporting period. The actual par value of the KEDFA Healthcare Facilities Revenue Bonds, Series 2014 (Masonic Homes Independent Living II Inc. Project) was $13,000,000.

Kentucky Housing Corporation. The committee approved two conduit bond issues totaling $28,210,000.

Conduit Bond Issues

Bond	County	Amount
KHC Conduit Multifamily Housing Revenue Bonds (Maple Street Apartments Project), Series 2013	Marion	$1,150,000
KHC Tax-Exempt Indebtedness for the Benefit of Roosevelt House, LLLP	Daviess	$27,060,000

Kentucky Asset/Liability Commission Funding Notes. The committee approved two funding notes totaling $171,940,000.

Funding Notes

Notes	Project	Amount
ALCO Project Notes, 2014 Federal Highway Trust Fund Grant Anticipation Revenue Vehicles (GARVEEs), First Series A	US-68/KY-80 Lake Barkley and Kentucky Lake Bridges Project	$132,175,000
2014 Federal Highway Trust Fund First Refunding Series B	US-68/KY-80 Lake Barkley and Kentucky Lake Bridges Project	$39,765,000

Turnpike Authority of Kentucky. The committee reviewed one bond issue for the Turnpike Authority of Kentucky (TAK). The $121,325,000 in bond funds from the TAK Economic Development Road Revenue Refunding Bonds (Revitalization Projects), 2014 Series A, was issued to refinance advance funding.

Louisville/Southern Indiana Ohio River Bridges Project. The committee approved the issuance of two bond issues for the Louisville/Southern Indiana Ohio River Bridges Project. The committee also received status reports on the project throughout the year.

Bond Issues

Bond	Amount
Kentucky Public Transportation Infrastructure Authority (KPTIA) First Tier Toll Revenue Bonds, Series 2013, A, B, and C (Downtown Crossing Project)	$275,670,369
KPTIA Subordinate Toll Revenue Bond Anticipation Notes, Series 2013 A and B (Downtown Crossing Project)	$452,200,000

School Bond Issues

School Facilities Construction Commission. During the reporting period, the committee approved 72 school bond issues with School Facilities Construction Commission (SFCC) debt service participation for new schools, improvements at existing schools, and refunding outstanding debt.

Local School District Bond Issues. During the reporting period, the committee reviewed 34 local school district bond issues with 100 percent local debt service support and no SFCC debt service participation. These bonds were used for financing improvements at existing schools and refunding outstanding debt.

Review of State Leases

The committee approved five leases with square footage modifications with annual increases greater than $50,000 for the Department for Workforce Investment, Cabinet for Health and Family Services (two), Transportation Cabinet, and the University of Louisville. The total increased annual cost for these leases was $761,383.

The committee also reviewed eight 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 eight leases was $828,715.

The committee approved 13 new leases for a total annual cost of $3,609,440. These leases were for the Department for Workforce Investment (three), Cabinet for Health and Family Services (four), University of Louisville (two), University of Kentucky (two), and the Commonwealth Office of Technology (two).

The committee also approved 21 lease renewals for the Labor Cabinet, Cabinet for Health and Family Services (nine), Department of Agriculture, Department of Corrections, Department of Insurance, Department for Local Government, Department of Revenue, Department for Workforce Investment, Energy and Environment Cabinet (two), Unified Prosecutorial System, University of Louisville, and the Department of Public Advocacy.

Projects Not Approved

The committee did not meet in January, March, or April 2014, which resulted in 10 new projects, scope increases, or bond issues not being approved by the committee. The Finance and Administration Cabinet and Northern Kentucky University notified the committee that it would proceed with the projects.

Projects Not Approved

Agency	Project	Amount
Department of Military Affairs	New Unbudgeted Capital Project – Roof Replacement Building 200 – Bluegrass Station	$776,000
Kentucky Economic Development Finance Authority	Pool Project in Excess of $600,000 – Kentucky Small Business Innovation Research Matching Funds Program	$2,000,000
Kentucky Fair and Exposition Center	Emergency, Repair, Maintenance, or Replacement Project – Freedom Hall and Associated Arenas – Hail Damage	$3,100,000
Kentucky Higher Education Student Loan Corporation	KHESLC Student Loan Revenue Bonds, Series 2014 A	$21,650,000 (actual par value)
Kentucky Housing Corporation	KHC Single Family Housing Revenue Bonds, 2014 Series A	$61,445,000 (actual par value)
Northern Kentucky University	Scope Increase for Budgeted Project – Acquire/Renovate Residence Hall	$500,000
School Facilities Construction Commission	Bond Issues – Monroe County, Bell County, Hardin County, Pulaski County, Walton-Verona Independent, Gallatin County, Jefferson County, and Jessamine County	$87,415,000 (total bond proceeds)
State Property and Buildings Commission	SPBC Road Fund Revenue Bonds, Project No. 107, 2014 Series A	$6,085,000 (actual par value)
State Property and Buildings Commission	SPBC Road Fund Revenue Bonds, Project No. 107, 2014 Series B (Taxable)	$4,400,000 (actual par value)
Tourism, Arts and Heritage Cabinet	Pool Project in Excess of $600,000 – FILO Stream Mitigation Pool – Cove Spring Project	$113,400

Report of the 2014 Education Assessment and Accountability Review Subcommittee

Sen. Mike Wilson, Co-Chair
Rep. Rita Smart, Co-Chair

Sen. David Givens	Rep. Tim Couch
Sen. Alice Kerr	Rep. Joni Jenkins
Sen. Gerald Neal	Rep. Mary Lou Marzian

LRC Staff: Janet Stevens, Lisa Moore, and Daniel Clark

Presented to the
Legislative Research Commission
and the
2015 Regular Session of the
Kentucky General Assembly

Education Assessment and Accountability Review Subcommittee

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

Subcommittee Activity

The Education Assessment and Accountability Review Subcommittee met three times during the Interim. The subcommittee intends to meet in December.

Review of Administrative Regulations

The committee is charged with reviewing all referred administrative regulations related to Kentucky's assessment and accountability system. The following administrative regulations were referred to the committee during the Interim and were presented by Kentucky Department of Education (KDE) staff 703 KAR 5:070 Procedures for the inclusion of special populations in the state-required assessment and accountability programs and 703 KAR 5:080 and E Administration Code for Kentucky's Educational Assessment Program.

The committee intends to review 703 KAR 5:122 Repeal of 703 KAR 5:120 and 703 KAR 5:180; and 703 KAR 5:260 Implementation of intervention options in priority schools and districts at a December subcommittee meetings.

Oversight of the Office of Education Accountability

As part of its duties to provide oversight and direction to OEA, the subcommittee reviewed a report of OEA's investigative activities. For the 2014 fiscal year, OEA received 579 written complaints. Of these, 53 new investigative cases and 17 new cases related to school-based decision making (SBDM) were opened. Fifty-five investigative cases and 12 cases related to SBDM were closed, and 62 investigative cases and 20 SBDM cases are still pending.

The subcommittee received and accepted OEA's 2013 annual report required by KRS 7.410(2)(c)8. The report is a summary of the status and results of the current year annual research agenda and a summary of completed investigative activity conducted during 2013.

Four OEA study reports were received and accepted by the subcommittee. The first report, *Kentucky District Data Profiles,* is a compilation of data collected from various sources on all school districts with an individual profile for the entire state and includes student demographics and performance data, staffing data and related information, and district expenditure and revenue data.

The *Atlas of K-12 Education Data for 2013* provides statewide thematic maps of education data as well as contextual data, such as demographics, for all Kentucky school districts. As a supplement to detailed tabular data, thematic maps can make large amounts of data easier to comprehend and may reveal patterns and trends not readily apparent in data tables.

The *Compendium of State Education Rankings 2013* is a convenient reference tool regarding how Kentucky's education indicators compare to those of the nation, Southern Regional Education Board states, and other states that border Kentucky.

Education Revenue, Expenditure and Staffing Over 10 Years reviews the past decade of education data and examines changes that have occurred in that period. Topics include changes in revenues, enrollment, spending, and staffing variations, with some numbers adjusted for inflation. In addition to district-level trends, it includes revenue, spending, and staffing trends for KDE.

The subcommittee intends to hear OEA's study report, *College and Career Ready* and approve OEA's 2015 study agenda at a December meeting.

Report of the 2014 Government Contract Review Committee

Sen. Sara Beth Gregory, Co-Chair
Rep. Dennis Horlander, Co-Chair

Sen. Julian Carroll
Sen. Paul Hornback
Sen. Christian McDaniel

Rep. Jesse Crenshaw
Rep. Brad Montell
Rep. Brent Yonts

LRC staff: Kim Eisner, Daniel Carter, and Jennifer Wilson

Presented to the
Legislative Research Commission
and the
2015 Regular Session of the
Kentucky General Assembly

Government Contract Review Committee

Jurisdiction: Review of all nonexempt memoranda of agreement by and between state agencies, and review of all nonexempt personal service contracts by state agencies and by off-budget agencies, that include but are not limited to the Kentucky Lottery Corporation, the Kentucky Housing Corporation, state universities within the commonwealth, the Kentucky Employers' Mutual Insurance Corporation, the Kentucky Higher Education Assistance Authority, the Kentucky Student Loan Corporation, and the Kentucky Retirement Systems to examine the stated need for the service, whether the service could or should be performed by state personnel, the amount and duration of the contract or agreement, and the appropriateness of any exchange of resources or responsibilities; and review of all qualifying motion picture or entertainment production tax incentives.

Memoranda of agreement review exemptions include agreements between the Transportation Cabinet and political subdivisions of the commonwealth for road and road-related projects; agreements between the Auditor of Public Accounts and other government agencies for auditing services; agreements 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 2014 beginning July 1, 2013, and ending June 30, 2014, the committee reviewed 841 personal service contracts and 552 amendments to personal service contracts. The committee also reviewed 204 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

During FY 2014, the committee reviewed 894 memoranda of agreement and 1,129 memoranda of agreement amendments. The committee also reviewed 741 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only.

During FY 2014, the committee reviewed 1,597 personal service contract items, 2,764 memoranda of agreement items, and 5 film tax incentive agreements for a total of 4,366 items.

Since the start of FY 2015 through November 10, 2014, the committee has reviewed 852 personal service contracts and 200 amendments to personal service contracts. The committee has also reviewed 215 personal service contracts for $10,000 and less, which are submitted to the committee for informational purposes only.

Since the start of FY 2015 through November 10, 2014, the committee has reviewed 953 memoranda of agreement and 282 memoranda of agreement amendments. The committee also reviewed 604 memoranda of agreement for $50,000 and less, which are submitted to the committee for informational purposes only.

Note: These totals reflect all personal service contracts, memoranda of agreements, and film tax incentive agreements entered into the eMars procurement system by Government Contract Review Committee staff or other agencies and captured by the LRC Contract Reporting Database.

Program Review and Investigations Committee

Sen. Christian McDaniel, Co-Chair
Rep. Martha Jane King, Co-Chair

Sen. Tom Buford	Rep. Leslie Combs
Sen. Perry B. Clark	Rep. Jim DeCesare
Sen. Ernie Harris	Rep. David Meade
Sen. Jimmy Higdon	Rep. Terry Mills
Sen. Dorsey Ridley	Rep. Ruth Ann Palumbo
Sen. Dan "Malano" Seum	Rep. Rick Rand
Sen. Whitney Westerfield	Rep. Arnold Simpson

LRC Staff: Greg Hager, Christopher Hall, Colleen Kennedy, Van Knowles, Jean Ann Myatt, William Spears, Shane Stevens, Joel Thomas, and Kate Talley

Presented to the
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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 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 Program Review and Investigations Committee held five meetings through November. It elected Senate and House co-chairs and adopted five reports.

According to the report *Cost And Funding Of Higher Education In Kentucky,* fall enrollment in Kentucky's 4-year higher education institutions has steadily grown in recent years, but enrollment growth in the state's 2-year system has been inconsistent. From fall 2000 to fall 2012, enrollment in Kentucky public 2-year institutions increased 63.1 percent; 4-year undergraduate and graduate enrollment increased 20.6 percent. Tuition and fees revenue surpassed state funds as the largest source of revenue for the state's public institutions in FY 2010. Tuition and fees for full-time resident undergraduate students have been rising steadily among the state's public institutions. From academic year 2001-2002 to academic year 2013-2014, the 2-year and 4-year institutions' tuition and mandatory fees increased 177 percent, on average. In FY 2011, the total federal student loan aid received by undergraduate students at the state's public institutions was $540.5 million. In FY 2012, total research expenditures were $484.4 million, and total public service expenditures were $716.3 million.

The report *Number, Cost, And Policies Related To Non-Merit Employees* indicates that *non-merit* is not defined in statute. In general, under KRS Chapter 18A a non-merit executive branch employee is equivalent to an "unclassified" employee. In the judicial branch, non-merit is equivalent to "non-tenured." Executive branch employees may be non-merit because they are covered by exemptions to the merit system listed in KRS 18A.115 or employed by entities enabled by statute to create their own personnel systems or particular group of employees who are non-merit. There were nearly 3,500 executive branch non-merit employees in 2012. The estimated cost in 2012 was $238 million. The Court of Justice operates its own personnel administration system; its employees are not covered by the KRS Chapter 18A system. As of December 2012, there were 675 non-merit employees in the judicial branch, with total annual compensation of nearly $36 million. Among six states selected for comparison, three have what are considered traditional merit systems, as does Kentucky. One state has an at-will system. Two states have components of merit and at-will systems. The report has three recommendations to revise relevant statutes and regulations. The Commissioner of the Personnel Cabinet's Department of Public Resource Administration responded to the report.

The report *Kentucky External Child Fatality And Near Fatality Review Panel* is the first of the annual evaluations of the panel required by KRS 6.922. The panel, which has 15 voting and 5 ex officio members, is attached administratively to the Justice and Public Safety Cabinet. The independent panel's charge is to conduct comprehensive reviews of child fatalities and near fatalities reported to the Cabinet for Health and Family Services suspected to be a result of abuse or neglect. The panel is in compliance with its governing statutes. The panel's need to aggregate trend data from a large volume of records and information has been hampered by a lack of staff. This concern has been addressed by an appropriation by the 2014 General Assembly of $420,000 per fiscal year that will be dedicated to the panel. When compared with other states, the panel appears to be unique in terms of its organizational structure and mission.

According to the report *Kentucky State Fair Board*, the board (KSFB), an agency of the Tourism, Arts, and Heritage Cabinet, operates two event facilities in Louisville: the Kentucky International Convention Center (KICC) and the Kentucky Exposition Center (KEC). KEC is the sixth largest event facility in the US. KSFB's revenue, which was nearly $46 million in FY 2013, comes primarily from hosting events at these facilities. KSFB's expenditures in FY 2013 were nearly $55 million, for an $8.8 million deficit. From FY 2007 to FY 2013, KICC operated at a deficit all 7 years and KEC operated at a deficit for 4 years. KSFB received state appropriations in 4 of the 7 years. A sample of US event facilities indicates that most have little or no net revenue. The Louisville Convention and Visitors Bureau calculated the economic impact for approximately half of KSFB's 2013 events to be $277 million. A review of US event facilities with at least 100,000 square feet of exhibit space shows that two-thirds, including KSFB facilities, are publicly owned and operated, with in-house staff used to provide some services and contract labor used for others. Judging from the review, privately owned and operated facilities are rare. KSFB is subject to a relatively high level of oversight. It has a governing board, is included in an annual audit, and voluntarily produces an annual report. The president of the state fair board, board members of the Louisville Arena Authority, and the general manager of the KFC Yum! Center responded to the report.

According to the report *Information Technology In Kentucky State Government*, information technology (IT) assets consist of infrastructure, enterprise applications, and business applications. IT assets in the state vary in their complexity, performance, purpose, and age. Consolidation of IT infrastructure and support within the Commonwealth Office of Technology is under way, though there were some concerns. Generally, agencies reported that IT assets were better than average. Some major business applications are more than 20 years old and are written in languages that limit their compatibility with more modern systems. Replacing such systems costs millions of dollars and takes several years. Funding, procurement, project management, staffing, security, and accounting issues were noted. There is little information to assess progress in improving technology, but data from this study can serve as a baseline for future comparison. The report makes eight recommendations. The executive director of the Commonwealth Office of Technology's Office of Enterprise Technology and the executive director of the Personnel Cabinet's Office of Administrative Services responded to the report.

The committee heard testimony on one topic unrelated to the presentation of a new report. The chair and executive director of the Commercial Mobile Radio Service Emergency Telecommunications Board and the chief information officer of the State Police discussed the implementation of recommendations in the 2011 committee report *911 Services and Funding: Accountability and Financial Information Should Be Improved.*

For the December meeting, the committee is scheduled to select study topics for 2015. Staff will present a report on prevailing wage.

Report of the 2014
Public Pension Oversight Board

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

Sen. Jimmy Higdon
Sen. Gerald A. Neal
Rep. Brian Linder
Rep. Tommy Thompson
Robyn Bender
Tom Bennett
Michael Bowling
Jane Driskell
James M. "Mac" Jefferson
Sharon Mattingly
Alison Stemler

LRC Staff: Brad Gross, Bo Cracraft, Terrance Sullivan, Greg Woosley, and Marlene Rutherford

Presented to the
Legislative Research Commission
and the
2015 Regular Session of the
Kentucky General Assembly

Public Pension Oversight Board

Jurisdiction: Assists the General Assembly with its review, analysis, and oversight of the administration, benefits, investments, funding, laws and administrative regulations, and legislation pertaining to the Kentucky Retirement Systems.

Committee Activity

The Public Pension Oversight Board was established in SB 2 of the 2013 Regular Session.

Kentucky Retirement Systems Administration and Benefits

Staff provided the Public Pension Oversight Board a basic overview of the administration and benefits of the Kentucky Retirement Systems (KRS). KRS is administered by a 13-member board of trustees, with 6 elected by the membership of the retirement systems, 6 appointed by the Governor, and the secretary of the Personnel Cabinet, who sits on the board as an ex officio member. The board of trustees appoints an executive director, who serves as the chief administrative officer of the systems.

KRS provides three basic benefits—retirement benefits, retiree health benefits, and death and disability benefits—each of which varies according to the system and the type and timing of the member's service. Employees who began participating in the KRS before January 1, 2014, have a traditional defined benefit plan that provides benefits based on an employee's final compensation, multiplied by a benefit factor and years of service. Members participating in the systems on or after January 1, 2014, participate in a hybrid cash balance plan, which is similar to a defined contribution plan but is legally a defined benefit plan. In the hybrid cash balance plan, employees' contributions go into an individual account along with an employer credit and a minimum investment return of 4 percent plus 75 percent of any return above that amount.

The general retirement eligibility standard for most state and county employees hired before July 1, 2008, is 27 years of service credit regardless of age. HB 1 moved from this requirement to a rule that requires a minimum age of 57 and an age plus years of service of 87 years or greater for retirement without penalty. Similarly, House Bill 1 moved the hazardous-duty retirement eligibility from any age with 20 years of service credit to any age with 25 years of service credit. Members in the hybrid cash balance plan also follow this service formula to determine retirement eligibility; however, an employee can take the account balance and annuitize it into a monthly benefit at retirement. The pension benefit has also included a cost of living adjustment (COLA), but the COLA has changed over time. In 1996, it was a consumer price index (CPI) adjustment annually, and in 2008 it was changed to 1.5 percent annually. However, the General Assembly suspended the COLA in the 2012 biennial budget, and 2013 SB 2 removed the annual automatic COLA.

As for health insurance benefits, members who participated in a system before July 1, 2003, receive a percentage of their insurance premium based on years of service, with an individual member having 20 or more years receiving 100 percent of the premium. Members participating after July 1, 2003, receive a retiree health insurance benefit of $10 per month for each year of service for non-hazardous-duty members and $15 per month for hazardous-duty members towards the premium, and contributions are increased annually by 1.5 percent.

The systems also provide disability and death benefits with a minimum of 5 years of service. The benefit varies based on the member's participation date and retirement status at the time of the disability or death.

Kentucky Retirement Systems Funding

The executive director of the Kentucky Retirement Systems discussed the way the systems are funded, which includes employee contributions set by statute, employer contributions that are actuarially recommended each year by the KRS board of trustees and set by the General Assembly, and any return on investments of the system assets. For every benefit dollar paid, employees have contributed 12 percent, the employers have contributed about 20 percent, and returns on investment make up about 68 percent, which compares to a national average of approximately 14 percent from employees, 28 percent from employers, and 58 percent from investments. Before September 1, 2008, employees in all systems contributed 5 percent in a non-hazardous-duty plan and 8 percent in a hazardous-duty plan. Beginning September 1, 2008, an additional 1 percent is contributed to fund health benefits.

For fiscal 2013-2014, the actuarially required contribution (ARC) rate for the Kentucky Employees Retirement System (KERS) non-hazardous-duty plan was 45.28 percent of payroll, but the contribution rate set by the General Assembly was 26.79 percent. The ARC for the State Police Retirement System (SPRS) was 96.52 percent, but the rate set by the General Assembly was 71.15 percent. Conversely, CERS employers contribute 100 percent of the ARC by statute. In the 2014-2015 fiscal year, the ARC for the KERS non-hazardous-duty plan is 38.77 percent of payroll, which is composed of the normal pension cost of 3.48 percent of payroll, the administrative expense of 0.65 percent of payroll, the payment on the unfunded actuarial liability of 26.71 percent of payroll, and the insurance fund payment of 7.93 percent. The 2014 biennial budget included the full ARC for the next 2 fiscal years. KRS has projected the contribution rates for the next 20 years, with a total contribution rate of 40.19 percent of payroll expected in 2032 if 100 percent of the ARC is made and if actuarial assumptions are met.

The funding level of the system plans is the ratio of assets in the bank to the liabilities for benefits already earned. This is a measure of the plan's financial soundness, with a funding level of 80 percent or better being considered financially sound according to rating agencies. The actuarial funding level for the KERS non-hazardous-duty pension plan has decreased from 52.5 percent in 2008 to 23.2 percent through June 2013. By comparison, the funding level for the County Employees Retirement System (CERS) non-hazardous-duty pension plan decreased from 78.5 percent in 2008 to 60.1 percent in 2013.

For the KERS non-hazardous-duty plan, the combined unfunded liability of the pension and insurance funds decreased from $10.94 billion in 2012 to $10.38 billion in 2013. For CERS, the combined unfunded liability was $6.42 billion as of June 30, 2013, and the overall combined unfunded liability of the three state systems was $11.2 billion. The six major components contributing to the increase in unfunded liabilities are reductions to employer contributions rates in the KERS and SPRS plans; unfunded retiree COLAs; 2008-2009 market losses; cost of inflation for retiree insurance; compliance with the Governmental Accounting Standards Board (GASB) 43/45 standards of 2006 for health liability, which caused an increase in the employer contribution rate to fund the liabilities; and demographic changes that differed from actuarial assumptions.

Kentucky Retirement Systems Investments

The executive director and interim chief investment officer of KRS discussed the investments and investment policies of KRS. Kentucky law requires the board of trustees to establish an investment committee, which consists of five members: two trustees with investment experience appointed by the Governor and three appointed by the chair of the board of trustees. The investment committee may implement all the board's investment policies and act on its behalf, subject to ratification, in all investment-related matters, including acquiring, selling, monitoring, and managing investments and hiring investment managers. The chief investment officer (CIO) supervises the internal investment decisions on a daily basis and subsequently reports to the investment committee, and reports to the executive director. KRS has an investment staff consisting of eight professionals and one administrative assistant. The investment staff professionals have advanced degrees and relevant industry certifications.

At the time of testimony, KRS had $15.5 billion worth of assets. Of this total, approximately 81 percent of the assets ($12.5 billion) was invested by external investment managers and approximately $3 billion by internal investment staff. KRS hires a number of national investment consultants through a request for proposal (RFP) process.

Investment performance is a product of asset allocation and manager selection. To make decisions in these areas, the board of trustees, through the investment committee, studies asset liability modeling every 3 to 5 years using an independent expert. The first objective in the process of asset allocation is to construct a portfolio that meets the minimum acceptable return, or assumed rate of return, which for all systems in KRS is 7.75 percent.

Each system has its own portfolio. While investments of the five systems (KERS, KERS Hazardous, CERS, CERS Hazardous, and SPRS) are often made with the same money manager or asset, KRS knows exactly how much each system owns in each asset and has a customized asset allocation for each of the five systems for pension and insurance. In selecting investment managers, KRS conducts due diligence to determine whether a manager is capable of accomplishing a specific investment performance level, and whether the business and operational aspects of the manager's business are sound. One aspect of the business characteristics that is evaluated is fees, which are evaluated at an early stage as to whether they are reasonable based on the strategy being evaluated and the size of the investment that KRS seeks to place with a particular manager. After staff has conducted due diligence in conjunction with the asset class consultant, a formal recommendation is presented to the investment committee, which sometimes includes a presentation by the investment manager being considered for hire. The investment committee then approves or disapproves the investment. If approved, there is a final due diligence process consisting of a legal review and contract negotiation with the investment manager. The final due diligence includes both internal and external counsel to complete the process.

The KRS pension fund has had good performance on a year-by-year basis, with the poor years commensurate with the overall difficulty seen in the market. Trends in the KRS returns reflected the overall markets in 2000-2001, as well as during the significant downturn in 2008-2009. The performance in 2011 and 2012 was a period when non-US equity and emerging market equity had a poor return period; however, KRS is close to the 7.75 percent assumed rate of return for the latest 10-year period. The 5-year return, which no longer includes the financial crisis numbers, is well above the assumed rate. As of July 1, 2013, KRS can report the system-by-system rate of return for KERS, CERS, and SPRS.

Governmental Accounting Standards Board 67/68

The executive director of KRS discussed the new GASB standards effective in fiscal year 2015. These standards, released in June 2012, revised the accounting and financial reporting requirements set forth in Statement Nos. 25 and 27. KRS will implement these new standards over the next 2 years. The purpose of the standards is to enhance pension-related information and financial statements for pension plans and to standardize valuation practices. GASB 67 is effective in fiscal year 2014. KRS will develop the required financial statement information and educational information for the employers in late summer and fall. GASB 68 will be effective in fiscal year 2015.

A hallmark of the new statements is the separation of plan funding from accounting and reporting requirements. To comply with the new GASB standards, a funding policy will need to be adopted. The ARC is no longer the de facto funding standard. The KERS board adopted a policy in August 2013, and most of the components of the policy are set by statute. However, the board additionally adopted a 100 percent funding goal and a 5-year actuarial smoothing method as part of the policy. Implementation of GASB 67 will require KRS to enhance the financial statement disclosures by providing various types of information, such as net pension liability, which is the actuarially accrued liability minus the fiduciary net position or the market value of assets. Beginning with the implementation of GASB 67, 10-year schedules will be required that show year-over-year changes in the information provided.

GASB 68 will require employers to include on their balance sheets and financial statements their proportionate share of the net pension liability, which is the unfunded accrued liability and pension expense. This is a significant amount the employers must show for the first time. One result of the new standards is that they could affect some employers' banking contracts and loan agreements if a certain debt-to-asset ratio is required to be maintained, which is affected by reporting the liabilities. GASB allows some flexibility in calculating the employer share of the net pension liability and pension expense. KRS will likely use a proportionate percentage of payroll as the factor to calculate each employer's proportionate share of the unfunded actuarial liability and pension expense.

Kentucky Retirement Systems Agency Participation

Staff gave an overview of the systems in KRS and the agencies that participate in them. For KERS, KRS 61.520 outlines a two-step process by which an agency can enter the system. First, the KRS board determines whether an agency is eligible and qualified to participate. Second, the agency must pursue an executive order from the governor directing the agency to participate in KERS. The statute also requires a participating agency to continue participating as long as it remains qualified, which is one of the changes implemented by 2003 HB 461. KRS can require an agency to seek a private letter ruling from the federal government as to whether the agency can qualify to participate in a governmental plan.

Participation in CERS requires a different process. Historically, the only requirement for an agency to participate was that it had to adopt an order authorizing participation, which was presented to the KRS board. The board would then approve or deny participation. In 2002, a new provision was added relating to health insurance to require a new CERS agency entering after April 9, 2002, to have an irrevocable contract with the state health insurance plan. As with KERS, KRS 78.530 requires a participating agency to continue participating, with an exception being participation under KRS 78.535. Also, an agency participating in CERS can exclude certain areas of the agency that are semi-independent, such as a hospital or a 911 center. The KRS board ultimately has the authority to determine who is eligible to participate in CERS. As with KERS participation, the agency can be required to seek a private letter from the federal government ruling whether it is eligible to participate in a governmental plan.

Seventy percent of the employee population that participates in KERS is in the traditional P-1 state agencies under the state personnel system. Other examples of agencies that participate are regional mental health agencies, nonteaching staff at regional universities, health departments, and county attorneys. There are about 1,381 participating employees in non-P-1 state agencies, or about 3 percent of the total population. CERS is a larger system, with 1,125 agencies participating and more than 93,000 active members. The largest group is the employees of local boards of education, with 48,634 members or 52 percent of the total population, followed by cities, with 16,817 or 18 percent of the total participation. The remainder is made up of staff from fiscal courts, community action centers, circuit clerks, and special districts and boards.

After an agency begins participating in a retirement plan, the statute generally requires continued participation. However, there are a few exceptions in both the KERS and CERS plans. Within KERS there is a “parted employer” provision for when a private corporation takes over an agency. Additionally, there is the requirement that an agency participate as long as it remains qualified. For CERS, the board may terminate an agency’s participation if it fails to comply with statutory requirements, such as paying employer contributions. The statute also provides that, in lieu of terminating an agency’s participation for failure to pay contributions, the board may seek a court order to attach the general funds of the entity, or the board may suspend all employee benefit payments and refunds until all employer contributions are paid.

Other participation issues have occurred as employer contribution rates have increased and a number of agencies have called for the ability to withdraw from the systems. For example, the employer contribution rate for non-hazardous-duty KERS has grown from 7.25 percent in FY 1981-1982 to 38.77 percent in FY 2014-2015. Additionally, federal tax qualification requirements may affect agency participation and termination. Several recent court cases provide insight into the desire of some agencies to withdraw from the systems.

Staff discussed three pending court cases relating to agency participation. Two factors drove the court cases and the agencies' desire to cease participating in the KRS: the rising costs to the participating agencies in the form of larger employer contribution rates, and the inability of these agencies to terminate participation because of the existing statutory proscription. The agencies that have taken action to stop participating in the systems are Kentucky River Community Care (KRCC), Bluegrass Oakwood, and Seven County Services (SCS). KRCC has reduced itself to a one-employee agency and has created an "alter ego" employment agency called Go-Hire, through which it has rehired most, if not all, KRCC employees to continue doing business. Motions to dismiss filed by KRCC and Go-Hire were denied and, at the time of the board meeting, the case was pending in Franklin Circuit Court. Bluegrass Oakwood has created a new subsidiary agency, Oakwood Community Services. It wants to hire new employees and/or transfer existing employees to this new subsidiary agency. Motions for summary judgment filed by Bluegrass Oakwood were granted and, at the time of the board meeting, the case was on appeal to the Court of Appeals. SCS has filed bankruptcy and is attempting to discharge any obligations owed to the systems. A trial had been held in the adversary proceeding between KRS and SCS at the time of the board meeting, and subsequently the US Bankruptcy Court in the Western District of Kentucky issued an order finding SCS was a "person" under the Bankruptcy Code and eligible to go forward with its Chapter 11 bankruptcy.

According to the KRS actuary, if SCS is released of its obligations through bankruptcy, the employer rate would increase by 2.75 percent over the next 20 years. Further, the actuary concluded that, if all mental health centers were relieved of the obligation to participate through a bankruptcy proceeding or otherwise, the rate would increase up to an additional 6.5 percent of payroll over the long term, which is why the outcome of the three discussed cases is important.

Several legislative proposals have been considered in the last several years to allow some or all agencies to discontinue participation for either new hires or a combination of new hires and current employees. For example, 2012 SB 201 would have allowed regional mental health agencies to discontinue participation in KERS for new hires. 2013 SB 168 would have allowed KRS and the Kentucky Teachers' Retirement System (KTRS) employers to discontinue participation for new hires, and 2014 SB 216 would have allowed certain agencies to voluntarily discontinue participation, provided that an actuarial study was completed, the employer offered an alternative retirement plan, and the employer paid the full actuarial cost for discontinuing participation.

Board of Trustees Election Process, Procedures, and Issues

The KRS board is responsible for the administration of the retirement systems, and it meets at least five times per year, with four quarterly meetings required by statute and an annual meeting. There are six board committees: investments; retiree health; audit; disability appeals/administrative appeals; human resources; and legislative and budget. Each board members serves on at least two of the committees, and the committees meet regularly to cover issues related to their subject matter jurisdiction. Members serve 4-year terms, with a maximum of three consecutive terms, and they receive a $190 per diem, plus expenses, for days they meet or have official business, which normally must be approved in advance.

Individuals may be placed on the ballot for the election process either by board nomination or by petition. Statute requires individuals seeking election to the board to be active or inactive members, or retired members, of the system to which the election applies, such as KERS, CERS, or SPRS; they cannot be current or former employees of KRS. As for the election, statute requires the board to nominate up to three members for each available position 6 months before the expiration of an elected term, which ends on March 31 (except for a new CERS elected member position that ends on October 31).

Information is contained in the KRS newsletter and on the website for the election for the next year, and applications and résumés are solicited from interested individuals in May preceding an election. Background checks are conducted on all individuals who submit applications. If a person is not nominated by the board but is still interested in being on the ballot, the membership may nominate him or her by submitting a petition with the name, the last four digits of the person's Social Security number, and the signatures of at least 10 percent of the number of members voting in the last election, which for the last election cycle was approximately 1,300 member signatures.

After the nomination process, the ballots are prepared in early January and distributed by first-class mail to all eligible voters, which for CERS elections amount to more than 227,000 ballots. The mailing includes the ballot and a postage-paid return envelope that must be submitted by March 1 in the election year, 30 days before the expiration of the term. The ballots are returned to the KRS external auditor via a post office box, and the auditor tallies the votes and certifies the results to the KRS board. The election ballots allow for write-in candidates. Vacancies in elected positions as a result of death or resignation during a term are filled by a majority vote of the remaining board members for the remainder of the unexpired term.

In SPRS, approximately 25 percent of the membership returns a ballot, versus CERS and KERS, which have an average of 12 percent participation. The housekeeping bill in the 2014 session would have permitted the board to authorize electronic voting, in whole or in part, which the board believes would bring a cost savings. The total cost for the election process is more than $100,000 per election for CERS, and approximately $70,000 to $75,000 for KERS. Ballots must be mailed by first-class mail because they contain a specific identification code and related information in a bar code unique to each member, which allows the ballots to be tallied by an external auditor. The mailing expense and the use of an external auditor represent significant portions of the total costs of an election.

Other states constitute the boards of pension systems or conduct elections in different manners. For example, about 54 percent of state retirement systems have no elected board members. Of the 23 states with elected board members, seven allow some type of electronic or online voting, and 16 exclusively use paper ballots. The Maryland state retirement and pension system moved to electronic voting in 2005 and allows voting by phone. A similar process is used in Alabama and Louisiana, which use an outside election consulting firm that mails ballots to members, who may return the paper ballot by mail, or vote online or by phone. In Kansas, members vote online but can request a paper ballot. Texas, Minnesota, and Massachusetts allow paper ballots but also allow online voting. Ohio, Mississippi, and Missouri have statutory authority to conduct electronic trustee elections, but they have not implemented the process.

2014 Actuarial Experience Study Results

Representatives from Cavanaugh Macdonald Consulting LLC, the actuarial consultant for KRS since 2006, presented the results of the 2014 actuarial experience study. Experience studies are performed every 5 years to determine what has actually occurred with the members and to compare the experience to what was assumed would happen, and then to make any recommendations for adjustments.

Key demographic findings resulted in recommendations for adjustment to the withdrawal and retirement rates and the mortality decrements for all systems, as well as an adjustment to the disability decrements for the KERS hazardous-duty and non-hazardous-duty plans and the CERS non-hazardous-duty plan to better match the experience. The health insurance participation rate was lowered in some cases for each of the plans. The key findings on the economic assumptions resulted in recommended changes to price inflation from 3.5 percent to 3.25 percent, and on the real wage growth assumption from 1 percent to 0.75 percent, so that the overall wage inflation goes down from 4.5 percent to 4 percent. The actuary also recommended reducing the assumed rate of return from 7.75 percent to 7.5 percent.

The financial impact of the recommended changes for each plan was reviewed, and the unfunded accrued liability, the funded ratio, and the employer contribution rate were shown both before the recommended changes to the assumptions and after, combined, from a pension and insurance standpoint. For the KERS non-hazardous-duty plan, the contribution rate for this biennium that is built into the budget is 38.77 percent of payroll, and after the changes the employer rate would be 41.36 percent of payroll. Similarly, for the KERS hazardous-duty plan the employer rate as a percentage of payroll is 26.34 percent before the changes and 26.9 percent after, and the change in the rate is due to the changed assumptions in the health insurance participation rate. The CERS non-hazardous-duty employer rates have a modest increase from 18.1 percent to 18.8 percent, and the CERS hazardous rate decreases from 35.7 percent to 32.03 percent. The SPRS employer contribution rate increases from 75.76 percent to 83.2 percent, with all numbers reported as a percentage of payroll.

Semiannual Kentucky Retirement Systems Investment Review

The executive director and the interim chief investment officer of KRS discussed the investment program of the systems and its objectives.

Managing the investment portfolio of an institution is in the context of liabilities, which requires factoring how much money is needed to pay benefit payments each month and how much liquidity is needed to meet those payments. The objective is to protect the investment on the downside while earning a reasonable return and paying benefits. To determine asset allocation, the first task is to perform an asset liability study, the objective of which is to assist the plan in selecting an efficient target allocation given the plan's objectives, which are risk tolerance, implementation constraints, and other factors. *Efficient* is defined as having the lowest risk portfolio given a level of return or the highest return for a given level of risk.

The other objective is to measure or understand the range of possible investment return outcomes that the portfolio faces over various time frames and the associated risks. Asset allocation is the output of the asset liability study and is a tool intended to capture the expected return, risk, and correlation to other asset classes over the long term in order to select a portfolio that best meets the needs of the plan. Asset allocation explains 90 percent of the performance of the portfolio.

Some of the factors for determining risk tolerance for a pension plan are the health of the plan; the age of the workforce; the plan sponsor's ability and willingness to pay into the plan; and the correlation of the revenue-generating ability of the state, cities, and counties to the economy. If the economy is poor, investments potentially decrease, and KRS will need more money at a time when employers have less ability to contribute. This is another factor that suggests KRS should take less risk.

The main measurement of risk when investing is standard deviation, also called volatility, or the uncertainty of the expected return. The next risk to consider is the investment shortfall, or the risk of not meeting the minimum acceptable or necessary return. There is also drawdown risk, which is the risk that the portfolio drops in value, such as in a rapid, violent drop in a stock market crash or financial crisis. Business risk is the risk that a money manager fails and has to return money to investors because of poor skills running the business, or having key employees leave, or having an owner buy an existing manager. Business risk is important to understand because, although part of the relationship with every external manager, it is more prevalent with hedge funds. Another risk factor is inflation risk, which is the diminished real value of the investments.

Different asset classes perform differently in the business cycle. KRS is attempting to construct a portfolio that will perform well throughout the entire business cycle. It is the goal of KRS to have consistent returns, which in the long term will result in the highest average return. Consistent returns are important especially for the KERS non-hazardous-duty plan because more funds are paid in benefits than contributions are received. The more asset classes and investments added to a portfolio that are uncorrelated with one another, the greater the risk is driven down without affecting the targeted return of the portfolio.

The annualized data for asset class characteristics and the correlations were provided for the past 5 and 10 years and since 1990. The average return for the S&P 500 since 1990 has been 9.6 percent, and the risk has been 14.8 percent. The KRS return experience in hedge funds since KRS began building out the hedge fund program in September 2011 and thru June 2014 was discussed. The return in hedge funds has been 7.65 percent annually, which is at the 7.75 percent or 8 percent target. However, the standard deviation has been 3.19 percent, which is close to the performance of fixed income since 1990. The correlations to high yield indexes, S&P 500, and treasuries have exceeded expectations, allowing hedge funds to perform exactly as intended, with targeted rates of return with low risk. During this same 3-year period, the S&P 500 has returned 24.5 percent with a standard deviation of 7.44 percent, but since 1990 it has returned 9.6 percent with a 14.8 percent risk. This suggests that, at some point, public equity is going to revert to the mean, or long-term average, and experience both lower returns and greater risk. KRS is trying to build a portfolio that will perform over an entire business cycle and to factor in all the risk profiles of each asset class given the status of a pension plan with a relative inability to take on a large amount of risk.

KRS does not build its portfolios to chase returns and is constantly aware of risks. KRS must be self-sufficient because it does not have the luxury of an entity bailing it out. The choice of asset classes is mathematically based using the projected return targets and the goal of minimizing risks. Alternatives have an important role in achieving that goal and allowing KRS to keep standard deviation low and exposure to drawdown risks at a minimum.

KRS had good performance for the 2014 fiscal year, and there were no negative-performing asset classes. Performance was led by public and private equity and performed at 22.45 percent and 22.71 percent, respectively. This was the first year after the financial crisis that private equity has reached its stride and started returning the performance numbers that were expected and, more important, cash flowing back in terms of companies being sold, money returning to investors, and venture capital with companies going public. High-yield fixed income and core fixed income performed well, even with a negative performance in May/June because of rising interest rate fears. Absolute return/hedge returns performed very well with an approximate 8 percent return with low risk, but real estate returns were disappointing. This is partly because KRS' assets are young, whereas the index contains more mature assets.

The benchmarks of each asset class were discussed, and it was noted that each is an industry standard, publicly available, and indexed benchmark. The total fund benchmark is the weighted average of all the respective asset class benchmarks, which requires additional data to calculate.

Discussing fees by asset class, KRS has historically disclosed the asset management performance fees in total in the Comprehensive Annual Financial Report (CAFR). Through a series of open records requests earlier this summer, KRS determined that it could break down the fees by asset class and release it publicly and in the CAFR, which shows total fees by each respective asset class. There has been an increase in fees, but this is because the total value of the assets has increased. Another factor driving increasing fees is diversification. About 10 years ago, KRS had approximately 10 asset managers. As more money is given to an asset manager, the fee rate will be lower because managing the fund requires the same amount of work for a portfolio. Because more recently KRS began diversifying its portfolio, the amount of assets given to any single manager is smaller, and therefore the overall fee rate has increased.

The use of performance fees in certain asset classes was also noted, which can produce higher fees when the manager's performance exceeds certain targets and both KRS and the manager are "sharing" the "profit" or upside performance of an asset. These performance fees create an alignment of interests, where the manager is incentivized to create greater returns to capture the performance fees, but overall this type of fee results in the asset class costing more money to manage. For every investment manager brought to the investment committee, the fee for that manager is disclosed in the memorandum and verbally in the committee and is part of the decision for selecting a manger. Fees are always disclosed. The board knows exactly what the fees will be for an investment manager. The investment committee factors in the fee information when it decides to hire a manager.

Kentucky Retirement Systems Investment Peer Comparisons

Staff updated the board on peer comparisons of returns and asset allocations. For the period ending June 30, 2014, the rate of return for the KERS non-hazardous-duty fund, net of fees, was 15.6 percent. The desire of KRS is to meet or exceed the rate assumption over the long term, and the investments have done so over the 1-, 3-, and 5-year periods, although over the 10-year period, including the 2008-2009 market decline, the returns were slightly less than the assumed rate of return. For the 1-year term, they have exceeded their policy benchmark in the pension fund and are slightly below that benchmark in the insurance fund. Staff is looking at other states to see how KRS compares with other public pension funds. As of June 30, 2014, out of 50 state plans, 22 have reported individual 1-, 3-, 5-, and 10-year returns. Compared to the 22 states that have reported, KRS is below the median average. KRS returns fall below the returns in a peer comparison from RV Kuhns, the KRS investment consultant, which has more than 67 plans. Bank of New York Mellon has 106 plans for which numbers are available, and the average rate of return is 17.2 percent for one year. The comparison to KTRS is a preliminary number and is gross of fees, whereas KRS has a net of fee number reflected, and for the year ending June 30, 2014, KTRS earned 18.1 percent on a gross of fee basis and outperformed its benchmark.

KRS asset allocation has changed over time, with public pension plans shifting the types of funds in which they are invested. Historic asset allocation for public pension funds have been in domestic and international equity, fixed income, cash, and alternatives such as real estate, private equity, real return, and hedge funds. Looking at historical data, a 2012 pension and investments study indicated the average allocation of pension assets in alternative asset classes was about 19.4 percent. This is part of a larger trend. In the 1990s, the equity allocations increased and transitioned from domestic to international equities. There has also been a trend away from equities into alternative portfolios. Other studies show similar trends, such as a 2014 Cliffwater Research study that reported an average allocation of 25 percent in alternatives at the end of 2013. PEW and Wilshire have studies on average allocation that report similar numbers for asset allocation trends.

KRS has followed a similar trend and began with private equity in 2001, added hedge funds in 2009, and recently allocated funds to real return and real estate. The alternative allocation has 10.38 percent in hedge funds, 9.96 percent in private equity, 3.86 percent in real estate, and 10.06 percent in real return. Related to peers, KRS has 34.3 percent as of June 30, 2014, in alternative assets. Real estate is considered an alternative asset for the comparison, but this asset has been present for some time, and some plans differ on whether it is an alternative asset class. Staff will continue to update the peer comparison data comparing KRS with the LRC peer, Cliffwater, and KTRS comparisons. Overall, KRS is slightly below allocation on the equity side but has a comparable fixed income and cash component and an above-average alternative asset class.

Information was also provided on KRS and KTRS return comparisons for 1-, 3-, 5-, 10-, and 20-year comparisons. KTRS outperforms KRS on the 1-, 3-, 5-, and 10-year returns, but KRS outperforms on the 20-year basis. KTRS has a higher exposure to equities, which have performed well during the last few years.

KRS fees for 2013 were $45.6 million or 41.4 basis points. Compared to the KRS fees for 2013, KTRS had $31.6 million in investment fees or 19.6 basis points. One of the differences is that KTRS manages more of the portfolio internally, about 40 percent, with 60 percent managed externally, and has a substantial portion in domestic equities and some fixed-income bonds that are managed internally versus KRS, which manages 14 percent internally. The asset allocation for KRS is higher in alternative assets, which typically have higher fees for investment, and in public equity and fixed income, while the allocation to alternatives is lower for at least the 1-year period examined.

Review of 2014 Regular Session Legislative Proposals

The board discussed several bills considered by the 2014 General Assembly.

Senator Christian McDaniel discussed SB 142 and SB 216. SB 142 addressed the anti-spiking provisions of 2013 SB 2. Creditable compensation that is “spiked” or increased at the end of a career has not been actuarially accounted for through the course of an employee’s career. SB 2 provided that any amount greater than a 10 percent year-over-year increase in compensation would result in the full actuarial value being borne by the employer of the employee, which has caused increased costs to cities and counties and changes to the way employees are receiving compensation. SB 142 addressed this issue to exclude bona fide promotions and compensatory time from the definition of a “spike” and to allow wage increases without penalty when an employee is on specified leave. The bill also permitted an employee to continue to earn compensation beyond the 10 percent level; however, upon retirement, employee contributions are refunded and the employee is not eligible for a benefit for the “spiked” portion of compensation.

Senator McDaniel said that SB 216 would have established a process in which certain agencies could voluntarily discontinue participation in KERS or CERS, provided they pay the actuarial costs for no longer participating. The bill provided a consistent process across KERS and CERS whereby the KRS Board may require an agency to discontinue participation if it is determined to no longer be eligible to participate in a governmental plan or if the agency fails to follow the requirements established for participating agencies under state law, such as the failure to pay employer contribution rates.

Legal staff of KRS discussed HB 324, a housekeeping bill that would have allowed KRS to pursue the possibility of conducting board elections electronically and synchronize the election of a newly created CERS board position with other trustee positions. The bill would have authorized the use of debit cards in place of paper checks for payment of benefits.

Additional changes addressed "tier 2" members who began participating in the retirement system from September 2008 through December 2013, as a result of 2008 HB 1 and 2013 SB 2. These members are traditional pension benefit structure members; however, the creditable compensation definition for this group only allows a calculation of benefit if those members have 5 complete years of service. The experience of KRS is that some members have more than 5 years of service but do not meet the definition and cannot have a benefit calculated for their service and are only eligible for a refund, which KRS does not believe was the intent of HB 1.

Representative Yonts discussed 2014 HB 323 and 2014 HB 389. HB 323 would have extended the board's jurisdiction to include the Legislators' Retirement Plan, Judicial Form Retirement System, and the Kentucky Teachers' Retirement System. The bill would have removed the prohibition on members and retired members from serving in appointed positions and would have modified the date for the annual report due from the board to the Legislative Research Commission from December 1 to December 31 each year.

HB 389 would have required state retirement systems to conduct an actuarial experience study at least once every 5 years instead of once every 10 years. From discussions, it was recommended that the study mandate be shortened and that a copy of the report on the experience study be provided to the Legislative Research Commission and specifically to the co-chairs of the board.

Kentucky Retirement Systems Update on 2015 Retiree Health Plan

The executive director of the Kentucky Retirement Systems gave an overview of the 2015 retiree health plan. For Medicare-eligible members in 2015, KRS will continue the Humana-provided Medicare Advantage plans. There is a premium plan, an essential plan, and a medical-only plan for those who receive prescription drug coverage through another provider or who do not need that coverage. The current premium plan cost per member per month is $212.39; in 2015 the cost will increase 15 percent to $244.25. The essential plan cost per member per month is $67.62 and will increase to $77.76 in 2015.

Members under 65 are insured through the Kentucky Employees' Health Plan. The KRS board selected the LivingWell Consumer Driven Health Plan as the plan for which KRS would pay the premium. In 2014, the premium was about $698 per month, which will increase to $708 per month in 2015. The contract with Humana will expire in 2015, and KRS will request an RFP in early 2015 for plan year 2016 and thereafter. The KRS board has already approved issuing that RFP.

Testimony From Employee, Employer, and Retiree Groups

The Kentucky League of Cities (KLC) highlighted issues of concern to cities relating to pension reform in CERS. KLC indicated that its members would focus on clarifying the pension spiking provisions. KLC would like for employees to be permitted to increase compensation more than 10 percent per year, but any amounts over that level would not count toward creditable compensation unless the increase was caused by the excepted reasons provided in 2014 SB 142.

The Kentucky Association of Counties (KaCo) noted that retirement payments have surpassed jail payments out of the general fund in some counties, and therefore the largest issue to KaCo members is the actuarially required contribution level. KaCo is also concerned about the Seven Counties Services bankruptcy proceedings. The $90 million share of unfunded liability attributed to SCS that cities and counties may have to pay is certainly an issue.

The Kentucky Government Retirees discussed the cash crisis facing the KERS non-hazardous-duty fund and requested that the board make recommendations to the 2015 General Assembly to alleviate the problem. The group proposed that the board form a subcommittee to examine pension funding solutions so that recommendations could be adopted for the 2015 session.

The Fraternal Order of Police (FOP) discussed issues with restrictions on officer reemployment after retirement. FOP expressed concerns about the prohibitions on preexisting employment agreements and the impact they have on an employed deputy or police officer who is eligible to retire but is not permitted to approach a potential new employer before retiring. FOP would like for the requirement that a retiree have participated in the Kentucky Law Enforcement Foundation Program Fund before being hired under the provisions of HB 364 to be addressed so that certain retirees would not need new training. FOP said that, before a person can accept another peace officer position, the retiree cannot be reemployed for at least 1 month after retirement, if in a hazardous position, or at least 3 months, if in a non-hazardous position, which impedes some officers from being hired under contracts that mandate positions being filled within a certain period.

The Kentucky Association of Transportation Employees and the Kentucky Association of Transportation Engineers discussed the concerns that 2014 SB 142 would move the obligation for the cost of increased compensation from the employer to the employee by reducing future retirement benefits, removing legitimate overtime pay for hours worked during emergencies. The organizations also expressed concern that the bill may violate the inviolable contract in KRS 61.692.

Kentucky Public Retirees expressed concern with the stability and solvency of the KRS and want to ensure it continues to be fully funded. The group also noted that retirees have not received a cost of living adjustment in 4 years and hope that the General Assembly will prefund a COLA for retirees in 2016.

Recommendations

The Public Pension Oversight Board discussed and adopted several recommendations to be made to the 2015 General Assembly, which will be fully set out in the board's Annual Report submitted to the Legislative Research Commission.

Report of the 2014 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

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Presented to the
Legislative Research Commission
and the
2015 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 10 times during the 2014 calendar year.

As required by statute, each month the committee received regular updates 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, from the Office of Attorney General, and from organizations that benefited from the tobacco settlement funds.

The committee dealt with a variety of issues within the scope of the legislative panel, including the state's settlement of a legal dispute with tobacco companies centering on 10 years of Master Settlement Agreement (MSA) claims, and the phase-out of the Kentucky Access high-risk insurance program, which had received tobacco settlement appropriations. Committee members often posed questions about and commented on the spending decisions made by the ADB and by officials in the executive branch agencies who administer programs relating to early child development, health insurance, tobacco cessation and drug control, and conservation, as well as representatives of medical facilities involved in lung cancer research.

Review of Agricultural Development Fund Projects

During each monthly committee meeting, the panel received a report from the Governor's Office of Agricultural Policy on the projects that the Agricultural Development Board considered in its previous meeting. In doing so, the committee performed its responsibility of scrutinizing the allocation of tobacco settlement funds for rural development and monitoring the pattern of MSA fund usage 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 asked for additional information on projects and sought clarification on funding decisions made and the rationale for reaching those decisions. Committee members posed questions about the board's grant procedures; how funding applications were reviewed and prepared by GOAP staff for the board's consideration; the reasons why some project applicants received particular amounts of funding or were denied funding; and project monitoring, compliance, and reporting.

Committee members offered suggestions to ADB and GOAP. These included remaining mindful of the original intent of the Agricultural Development Fund; diversifying agriculture among former tobacco growers; placing additional attention on the needs of the eastern part of the Kentucky, a former tobacco-producing region; carefully weighing decisions to fund business endeavors in light of marketplace competition; encouraging young people to become involved in agriculture; and preparing for future issues, such as potential hemp production.

Agency Reports Received and Other Actions

Of particular concern to committee members during the early part of the year was the status of the protracted legal dispute involving the state and tobacco companies over past claims that were linked to marketing requirements in the MSA, reached in 1998. Kentucky had faced a potential loss of millions in MSA funds because of the legal dispute. A $110 million settlement, which the Attorney General discussed, brought the issue to a close and assured stability of future MSA funding.

Officials with the Office of Early Childhood Development, which administers 25 percent of the state's tobacco settlement funds, outlined progress made by the many programs operating under that office's administrative umbrella. Officials with the Health Access Nurturing Development Services program, a part of Early Childhood Development, also reported to the committee.

Representatives of the Cabinet for Health and Family Services reported on the status of the Health Care Improvement Authority, as well as the closeout of the Kentucky Access high-risk health insurance pool, which ended with the start-up of the Kentucky Health Benefit and Health Information Exchange. The directors of the University of Kentucky Markey Cancer Center and the University of Louisville Brown Cancer Center discussed research and other work being done under the Kentucky Lung Cancer Research Program.

Officials with the Kentucky Agency for Substance Abuse Policy reported on efforts to reduce tobacco use in the state and to deal with alcohol and drug abuse. The director of the Division of Conservation reported on the solid waste and water quality cost share and soil stewardship programs.

The committee received testimony on other issues as well, including a report on the Kentucky Agricultural Development Information System, which is an agricultural assets project funded in part with tobacco settlement money.